

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING¹

Z.C. Case No. 23-25

Office of Planning

(Zoning Text and Map Amendments to create the Chevy Chase Neighborhood Mixed Use [NMU-4/CC1 & NMU-4/CC2] Zones @ Square 1859, Lots 34, 49, 50-51, 54, 74, 86, 87, 92-95, 801, 802, 804, 805, & 808; Square 1860, Lots 1, 12, 13, 15, 22-24, 800, 801, 811, 812, 814, 816, 818, 819, 821, 824, & 825; Square 1865, Lot 90; Square 1866, Lot 823; Square 1867, Lots 92 & 93; and Square 1868, Lots 68 & 69² [generally fronting on Connecticut Avenue, N.W. between Chevy Chase Circle, N.W. and Livingston Street, N.W.])

January 30, 2025

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code §§ 6-641.01 and 6-641.03, and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505 (2016 Repl).), hereby adopts the amendments the Zoning Map and Zoning Regulations listed at the end of this notice.

The amendments are intended to accomplish the following:

- Add new text to the Zoning Regulations to create two new Chevy Chase Neighborhood Mixed Use zones, NMU-4/CC1 and NMU-4/CC2:
 - The NMU-4/CC1 zone would allow mixed use, low-density commercial and moderate density residential uses – generally ground floor retail (as would be required by the zone) and residential use above; and
 - The NMU-4/CC2 zone would allow for mixed-use and local public facility development on the District-owned property, including a moderate density level of housing;
- Map the new zones on properties generally fronting Connecticut Avenue, N.W. between Chevy Chase Circle, N.W. and Livingston Street, N.W.:
 - Rezone to the NMU-4/CC1 zone with Inclusionary Zoning Plus portions of Squares 1859, 1860, 1865, 1867, and 1868 fronting onto Wisconsin Avenue N.W.;
 - Rezone to the NMU-4/CC2 zone with Inclusionary Zoning Plus Square 1866, Lot 823;
- Rezone to RF-1 a small number of properties fronting side streets, specifically McKinley and Morrison Streets.

¹ For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 23-25.

² This list of squares and lots is the complete and fully accurate list of properties to be rezoned and mapped as a part of this Petition. To the extent that any of the OP Reports in the Z.C. Case 23-25 record reference different squares and lots from those in this list, this list should be deemed more accurate.

The Commission determined the portions of the Property rezoned to NMU-4/CC1 and NMU-4/CC2 are appropriate for Inclusionary Zoning (“IZ”) Plus. The portions of the Property rezoned to NMU-4/CC1 and NMU-4/CC2 shall be indicated with an “IZ+” symbol on the Zoning Map³. The Commission determined that the portions of the Property rezoned to RF-1 are not appropriate for IZ Plus.

As part of the 2021 update of the Comprehensive Plan (CP), the Council approved important changes to the Future Land Use Map, the Generalized Policy Map and the Citywide and Rock Creek West Area Elements, including the Chevy Chase corridor. This new Comprehensive Plan guidance places a much stronger emphasis on the provision of new housing and new affordable housing opportunities, particularly in areas such as the Rock Creek West Planning Area where there is a lack of dedicated affordable housing. These amendments are intended to implement this Comprehensive Plan guidance.

1. **Preface**

The Commission is not required to explain its reasoning in rulemaking cases.⁴ However, it is doing so in this case because of the considerable public interest, and because it wants to ensure that a reviewing court is aware of its careful consideration of several issues.

2. **Petition**

On October 16, 2023, the Office of Planning (OP) filed a report that served as a petition requesting amendments to the Zoning Regulations and Map (OP Setdown Report or Petition) (Exhibit [Ex.] 2).

The OP Setdown Report stated OP’s justification and reasoning for the amendments and addressed their consistency with the Comprehensive Plan. The Commission directly quotes the OP Setdown Report extensively in the summary below because it succinctly summarized the proposed amendments, their consistency with the CP, and the Commission found the reasoning highly persuasive.

The OP Setdown Report stated the following:

I. **RECOMMENDATION**

The Office of Planning (OP) recommends the Zoning Commission set down for public hearing amendments to the Zoning Regulations to create the Chevy Chase Neighborhood Mixed Use zones - NMU-4/CC1 and NMU-4/CC2; and a Map Amendment to map the zones on properties generally fronting on Connecticut Avenue, NW between Chevy Chase Circle, NW and Livingston Street, NW.

³ 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 MU-3A zoning is the equivalent of 1.0 FAR; and the maximum permitted FAR of the Property’s existing R-1B zone is the equivalent of 0.4 FAR (Subtitle X § 502.4).

⁴ An explanation of reasons is not required by the Administrative Procedures Act in rulemaking cases (*See* D.C. Official Code § 2-505(a), *District of Columbia Hosp. Ass’n v. Barry*, 498 A.2d 216 (D.C. 1985)). Nor is it required by the Zoning Act (*See* D.C. Official Code §§6-641.01-6-641.05). This is in contrast to a contested case, where the Commission is required to issue an order that contains findings of fact and/or conclusions of law for each contested issue (*See* D.C. Official Code §2-509(e), *Lee v. District of Columbia Zoning Commission*, 411 A.2d 635 (1980)).

The proposed new zoning text and map amendment are not inconsistent with the Comprehensive Plan, including when viewed through a Racial Equity lens, and incorporate land use and building massing, design and use guidance from the Council adopted Chevy Chase Small Area Plan.

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II. PLANNING BACKGROUND

As part of the 2021 update of the Comprehensive Plan (the Comp Plan), Council approved important changes to the Future Land Use Map (FLUM), the Generalized Policy Map (GPM) and the Citywide and Rock Creek West Area Elements, including the Chevy Chase corridor. The new Comp Plan places a much stronger emphasis on the provision of new housing and new affordable housing opportunities, particularly in areas such as the Rock Creek West Planning Area where there is a lack of dedicated affordable housing.

Rock Creek West Road Map

Based on the direction of the Comp Plan, the Office of Planning along with the Department of Housing and Community Development (DHCD) and the Office of the Deputy Mayor for Planning and Economic Development (DMPED) undertook the Rock Creek West Road Map study to examine where and how to build affordable housing within the Rock Creek West Area. The Rock Creek West Road Map identified several near term opportunities to increase the supply of affordable housing and tools that can be used to realize those opportunities. The Chevy Chase Area was identified as one of three areas in Rock Creek West where efforts should be made to increase the production of housing and affordable housing, supported by vibrant public spaces, retail and other amenities. The Roadmap identified three approaches to affordable housing production: Financial Subsidies, Land Use Regulations and Planning for Opportunity Sites. Regarding development on opportunity sites, the Roadmap provides the following guidance:

Planning for opportunity sites in Rock Creek West includes exploring the possibility of including mixed income housing, especially for the lowest-income households, to support the District's housing goals. Many different types of sites can be considered "opportunity sites." For example, the District can leverage the land value of underutilized parcels of District-owned land to redevelop properties and produce new affordable housing, job opportunities, and community amenities. Projects on public disposed land are required to allocate 30% of housing units as dedicated affordable if close to public transit or 20% of units for all other projects.

Neighborhood Planning & Opportunity Sites: Neighborhood Planning can engage the community in establishing a vision and goals for redevelopment that can integrate a mix of housing options, high-quality design, public space, and community-serving amenities.

In Rock Creek West, OP's 2021-2023 neighborhood planning efforts are intended to implement the Comp Plan, particularly where land use changes have been made on Wisconsin and Connecticut Avenues that increase opportunities for residential development. These land use changes were an important step for Rock Creek West to

support an equitable share of the District's growth, specifically providing for more dedicated affordable and moderate-income housing.

Chevy Chase Small Area Plan

The Comp Plan also recommended a more detailed and holistic analysis be done of the Chevy Chase corridor, looking at the physical, social, transportation, environmental, housing and economic issues of the area. After community outreach, meetings, and conversations, the Chevy Chase Small Area Plan (CCSAP), was approved by the Council of the District of Columbia on July 12, 2022 (Resolution 24-0564). The CCSAP places great emphasis on the provision of more housing and in particular affordable housing, as well as neighborhood retail, along Connecticut Avenue NW...

The proposed text and map amendment is the next step towards implementing the recommendations of the Comp Plan and the CCSAP. The proposed text amendment has evolved considerably over the past year as OP has worked with ANC-3/4G and members of the community on the appropriate density and heights of buildings that would accommodate additional housing and neighborhood serving retail, as established in the Comp Plan, while addressing neighborhood character and impact guidance from the CCSAP. OP greatly appreciates the work of the ANC committee and the comments received from community members— their input significantly impacted the currently proposed zoning ...

III. SITE AND AREA DESCRIPTION

The area covered by the proposed text and map amendment can be described as the Chevy Chase Main Street Commercial Corridor, and includes the properties fronting on both the east and west sides of Connecticut Avenue, NW, generally between Western Avenue and Oliver Street to the north and Livingston Avenue to the south A small number of properties face side streets – typically, they are part of larger development sites fronting Connecticut Avenue NW. The area includes a variety of lot shapes and sizes, and buildings are mostly one or two stories in height, with a variety of architectural styles. The corridor also has a variety of restaurant, retail and service uses which serve the local community.

The western side of Connecticut Avenue has mainly relatively small rectangular lots interspersed with larger lots. There are two historic buildings - the Avalon Theater at 5612 Connecticut Ave. and the Chevy Chase Arcade at 5520 Connecticut Ave.

On the east side of Connecticut Avenue, the lots are generally larger, and irregularly shaped. Most of the buildings are detached and accommodate surface parking. One of the largest lots is the District owned property at 5625 Connecticut Avenue, NW (the “Civic Site”) which houses the Chevy Chase Library and the Chevy Chase Community Center, which are two of the tallest buildings along the corridor but are two stories.

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IV. SUMMARY OF PROPOSED TEXT AMENDMENT

The proposal is to create two new Chevy Chase Neighborhood Mixed Use zones, NMU-4/CC1 and NMU-4/CC2. The proposed zoning bulk (height and density) and use

parameters of the proposed zones reflect the land use policy direction of the Comp Plan. The more area-specific zoning provisions for new construction and additions address specific guidelines of the CCSAP. Much of the discussion with the ANC has been about the incorporation of these guidelines into zoning, and OP appreciates the input received, which has greatly influenced the proposal. To address the policy direction within the Comp Plan, the NMU-4/CC1 zone is based on the MU-4 zone, and the NMU-4/CC2 zone is based on the MU-4 PUD provisions.

NMU (Neighborhood Mixed-Use) zones are applied to many neighborhood commercial corridors and are intended to, among other things:

- provide for a mix of residential, employment, retail, service, and other related uses in the area;*
- preserve and enhance neighborhood shopping areas; encourage a general compatibility in scale between new and older buildings; and*
- identify designated areas within which ground floor use restriction can apply.*

Other areas with NMU zoning include Cleveland Park, Woodley Park, and Macomb in Ward 3, and Takoma, Georgia Avenue, H Street NE, and Eighth Street SE in other parts of the city. Many other NMU zones are based on the MU-4 zone.

While each NMU zone is different, there are provisions that apply to all NMU zones, so would apply to the NMU-4/CC zones where they are consistent with CCSAP direction. Other proposed provisions to incorporate provisions of the CCSAP would apply only in these zones, although where appropriate, they are often based on similar provisions of other NMU zones. However, some design guidelines of the CCSAP cannot be addressed in Zoning Regulations, such as public space improvements, and therefore are not incorporated into the proposed zoning text.

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NMU-4/CC1 Zone – Commercial Corridor

The NMU-4/CC1 zone would apply to most of the commercial corridor along this section of Connecticut Avenue. The Chevy Chase Neighborhood Mixed Use Zone NMU-4/CC1 would be mapped in Squares 1859, 1860, 1865, 1867, and 1868 on lots generally along both sides of Connecticut Avenue, NW between Western Avenue, NW and Livingston Street, NW. These properties are currently zoned MU-3A.

The NMU-4/CC1 zone would allow mixed use, low-density commercial and moderate density residential uses – generally ground floor retail (as would be required by the zone) and residential use above within the development parameters summarized on Table 1 below:

Table 1 – Summary of NMU/CC1 Zone

	Existing MU-3A Zone	Proposed NMU-4/CC1 Zone
Maximum FAR	1.0 1.2 (IZ)	2.5 3.0 (IZ+) 0.5 bonus for façade preservation
Building Height	40 ft. / 3 stories maximum	40 feet; 50 feet (IZ+) maximum 5 feet bonus for providing 18 feet tall ground floor 25 feet minimum
Maximum Penthouse Height	12 feet except 15 feet for penthouse mechanical space	12 feet except 15 feet for penthouse mechanical space
Maximum Lot Occupancy	Residential - 60% Non-residential – not limited	Residential - 60%; 75% (IZ+) Non-residential – not limited
Minimum Rear Yard	15 ft. above 25 feet No alley – 15 feet	15 feet above 25 feet No alley – 15 feet 1:1 step-back above 25 feet
Minimum Side Yard	None required; 5 feet minimum if provided.	None required. 5 feet. minimum if provided. 15 feet minimum if not separated from an R or RF zone by an alley.
Minimum Front Step-back	None required	3 feet above the third floor or a preserved façade
GAR	0.3	0.3

The proposed NMU-4/CC1 development standards would include provisions to reflect the guidelines of the CCSAP:

- *To encourage the preservation of pre-1958 building facades, an additional 0.5 FAR in density would be allowed with the addition above the façade setback at least three feet;*
- *Along the Connecticut Avenue frontage, new buildings would have a minimum height of twenty-five feet, with a minimum first floor ceiling height of fourteen feet;*
- *Along Connecticut Avenue, there would be a required setback of three feet minimum for building above a third floor; and*
- *Buildings with 18-feet floor to ceiling heights would be allowed an additional 0.5 FAR in density.*

Transition requirements, to address the relationship between new development and adjacent low density residential properties in the R and RF zones, include:

- *A 1:1 step-back from a rear lot line above 25 feet;*
- *A 15-foot wide rear yard setback; and*
- *A 15-foot wide side yard setback if there is not an alley separating the properties.*

To activate the Connecticut Avenue frontage, a number of additional provisions are proposed:

- *At least 75% of the front façade would be built to the front lot line;*
- *Minimum window area and door separations on the ground floor;*
- *Maximum window area on upper floors to avoid a “glass curtain wall” inconsistent with the existing character;*
- *Retail space required to be accessed from Connecticut Avenue and be at grade with the sidewalk; and*
- *Parking and loading could not be accessed from Connecticut Avenue.*

NMU-4/CC2 Zone – Civic Site

The NMU-4/CC2 zone would apply only to the Civic Site on Connecticut Avenue, NW between Northampton Street, NW and McKinley Street, NW, Square 1866 Lot 823. This site is currently zoned MU-3A and R-1B. The proposed zone reflects the Comp Plan and Chevy Chase Small Area Plan recommendations by providing for mixed-use and local public facility development on the District-owned property, including a moderate density level of housing. Development parameters summarized on Table 2 below:

Table 2 – Summary of NMU/CC2 Zone

	Existing MU-3A Zone	Existing R-1B Zone	Proposed NMU-4/CC2 Zone
Maximum FAR	1.0; 1.2 (IZ)	n/a	3.0; 3.6 (IZ+) Total; 1.5 Non-Residential
Maximum Building Height	40 ft. / 3 stories	1, detached	65 feet
Maximum Penthouse Height	12 feet/1 story except 15 feet for penthouse mechanical space	40 feet / 3 stories	12 feet/1 story except 15 feet for penthouse mechanical space
Maximum Lot Occupancy	Residential - 60% Non-residential – not limited	40%	Residential – 60% Non-residential - 60%
Minimum Rear Yard	15 ft. above 25 feet No alley – 15 feet	25 ft.	15 feet from grade No alley – 15 feet 1:1 step-back above 25 feet
Minimum Side Yard	None required; 6 feet minimum if provided.	8 feet	None required; 6 feet. Minimum, if provided 15 feet minimum if not separated from an R or RF zone by an alley.
GAR	0.3	n/a	0.3

The proposed NMU-4/CC2 development standards would be similar to those allowed under the MU-4 PUD, consistent with the Comp Plan but with some variations to reflect the guidelines of the CCSAP:

- Penthouse mechanical space height would be limited to 15 feet maximum where 18.5 feet is allowed under the MU-4 PUD;*
- Lot occupancy for both residential and non-residential uses would be limited to 60% maximum, whereas lot occupancy for non-residential uses is not limited in either the existing MU-3A zone or the MU-4 zone. This is specifically to address community concerns about the provision of open space on this site. OP acknowledges that this could limit the ability of the site to provide the level of housing anticipated by both the Comp Plan and the CCSAP; however, those documents also call for the provision of open space on District-owned properties, including this one.*
- A 1:1 step-back from a rear lot line above 25 feet;*
- A 15-foot wide rear yard setback; and*
- A 15-foot wide side yard setback if there is not an alley separating the properties.*

RF-1 Zone

The proposed map amendment would also include a rezoning to RF-1 of a small number of sites fronting side streets, specifically McKinley and Morrison Streets, currently zoned R-2 or R-1B. These properties are mainly existing surface parking lots that are in common ownership with commercial properties fronting Connecticut Avenue, NW. Although generally included within the CCSAP study area, applying the proposed new mixed-use zones to these properties would not appear to be consistent with the Comp Plan, particularly the FLUM, and could introduce commercial use into the low-density neighborhood.

Following conversations with the ANC about these properties, OP is proposing to rezone them to the RF-1 zone, which would allow potential development as an appropriate transition between the low-density residential uses and the moderate density proposed NMU-4/CC1 zone. The RF-1 zone would not permit commercial use of the sites but would allow for one or two family rowhouse development. There are no site-specific guidelines proposed for these sites. Development parameters summarized on Table 2 below:

Table 2 – Summary of NMU/CC2 Zone

	Existing R-1B Zone	Existing R-2 Zone	Proposed RF-1 Zone
Maximum FAR	n/a	n/a	n/a
Maximum Principal Dwellings	1, detached	1, detached, semi-detached	2, detached, semi-detached, attached
Minimum Lot Size	50 ft. width; 5,000 sq.ft. area	30-40 ft. width; 3,000-4,000 sq.ft. area	18 ft. width; 1,800 sq.ft. area
Maximum Building Height	40 ft. / 3 stories	40 ft. / 3 stories	35 ft. / 3 stories 40 ft. by sp.ex.
Maximum Lot Occupancy	40%	40%	60%
Minimum Rear Yard	25 ft.	20 ft.	20 ft.
Minimum Side Yard	8 ft.	8 ft.	None required; 5 feet. minimum if provided

V. COMP PLAN EVALUATION

A. COMP PLAN MAPS

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Generalized Policy Map (GPM)

*The **Generalized Policy Map (GPM)** ... designates the majority of the corridor as being within a Main Street Mixed Use Corridor; a portion of the Civic Site is designated as Park; and the corridor is within an area designated as a Future Planning Analysis Area.*

...

***Main Street Mixed Use Corridors:** These 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. 10-A DCMR § 225.14

Parks, Recreation, and Open Space: *This designation includes the federal and District park systems, including the National Parks, such as the National Mall; the circles and squares of the L'Enfant city and District neighborhoods; settings for significant commemorative works, certain federal buildings such as the White House and the U.S. Capitol grounds, and museums; and District-operated parks and associated recreation centers This category includes a mix of passive open space (for resource conservation and habitat protection) and active open space (for recreation). ... Zoning designations for these areas vary. The federal parklands are generally unzoned, and District parklands tend to be zoned the same as surrounding land uses. 10-A DCMR § 227.1*

Future Planning Analysis Area: *As further discussed in Sections 2503.2 and 2503.3 of the Implementation Element, areas of large tracts or corridors where future analysis anticipated to ensure adequate planning for equitable development. Boundaries shown are for illustrative purposes. Final boundaries will be determined as part of the future planning analysis process for each area. Planning analyses generally establish guiding documents. Such analysis should precede any zoning change in this area. The planning process should evaluate current infrastructure and utility capacity against full buildout and projected population and employment growth. Planning should also focus on issues most relevant to the community that can be effectively addressed through a planning process. Individual planning analyses may study smaller areas than the Analysis Area. For the purposes of determining whether a planning analysis is needed before a zoning change, the boundaries of the Future Planning Analysis Areas shall be considered as drawn. The evaluation of current infrastructure and utility capacity should specify the physical or operational capacity both inside the boundaries and any relevant District-wide infrastructure available.*

The proposed zones are not inconsistent with the GPM as they would allow a mix of uses, particularly ground floor commercial uses and upper floor residential uses, as well as a District library, community center and open space on the Civic Site. This portion of the Connecticut Avenue corridor has a pedestrian oriented environment with traditional storefronts. The potential exists for a more vibrant mixed use corridor and the capacity for redevelopment to encourage greater economic development and housing opportunities to address Comp Plan policies and neighborhood needs.

The recommended future analysis of the area has taken place and the boundaries of the planning area were determined in the CCSAP and on which the proposed zones are based. The vision of the CCSAP is to advance equity in housing and the provision of more affordable housing, a thriving retail corridor, and mix of uses in the civic core,

safe and sustainable pedestrian ways and an inclusive built environment along Connecticut Avenue main street and the Chevy Chase community.

Future Land Use Map (FLUM)

*The **Future Land Use Map (FLUM)** ... designates the area for mixed-use moderate density residential and low density commercial for the corridor, with an additional local public facilities designation on the Civic Site.*

...

Mixed Use Categories: *The Future Land Use Map indicates areas where the mixing of two or more land uses is 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. The Mixed Use category generally applies in the following three circumstances: a. Established, pedestrian-oriented commercial areas which 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; and 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 ... 10-A DCMR § 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 ... 10-A DCMR § 227.21.*

Moderate Density Residential: *This designation is used to define neighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four unit buildings, row houses, and low-rise apartment buildings. In some neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). Density in Moderate Density Residential areas is typically calculated either as the number of dwelling units per minimum lot area, or as a FAR up to 1.8, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The R-3, RF, and RA-2 Zone Districts are consistent with the Moderate Density Residential category, and other zones may also apply. 10-A DCMR § 227.6*

Low Density Commercial: *This designation is used to define shopping and service areas that are generally lower in scale and intensity. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts that draw from a broader market area. Their common feature is that*

they are comprised primarily of commercial and mixed-use buildings that range in density generally up to a FAR of 2.5, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-3 and MU-4 Zone Districts are consistent with the Low Density category, and other zones may also apply. 10-A DCMR § 227.10

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 nongovernmental 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. 10-A DCMR § 227.17*

The Future Land Use Map (FLUM) indicates that the designated area is appropriate for Mixed Use development, a combination of Moderate Density Residential and Low Density Commercial, plus Local Public Facilities on the Civic Site. The current MU-3A zone allows a mix of uses but is listed in both the Comp Plan and zoning (Subtitle G § 101.8) as a low density zone thus it does not permit the moderate density level of housing anticipated by this designation. Throughout the city, MU-4 zoned land is typically designated on the FLUM for low density commercial or a mix of low density commercial and moderate density mixed use development.

The proposed NMU-4/CC1 zone is based on the MU-4 zone which is described in zoning (Subtitle G § 101.9) as a moderate density zone. While the Comp Plan lists MU-4 as a low density zone the Framework Element also states that “other zones may also apply” and that “greater density (is) possible when complying with Inclusionary Zoning.” (227.10).

As with the base MU-4 zone, the NMU-4/CC1 zone would allow an FAR of up to 2.5 with 3.0 permitted with IZ Plus, which is not inconsistent with the FLUM.

The NMU-4/CC2 zone for the Civic Site, which is based on the MU-4 PUD permissions, would allow a FAR of up to 3.0 FAR and up 3.6 FAR with IZ Plus. This higher FAR is recommended for the NMU-4/CC2 zone based on the clear policy statements regarding the provision of housing in the Comp Plan, and the need for the site to also accommodate the civic uses.

The NMU-4/CC2 zone would be not inconsistent with the FLUM, as it would achieve the policy direction to accommodate both the public facilities, including significant open space, and a moderate density level of housing. Comp Plan policy statements for this site indicate that the FLUM designation should not be interpreted as Local Public Facilities instead of a moderate density level of residential, but rather in addition to a moderate density level of residential on the site.

As such, the proposed zones are not inconsistent with both the Comp Plan GPM and FLUM particularly when read in conjunction with policy recommendations of the Comp Plan.

B. EQUITY

Part One: Racial Equity Guidance

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As detailed below, the proposed NMU-4/CC1 and NMU-4/CC2 zones are, on balance, not inconsistent with the policies and goals of the Comp Plan, particularly when the Comp Plan is read as a whole. Given the wide range of overlapping policy topics addressed in the Comp Plan, certain Citywide Elements may have little to no applicability to this proposal or to this portion of the Rock Creek West area. The Citywide Elements that are more directly applicable to the proposal are the Land Use, Housing, Economic Development, and Community Services and Facilities Elements as well as the Rock Creek West Area Element.

*Part Two: Community Outreach and Engagement
Chevy Chase Community*

The community most impacted by the proposed zoning action is the area identified in the CCSAP as the area around the Chevy Chase Mixed Use Corridor along Connecticut Avenue, NW. The area is generally bounded by 41st Street NW, Military Road NW, Nevada Avenue NW, and Western Avenue NW. The area is located at the border with Maryland with the prominent Chevy Chase Circle serving as a gateway entrance into the District.

Other than the commercial corridor itself, the surrounding area is predominantly composed of single family detached houses on large lots. To the south of the existing low-density commercial corridor, along Connecticut Avenue, is an area of mid- to high-rise residential development, consistent with the medium to high density RA-4 residential zone, which permits a residential building height of 90 feet. The commercial corridor features a mix of small independent businesses, including a grocery store, pharmacy, several bank branches, and a neighborhood library and community center with a small tot lot, tennis court, and surface parking.

The proposed text amendment, once mapped, would not have any physical impacts until a property owner chooses to move forward with a development project. To date, OP has not been approached by any landowner, other than the District for the Civic Site, to discuss re-development opportunities of their lands.

Although land use changes were identified two years ago in the 2021 Comp Plan, the zoning could contribute to commercial displacement pressures for existing tenant businesses. Property owners may benefit from the zoning change as increased residential development potential at this scale may lead to higher land values on the

corridor, but this could also lead to higher commercial rents causing pressure on existing businesses. More permissive development opportunities may enable existing or new tenant businesses to relocate or expand within the community, while the addition of new residents to the community would provide a larger customer base and labor force for existing businesses.

This text and map amendment would enable housing, including affordable housing, on both private and public property, which provides new opportunities and options for residents of the city and the neighborhood. The zoning enables IZ Plus, which would achieve greater dedicated housing affordability, where it presently does not exist. This would benefit current and future residents of the District by providing greater housing choice in terms of location, cost, and type. It could benefit existing residents of the neighborhood by providing opportunities to “down-size” from a single-family dwelling in their neighborhood, by providing additional opportunities for family members to live close by, and by facilitating a more diverse and inclusive community. New development would be required to include retail or service uses, and this could also be of benefit to both new and existing residents of the community.

The community would also benefit from a desired new library, recreation center and improved open space on the Civic Site.

Past and Present Racial Discrimination/Harm to Community

A history of discriminatory land use practices has led to the racially segregated landscape of Rock Creek West Planning Area today. In the Chevy Chase community, this history included the displacement of historic Black communities including the George Pointer Settlement. Captain George Pointer’s family were among the early Black landowners in the area, and they lived on and farmed the site from the 1830s until they were displaced in the 1920’s when their homes were taken to build the Lafayette Elementary School, for whites only, and Lafayette Park in 1928.

Other means to segregate many neighborhoods in DC including Chevy Chase included restricted housing (restrictive covenants) based on race, the establishment of covenants to prohibit residential developments other than single family detached homes, and the creation of the Federal Housing Administration Grading Map of 1937, which used race as a criterion for loan approvals.

In recent years, community organizations as well as the ANC have documented the exclusive legacy of Chevy Chase, economically and racially, and are leading research projects and truth-telling efforts to convey a more complete story of the neighborhood’s history. One such project highlights the displaced George Pointer community.

Chevy Chase residents spearheaded the effort to rename Lafayette Park to Lafayette-Pointer Park, and the recreation center to Lafayette-Pointer Recreation Center in 2021 to honor the Captain George Pointer family. Community-led efforts have also focused on renaming the Francis Newlands memorial fountain in the center of the prominent Chevy Chase Circle, a federal property.

Chevy Chase is a high opportunity area with many public and private amenities but is increasingly out of reach for a range of household incomes. Homeowners in the CCSAP study area are overwhelmingly white and wealthy compared with the District as a whole.

New housing would provide new opportunities for non-white households to live in the neighborhood. As of early 2022, there were no dedicated affordable housing units within the CCSAP study area, either through subsidy or inclusionary zoning. Existing housing subsidies, such as the federal mortgage interest tax deduction and municipal Homestead and Senior Citizen property tax deductions benefit homeowners in the CCSAP study area.

Community Participation/Outreach Efforts .

Throughout the 12-month CCSAP process, OP engaged in robust community engagement and outreach, including attending or leading 45 community events or meetings related to CCSAP topics. OP continues to be committed to a robust community engagement process throughout the text and map amendment process towards implementing the recommendations of the Comp Plan and the CCSAP. The following are the engagements to date, not including one-on-one discussions and email exchanges:

<i>August 10, 2022</i>	<i>OP Director met with ANC representatives and decision was taken that the ANC would convene a subcommittee to work with OP on the initial draft text amendment prior to having a full community roll out.</i>
<i>September 13, 2022</i>	<i>OP met with the ANC subcommittee to discuss the Comp Plan, CCSAP and Zoning recommendations. The subcommittee included members of the ANC, as well as other community members invited by the ANC.</i>
<i>November 2, 2022</i>	<i>OP submitted a draft zoning text to the ANC subcommittee for review.</i>
<i>November 9, 2022</i>	<i>Continued discussions about the draft zoning text with the ANC subcommittee.</i>
<i>December 9, 2022</i>	<i>OP met with ANC subcommittee to discuss changes based on their previous comments.</i>
<i>February 14, 2023</i>	<i>OP met with remaining ANC subcommittee members to review a further draft of the zoning.</i>
<i>March 1, 2023</i>	<i>ANC released the draft text amendment to the public.</i>
<i>March 10, 2023</i>	<i>OP met with the Councilmember to discuss draft zoning for the Civic site.</i>
<i>May 17, 2023</i>	<i>OP made a presentation of the draft zoning at an ANC meeting focused on the text amendment process but also fielded questions on the draft zoning.</i>
<i>May 31, 2023</i>	<i>OP met with ANC Chairperson regarding public meetings and participation going forward.</i>
<i>June 12, 2023</i>	<i>OP sent out emails to assist ANC in notifications of a second OP presentation to be made at its June 26 meeting.</i>
<i>June 21, 2023</i>	<i>OP met with ANC Chairperson and ANC Single Member District representative to finalize format and information to be presented by OP presentation at June 26 meeting.</i>
<i>June 26, 2023</i>	<i>OP gave a presentation to the community at ANC public meeting on revised draft text, based on previous discussions, for the new zones with illustrations.</i>
<i>August 7, 2023</i>	<i>OP updated the ANC subcommittee members of changes to the proposal based on community feedback at and following the last ANC presentation.</i>
<i>September 11, 2023</i>	<i>OP provided an update at an ANC meeting, particularly to discuss timing of the OP report; the need to “translate” the proposal into the new zone name and</i>

format approved by the Zoning Commission; and amendments to the draft zoning text based on based on prior community input.

Community Priorities and Impact on Zoning Action

The planning process that preceded this proposed text and map amendment filing revealed mixed feelings and expectations in the community about the future of Chevy Chase. Some community members are supportive of prospective changes that the zoning action may facilitate and advocate for broader, more permissive zoning changes. Others have expressed strong opinions that the zoning actions could result in a negative physical change in the built environment along Connecticut Avenue. Some residents have expressed an opposition to the provision of new housing particularly on the Civic Site. Throughout, OP has noted that zoning is not a new planning process, which can be used to circumvent Comp Plan policy or CCSAP guidance. However, much of the discussion has been about how to interpret that guidance into zoning, which has been very productive and has resulted in substantive changes to the proposed amendments.

In the first draft of the proposed text amendment presented to the community, OP proposed the NMU-4/CCI ... zone, based on the MU-4 standards, for the majority of the corridor fronting on Connecticut Avenue. Most feedback was received by the ANC subcommittee, prior to community meetings, regarding transitions from the lower density residential areas, articulation, preservation, and setbacks of front facades, and public space improvements. There appeared to be support for the inclusion of IZ+. OP responded to the concerns by:

- amending the proposal for rear and side setbacks to require a 15-foot setback where commercial properties abut residentially zoned properties and are not separated by an alley;*
- adding a provision to encourage the preservation of existing building facades, in return for a 0.5 FAR bonus;*
- amending front façade guidelines by requiring a three foot (3 ft). setback above the third floor or above a preserved façade, and setting a limit on glazing for upper, residential floors to ensure streetscape compatibility;*
- strengthening a 1:1 required setback from the rear lot line to provide a better transition from low density residential properties; and*
- adding a minimum height requirement of 25 feet. This is the first time this provision has been proposed in DC but would help to address CCSAP guidelines about a consistent street wall along Connecticut Avenue.*

The initial zone for the Civic Site was originally proposed by OP to be based on the MU-5A zone. This was based on the somewhat unique FLUM designation and policy language in the Comp Plan and other housing related planning documents to maximize the density on the site to accommodate and prioritize affordable housing in addition to the public facilities.

The initially proposed zone would allow a FAR of up to 3.5/4.2 with IZ+, and a maximum height of 70 feet with IZ + in addition to an 18.5-foot high penthouse. The

strong feedback received from the community – including supporters of the rezoning - was that the proposed height and density were more than anticipated through the planning processes and could be inconsistent with the Comp Plan. Based on those concerns, the proposal was revised to use the MU-4 PUD standards which reduced the FAR to 3.0/3.6 with IZ+, a building height of 65 feet plus 15-foot penthouse height for mechanical space and 12-foot for habitable space. To further reduce the height permissions under the proposed zone, the 5-foot height bonus recommended for an 18-foot high ground floor was not proposed for the new zone.

Through the community discussion process, additional feedback and concerns resulted in other changes of substance to the zoning for the Civic Site:

- The originally proposed lot occupancy, limiting residential uses to 80% with no limit on non-residential uses, is the typical requirement for MU (including the current MU-3A zone) and NMU zones. OP had not proposed a change to this standard, to ensure maximum flexibility for the design of buildings on this site, and to more fully address Comp Plan and other planning policies to maximum housing. However, this was strongly opposed, with ANC and community members, including supporters of a rezoning, noting that this could result in a loss of open space on the site, and could be interpreted as being inconsistent with Comp Plan language about preserving open space.*

In response, OP proposed a lot occupancy of 80% for all uses, not just residential. This too met with considerable opposition from all sides. In the current draft, OP is proposing 60% lot occupancy for all uses on the Civic Site. While this could limit Comp Plan direction to maximize housing on the site, it would ensure an amount of open space on the site that is not inconsistent with the amount of green space on the site now.

- A minimum rear yard of 15 feet was added,*
- A minimum side setback of 15 feet was added where the site abuts residentially zoned properties and are not separated by an alley;*
- The 1:1 step-back provision, intended to provide a transition from Civic Site construction to the lower density residential area to the east, was strengthened.*

Potential Impact of the Proposed Zoning Action

There is no expectation that local residents will be displaced, either directly or indirectly, as a result of the proposed text and map amendment. There are no residences on the Civic Site or on this section of the corridor. This zoning action would continue to enable mixed-use redevelopment on the commercial properties and the Civic Site, but with a more substantial residential component including introducing dedicated affordable housing into the neighborhood, consistent with Comp Plan policy direction.

Displacement pressures on existing businesses could be intensified by the proposed text and map amendment. These could be mitigated through recommendations in the CCSAP that are not within the purview of zoning but which would support a thriving retail corridor, such as technical assistance administered by the Main Street organization. In addition, the new regulations would require the provision of ground

floor retail space which could accommodate existing businesses and provide opportunities for larger or better space.

In summary, these changes appear to have been received as generally positive steps by the ANC subcommittee, although ANC members and many community members have indicated opposition to aspects of the zoning, mainly on the grounds of intensified use, building height/scale; consistency with the low density residential areas, traffic impacts, and an opposition to the provision of new housing especially on the Civic Site.

Concerns have also been raised that some of the CCSAP guidelines have not been incorporated into the proposed zoning text – this is typically because some of the guidelines are beyond the scope of what zoning can or typically does regulate. Examples include guidelines pertaining to streetscape design, which is not within the jurisdiction of zoning to regulate, and guidelines related to required façade materials of buildings, something that is not currently regulated in zoning and which would be very difficult to craft in a meaningful, comprehensive way and more difficult to administer. A full list of the CCSAP guidelines with an OP response is provided as Attachment 1 to the OP Setdown Report.

Part Three: Disaggregated Data Regarding Race and Ethnicity

The data below compares the demographic information for the Rock Creek West (RCW) Planning Area with District-wide information, disaggregated by race and ethnicity retrieved from the DC Demographic Data Hub at <https://opdatahub.dc.gov/>. The data is from the last two 5-year American Community Surveys (ACS DATA) conducted by the US Census to demonstrate the trajectory of demographic change over time. This proposed map and text amendment would implement the Chevy Chase Small Area Plan (CCSAP), approved by Council in 2022, which also included a racial equity analysis comparing the RCW Planning Area, District, and smaller study area of census tracts (001100.1, 001401.1, and 001401.2) in the immediate area of the CCSAP.

Race or Ethnicity

The population data of RCW showed a slight decrease between 2016 to 2021, compared with the growth in population of the District as a whole. RCW retains the highest percentage of white residents and lowest percentage of Black or African American residents of all 10 planning areas, although the percentage of both Black and Hispanic residents rose slightly from 2016 to 2021.

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Median Income

RCW residents maintained a higher median income than the District as a whole between 2016 and 2021, but the data reveals specific nuances when disaggregated by race and ethnicity. In particular:

- The median income of Black or African American population in RCW decreased by 16.8% between 2016 and 2021. RCW was one of only two planning areas (along with Central Washington) where the median income of Black or African Americans did not increase during this time period.*

- Meanwhile, the median income for white households rose at a rate higher than that of the planning area as a whole.
- The median income of RCW's Asian population increased but remains slightly below the median of the District-wide Asian population.

...

Median Age

The median age of the RCW Planning Area is increasing compared to the District as a whole. Between 2016 and 2021 it was the second highest among the 10 planning areas (moderated by a large population under 18 years of age). RCW's relatively smaller population that identifies as Black or African American is the only group with a median age that has decreased in the planning area.

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Housing Tenure

In 2012-2016, RCW has the second highest percentage of owner-occupied housing of the District's 10 planning areas at 55.1%, much higher than the Districtwide average of 40.7%. In RCW, 59.8%, of owner-occupied housing was by white households, compared with 29.3% by Black and African American households, the lowest of all races. In 2017-2021, the Districtwide owner occupancy has a slight increase to 41.5% while owner occupancy in the RCW decreased to slightly to 53.5%. However, home ownership for whites, Some Other Race and Hispanics or Latino showed a small decrease while there was an increase for Blacks, Asian, and Two or More Races. The largest increase in home ownership was for the Two or more Races households which had a 12.9% increase.

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Vulnerable or Special Populations

The percentage of persons 65 years or older in the planning area is about 8% higher than the Districtwide percentage. However, persons under 18 years in the planning area is generally the same as the Districtwide percentage. It is possible that in a planning area with an above average percentage of over-65 residents, the presence of universities may contribute to the percentage of younger population remaining generally the same as the District-wide average. Although perhaps a misnomer, the disability rate Districtwide has remained fairly constant while that of the Planning Area continues to be lower than the Districtwide rate.

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Progress Toward Meeting the Mayor's 2025 Housing Equity Goals

The RCW Planning Area has the least amount of dedicated affordable housing and therefore the most ambitious target for meeting the Mayor's 2025 affordable housing goal of 1,990 new affordable units. Since 2019, the RCW Planning Area has made the least amount of progress of the District's 10 planning areas in meeting the goal, achieving only 3.6% of the target (<http://open.dc.gov/36000by2025/>). The proposed text and map amendment would increase opportunities for new residential development

in RCW and through IZ Plus, a greater amount of dedicated housing affordability in a neighborhood and planning area where it presently does not exist.

...

Intersectionality of Data

The proposed text and map amendment would provide new opportunities for the provision of new housing - both rental and ownership, and both market rate and affordable - in RCW, which presently provides limited housing options for the majority of the planning area's relatively small but growing racial diversity of residents, as well as housing for more moderate and lower income residents of all racial and ethnic backgrounds.

Most of the rental housing stock in RCW is in larger multifamily buildings, none of which are within the area of the proposed text amendment. The majority of households that identify as Black or African American, Asian, Some Other Races, and Two or More Races, live in multifamily, rental buildings. The CCSAP noted that between 60-90% of minimum Washington Metropolitan Statistical Area Median Family Income (MFI) was needed to own or rent a home in a multifamily building, while a minimum of 184% of MFI was needed to own a detached or semi-detached home.

From a land use equity perspective, the housing that provides for the racial as well as income diversity in RCW accounts for a much smaller proportion of land area. In the CCSAP area specifically, it was noted that 65% of the homes were in multifamily buildings that only occupied seven percent of the land area, while 35% of the homes were single family dwellings, on 83% of the land area. This proposed text and map amendment would permit additional multifamily housing on the remaining 10% of the study area's property that is presently only commercial.

Part Four: Criteria to Evaluate through a racial equity lens Zoning Commission Evaluation Factors

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Table 11 below provides the OP response to themes/questions from the Racial Equity Tool, based on Comp Plan policies related to racial equity, that are anticipated to have positive or negative impacts and/or outcomes as a result of the proposed text and map amendment.

Table 11 Proposed Zoning Action / Racial Equity

Factor	Question	OP Response
Direct Displacement	Will the zoning action result in displacement of tenants or residents?	The text and map amendment would not result in the direct displacements of residents - OP is not aware of any exiting residences in the area subject to this zoning. The zoning action itself would have no physical impact until a property owner chooses to move forward with a redevelopment. While this could foster the displacement of existing businesses, the text and map amendment would also provide opportunities that may enable existing or new businesses to relocate or expand within the community.
Indirect Displacement	What examples of indirect displacement might result from the zoning action?	OP does not anticipate indirect displacement of residents as a result of this zoning action. While the proposal is not supported by some area residents, the amendments provide opportunities for existing residents to stay in the neighborhood if they downsize. Likewise, OP does not anticipate indirect displacements of businesses. Rather, additional residents being able to live along the Connecticut Avenue corridor could benefit local businesses by increasing their customer base and labor pool in close proximity.
Housing	Will the action result in changes to: ▪ Market Rate Housing ▪ Affordable Housing ▪ Replacement Housing	The text and map amendment would enable additional market rate housing on both private and public property along the corridor, and new dedicated affordable housing which does not currently exist. This could benefit current and future residents of the area and the city as a whole by providing greater housing choice in terms of housing cost and type. In general, the provision of market rate and affordable housing should help to ease upward pressure on housing costs in the area. The proposal also includes provisions to lessen impacts of new development on adjacent single family areas.

Factor	Question	OP Response
Physical	Will the action result in changes to the physical environment such as: ▪ Public Space Improvements ▪ Infrastructure Improvements ▪ Arts and Culture ▪ Environmental Changes ▪ Streetscape Improvements	The CCSAP outlines a number of streetscape and public space improvements envisioned for this portion of the Connecticut Avenue Corridor. While many of these are outside the scope of zoning, as they apply to sidewalk and roadway treatments, the proposed zoning text includes many design and siting related guidelines, not present in current zoning, to foster an improved streetscape. Any new construction would be held to all current and applicable zoning regulation and DOEE environmental standards. The proposal would facilitate an improved library and community center and open space with corresponding arts and cultural activities to serve the residents of the area.
Access to Opportunity	Is there a change in access to opportunity? ▪ Job Training/Creation ▪ Healthcare ▪ Addition of Retail/Access to New Services	If the zoning action leads to redevelopment of sites, it could result in a temporary increase in construction jobs and a permanent increase in jobs in expanded and new retail and service facilities on the corridor. Overall, the proposal could result in new or improved retail and services for new and existing residents of the area. While healthcare uses would not be required by the zoning, they would be permitted and would be more likely in redevelopment projects.

C. [COMP Plan Policies, including those related to racial equity, omitted for brevity]

D. *ROCK CREEK WEST AREA ELEMENT*

The subject property is in the Rock Creek West Area Element which outlines planning and development priorities including:

- increasing affordable and moderate income housing units within new market rate projects;*
- attracting retail uses to provide a wider range of neighborhood serving retail;*
- encouraging developments that would improve the vibrancy of a pedestrian oriented corridor; and*
- supporting improvements to common open spaces and public facilities.*

The proposed zoning text and map amendment would allow for more housing and affordable housing while also providing for more retail opportunities, as well as a new library, community center and public open space. The proposed density, greater than existing and consistent with the Comp Plan, would allow for more housing to support businesses, while zoning to incorporate the CCSAP guidelines would encourage a vibrant pedestrian corridor.

Policy RCW-1.1.2: Economic Development

Given the strength of the private market within Rock Creek West, carefully consider public-private partnerships that provide public space and community amenities and support additional mixed-use development in the area. 2308.3

The proposed zoning would allow for mixed use developments, including housing and affordable housing, by the private sector along the corridor, along with expanded opportunities for retail and service uses. Through the redevelopment of the Civic Core, public private development would result in new mixed-use development furthering the housing and affordable housing goals of the Comp Plan.

Policy RCW-1.1.4: Infill Development

Recognize the opportunity for infill development within the areas designated for commercial land use on the Future Land Use Map. When such development is proposed, work with ANCs, residents, and community organizations to encourage mixed-use projects that combine housing, including affordable housing, neighborhood-serving retail, and commercial uses. Design transitions between large- and small-scale development to ameliorate the appearance of overwhelming scale and to relate to context of lower-scale surrounding neighborhoods. 2308.5

Along the corridor there are a number of underutilized properties which could be redeveloped to utilize the additional height and density permitted by the Comp Plan and allowed under the proposed zones to create mixed use projects with ground floor retail and housing above. The proposed zones include required rear and side setback and step-back provisions to transition the scale of the commercial corridor (where 50 feet of height would be permitted) and Civic Site (where 65 feet would be permitted) to the low density residential areas (where 40 feet of height is permitted).

Policy RCW-1.1.5: Preference for Local-Serving Retail

Support new commercial development in the Planning Area that provides the range of goods and services necessary to meet the needs of local residents. Such uses are preferable to the development of new larger-scale or big box retail uses that serve a regional market. Destination retail uses are not appropriate in smaller-scale commercial areas, especially those without Metro access. Regardless of scale, retail development should be planned and designed to mitigate traffic, parking, and other impacts on adjacent residential areas. 2308.6

The proposed zoning would require ground floor retail along the corridor, except on the Civic Site where local public facilities would be required. The guidelines include ones, such as fenestration and door spacing, requirements that would encourage smaller scale retail. The regulations also include requirements that the floor level of retail be at grade with the sidewalk, and for parking and loading access from the rear and not from Connecticut Avenue, to mitigate impacts and create a vibrant streetscape.

Rock Creek West Policy Focus Area

The Rock Creek West Area Element contains three policy focus areas with additional guidance and direction to that provided in the Citywide and Area Elements and recommends Future Planning Analysis Areas, one of which is the Chevy Chase corridor on the upper portion of the Connecticut Avenue Corridor.

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RCW-2 Policy Focus Areas 2310

The Comp Plan has identified three areas in Rock Creek West as Policy Focus Areas, indicating that they require a level of direction and guidance above that in the prior section of this Area Element and in the Citywide Elements. These areas are shown in Map 23.1 and are listed in Figure 23.3. The policy focus areas include:

- Connecticut Avenue corridor*
- Wisconsin Avenue corridor*
- Van Ness Commercial District. 2310.1*

Two Future Planning Analysis Areas are located along Connecticut Avenue NW and Wisconsin Avenue NW. Within those Analysis Areas, additional finer-grained small area plans are needed at Friendship Heights, Tenleytown, Chevy Chase, Cleveland Park, Forest Hills, and Woodley Park, and may be appropriate at other areas. 2310.4

The CCSAP provided the planning analysis. The proposed text and map amendment is the next step in implementing the recommendations of the Comp Plan and the CCSAP for this policy focus area.

Policy RCW-2.1.1: Connecticut Avenue NW Corridor

Sustain the high quality of the Connecticut Avenue NW corridor. The positive qualities of the corridor, particularly its architecturally appealing, older apartment buildings; green spaces; trees; and walkable neighborhood shopping districts, should be

conserved and enhanced. Continued efforts to improve traffic flow and parking should be pursued, especially in the commercial districts. 2311.5

The proposed zoning encourages the retention of positive qualities of the corridor through the proposed incentive for projects which retain their front façade. Other guidelines include ones to provide fenestrations minimums for the ground floor and maximums for upper stories, consistent with existing patterns, and step-back above a preserved façade or at the third floor level. Many other CCSAP guidelines will be implemented as part of any new development through the Public Space Review process.

Policy RCW-2.1.2: Infill Development

Recognize the opportunity for additional housing, including new affordable and moderate-income units, with some retail and limited office space along the Connecticut Avenue NW corridor. 2311.6

The new zones offer opportunities for additional housing, including affordable housing and moderate income units, through the application of IZ+ to new developments. The proposed zoning also continues to permit most forms of retail and office uses along the corridor.

VI. CHEVY CHASE SMALL AREA PLAN

The 2021 Comp Plan update amended Citywide and Area policies as well as the Future Land Use Map and the Generalized Policy Map designations along the Connecticut Avenue NW mixed use corridor, between Western Avenue and Livingston Street. The amendments are specifically to encourage the provision of opportunities for more housing, including affordable housing, as well as new civic facilities and neighborhood serving retail and services.

Following the Rock Creek West Roadmap, in 2020, ANC 3/4G passed a resolution requesting a Small Area Plan for the Chevy Chase “Gateway,” to be developed through a community-led planning process. OP initiated the Chevy Chase Small Area Plan (CCSAP) in March of 2021. As noted in the CCSAP, a small area plan is intended to:

- Supplement the Comprehensive Plan by providing land use and urban design guidance for the development of city blocks, corridors, and neighborhoods.*
- Engage residents to develop strategic priorities that will shape future development in their neighborhoods.*
- Guide capital budget decisions and agency investment priorities (p. 7)*

Following analysis and discussions with the ANC, community groups, individuals, the Chevy Chase Main Street Organization, and other district agencies, a draft CCSAP plan was forwarded to Council. A Council public round table regarding the CCSAP was held on July 5, 2022. The CCSAP was approved by Council on July 12, 2022 (Resolution 24-0564).

Generally, the CCSAP outlines how any new development could look and function to support the commercial district and provide new housing options, including affordable housing. The CCSAP is intended to provide a “community-informed vision in advance of future development proposals within the neighborhood and in relation to broader local and metropolitan growth patterns.” (p. 2). It’s vision “. . . is to advance more equitable and environmentally sustainable growth along the Connecticut Avenue corridor to support an inclusive Chevy Chase community and thriving commercial main street.” (p. 2). The Plan frames success in achieving this vision around six themes, all of which this zoning action would further:

- 1. An inviting social and cultural character;*
- 2. An inclusive built environment;*
- 3. A reimagined civic core;*
- 4. A thriving retail corridor;*
- 5. An equitable housing strategy; and*
- 6. Safe and sustainable mobility (p. 16)*

For the Zoning Commission, the CCSAP provides guidance to supplement Comp Plan direction regarding density and use mix for new zoning established for the area, and it can guide the review of discretionary development proposals. The proposed new neighborhood commercial zones for the corridor incorporate many of the guidelines pertaining to building use and form. ...

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Zoning Response to CCSAP Guidance

The CCSAP does not recommend specific zoning designations or regulations to implement the policies of the Comp Plan or the CCSAP guidance.

The CCSAP urban design guidelines were assessed to see which should be incorporated into proposed Zoning Regulations. Those guidelines were built upon and supplement the Urban Design Guidelines of the Comp Plan. The aim is for the creation of zoning to address Comp Plan direction, particularly to increase housing opportunities, and simultaneously provide provisions that address streetscape, neighborhood character, and activation guidelines of the CCSAP.

The proposed zoning along the corridor is intended to address these goals through the provision of requirements, such as the following:

- Require ground floor retail, service, or public facility uses;*
- Require building setbacks and step-backs;*
- Encourage the preservation of building facades;*
- Encourage a strong relationship between retail spaces and the street; and*
- Govern the location of commercial and residential entrances and access to parking and loading.*

Many of the recommended provisions are consistent with all or some other Neighborhood Commercial zones; a few would be unique to this area.

Not every provision of the CCSAP is relevant to zoning for this area or could be implemented through zoning. Provisions that are outside the scope of the Zoning Regulations would be relevant to other approval processes, which is typical for small area plans. The design guidelines are intended to be used by various entities including private property owners, developers, design professionals, District agencies and community groups as they review proposals. They could also be used by the Zoning Commission in the review of a discretionary review process such as a PUD.

VII. SUMMARY OF PLANNING CONTEXT ANALYSIS

On balance, the proposed text amendment is not inconsistent with the 2021 Comp Plan, including the building density and use indicated on the FLUM, and with the CCSAP. The FLUM, read in conjunction with the Comp Plan text, provides a clear and definitive set of related policy objectives in support of the proposed zoning, in particular the very strong policy language to provide housing and affordable housing, and the policy language to preserve open space for the community – the current proposal would allow both.

The proposed zoning text and map amendment would permit the provision of new housing and affordable housing along this portion of Connecticut Avenue NW. The proposal would also encourage the expansion of neighborhood retail uses, and establish a suite of building setbacks, step-backs and design guidelines to ensure an active and welcoming streetscape along Connecticut Avenue, and to lessen potential impacts on the adjacent residential uses.

3. ANC Setdown Report

The property is within the boundary of ANC 3/4G.

On November 8, 2023, ANC 3/4G submitted a letter requesting the Commission to postpone consideration of setdown of the case as scheduled for November 9, 2023. The ANC stated that they required additional time to “complete our community engagement and issue our further resolution on OP’s proposals.” (Ex. 4).

4. Commission Setdown Meeting

At its November 9, 2023 public meeting, the Commission considered the OP Setdown Report, OP’s presentation at the meeting, and the ANC Setdown Report.⁵

The Commission considered the request for postponement in the ANC Setdown Report, and decided to proceed with setdown because it was convinced by the evidence presented in OP’s Setdown Report that OP had done significant outreach and engagement with the ANC already and given it ample time to reach a position on the proposal.

The Commission asked OP whether it served a copy of the Petition on the ANC. OP stated in response that it sent a copy of the Petition to the ANC Chair, and had received a response acknowledging receipt, but conceded that OP had not reviewed the notice regulations before

⁵ Subtitle Z § 500.9.

filing it, the implication being that OP did not meet all of the notice requirements of the Zoning Regulations prior to set down.

The Commission decided to waive⁶ the pre-setdown notice requirements of Subtitle Z §§ 304.5, 304.8, 305.6, 500.3, and 500.7⁷, which require the Petitioner to serve notice of its intent to file a petition on the affected ANC and all owners of property within two hundred feet (200 ft). of the Property forty-five (45) days before filing the Petition, and to serve a copy of the Petition on the Office of Planning, and the affected ANC, at the time the Petition is filed; and require the Office of Zoning Director to refer a copy of a Petition accepted for filing to OP, the District Department of Transportation, and the affected ANC. The Commission granted these waivers for the following reasons. OP is the Petitioner in this case, so it had actual notice of the Petition. There was ample evidence that the ANC had extensive actual notice of the Petition, and that the Commission planned to consider setting it down at its November 9th public meeting. The OP Setdown Report provided evidence⁸ that it had extensive interactions with the affected ANC prior to filing the Petition, including several meetings to discuss the petition over a period of more than a year to discuss the contents of the Petition. OP testified that it provided a copy of the Petition directly to the ANC Chair prior to filing it, who acknowledged receipt. And the ANC sent a letter to the Commission discussing the Petition for the Commission to consider at its setdown meeting. The Commission therefore concluded that both OP and the ANC had actual notice of the Petition prior to the filing, and it was appropriate to waive the rules because the actual notice constituted both good cause for the waiver and lack of prejudice to the affected parties. The extensive public outreach that OP did prior to filing its Petition was adequate to ensure that there was public awareness that it would be filing the Petition. Considering all of these factors, the Commission concluded that the waivers were appropriate.

The Commission decided to set down the proposed text and map amendments for a public hearing as a rulemaking case because it presented issues for resolution at a public hearing that potentially affect large numbers of persons and property.⁹ The case involved two (2) components. First, amendments to the text of the Zoning Regulations. The Zoning Regulations provide that all text amendments are to be decided as rulemaking cases.¹⁰ Second, amendments to the Zoning Map. The Zoning Regulations give the Commission discretion to decide map amendments as either rulemakings or contested cases, depending on the circumstances, and

⁶ The Commission has the authority to grant the waivers pursuant to Subtitle Z § 101.9, which provides that the Commission may, for good cause shown, waive any of the provisions of this subtitle if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

⁷ The Commission incorrectly cited Subtitle Z § 304.11 and omitted several regulations in its motion. The Commission notes that it intended to and did waive Subtitle Z § 304.5 in this motion, but acknowledges that in its response to a complaint at Exhibit 61 in the case record the Commission asserted that Subtitle Z § 304.5 does not reference petitions (i.e., rulemaking cases) and therefore does not apply to this case which is a rulemaking. The Zoning Regulations were amended in Z.C. Order No. 22-25, effective August 2, 2024, and several changes to the Commission's notice rules were adopted as of the effective date. The waivers the Commission granted at setdown on November 9, 2023 were based on the Zoning Regulations in effect as of November 9, 2023 before Z.C. Order No. 22-25 became effective.

⁸ This interaction is fully described below in the description of OP's community outreach efforts in its Setdown Report above. The ANC also submitted a Setdown Report prior to the meeting, showing that it was aware of the Petition.

⁹ See Subtitle Z § 201.5.

¹⁰ Subtitle Z § 201.5(a).

lay out what the Commission should consider when exercising this discretion.¹¹ The Commission believed that because the map amendments are for an entire commercial corridor in Chevy Chase they present issues that are legislative in nature and present issues that affect large numbers of persons and properties. The Commission concluded it should hear the map amendment portion of the case as a rulemaking pursuant to Subtitle Z, § 201.7(a), because the Petition was initiated by OP, a public agency, and it involves multiple properties comprising the Chevy Chase commercial district. The Commission further believed that hearing both the text amendments and map amendments at the same time in a single, combined hearing would be more efficient, and make it more understandable for the public when commenting, and for the Commission to consider the public comments and decide the case.

The OP Setdown Report served as the Pre-hearing Filing required by Subtitle Z § 501.

5. **Public Hearing Notice**

After the Commission set the case down for a hearing, the Office of Zoning (OZ) sent notice of the April 29, 2024 public hearing, in accordance with Subtitle Z, § 502 of the Zoning Regulations. To do so, OZ published notice of the public hearing in the March 8, 2024 *District of Columbia Register* (71 DCR 002373 *et seq.*), posted it on the calendar on OZ's website, and on February 29, 2024 provided a copy to the affected ANC. OZ was not required to post the property in accordance with Subtitle Z, § 502.3¹², because that rule applies to map amendments where the property is owned by the Petitioner, and in this case, OP is the Petitioner and does not own the Property. OZ also provided additional notice of the public hearing beyond what was required by the Zoning Regulations. It served a copy of the public hearing notice on the Single Member District representative for ANC3/4G05, the Single Member District representative for ANC3/4G06, Councilmember Matthew Frumin, the Office of ANCs, the OP, DDOT, DOB, DOEE, as well as property owners within two hundred feet (200 ft)., and the At-large Councilmembers (Ex. 16-17A).

6. **ANC Hearing Report**

On April 28, 2024, ANC 3/4G submitted a resolution, dated April 25, 2024, that states it takes the following positions with respect to the proposed zoning changes:¹³

- “It supports the proposed framework for the NMU-4/CC1 and RF-1 zones but concludes the maximum allowable height with permissible penthouses and various height bonuses for the NMU-4/CC1 zone of 70 feet and lot occupancy of 60 percent for residential or 75 percent with affordable housing and unlimited for non-residential are outsized and would permit development that is out of scale with the current commercial corridor.
 - It asks the Zoning Commission to reduce the maximum allowable height to 60 feet.
 - It calls for a uniform lot occupancy maximum of 60 percent.

¹¹ See Subtitle Z §§ 201.2, 201.5, 201.7, 201.9.

¹² The Zoning Regulations were amended in Z.C. Order No. 22-25, effective August 2, 2024, and several changes to the Commission's notice rules were adopted as of the effective date. The public hearing notice provided by OZ in this case was in accordance with the Zoning Regulations in effect as of February 29, 2024 before Z.C. Order No. 22-25 became effective.

¹³ Also attached to the April 28, 2024 ANC 3/4G resolution was a “minority report” that outlined the position of one ANC Commissioner who supports OP's amendments as proposed (Ex. 175).

- It reserves judgement on the proposed maximum floor area ratios, side yard requirements and inclusion by reference of District parking minimums and maximums.”
- It “[r]ecognizes that OP has made changes to its proposal for the NMU-4/CC2 zone covering the Community Center-Library site, it believes that the 80-foot proposed building height maximum with penthouses bonuses could result in a building or buildings out of scale with the rest of the commercial corridor.
- Therefore, it asks the Zoning Commission to eliminate the NMU-4/CC2 zone and apply the NMU-4/CC1 provisions modified as above to the entire upper Connecticut Avenue commercial corridor, including the Community Center-Library site.”
- It “[f]avors ensuring the same amount or more green/open space in the upper Connecticut Avenue commercial corridor to include the square footage of non-parking space at the Community Center-Library site as well as sidewalks and tree boxes along the Avenue. It asks the Zoning Commission to include protections in the rezoning it approves to protect these spaces.”
- It “[r]ecognizes the continuing need for vehicle transportation, especially among the community’s substantial population of post-65 residents and those of all ages who are disabled. It asks the Zoning Commission to ensure adequate parking along the entire length of the upper Connecticut Avenue corridor by, among other things, requiring that any parking lost to development in the proposed RF-1 zones be replaced.” (Ex. 175).

7. **OAG Report**

On April 24, 2024, OAG submitted a report recommending that the Commission, “approve the Office of Planning’s ... proposed rezoning of upper Connecticut Avenue, N.W., because it will implement the equitable development directives of the Comprehensive Plan ... including its Generalized Policy and Future Land Use Maps, the Chevy Chase Small Area Plan, and other public planning guidance, namely the Housing Equity Report and the Rock Creek West Roadmap. By tripling the permitted density along eight blocks of upper Connecticut Avenue, centered around the redevelopment of the Civic Core’s public library and recreation center, the proposed rezoning will help achieve a central objective of the CP and District planning: the development of new housing, both affordable and market-rate, in high-cost, amenity-rich areas, specifically including Chevy Chase. And it will do so in a manner that supports and enhances the existing commercial corridor while protecting the abutting, low-density residential neighborhoods with transitional buffers. In short, the proposed rezoning demonstrably advances the District’s firmly established land use policies—both for the city in general and Chevy Chase in particular.” (Ex. 146).

8. **OP Hearing Report**

OP submitted a Hearing Report (OP Hearing Report) (Ex. 87), and testified in support of the Proposed Text and Map amendments at the public hearings on both April 29, 2024 and May 23, 2024. The OP Hearing Report is summarized below:

Recommendation

OP recommended approval of the proposed Text and Map Amendments and largely reiterated and expanded upon the statements and conclusions in the OP Setdown Report.

Actions since setdown

In addition, the OP Hearing Report explained the actions OP had taken since the Commission set down the proposal for a public hearing, namely:

- *Amendments to the proposed zoning regulations and analysis:*
 - *Added a clarification within the proposed NMU-4/CC2 (Civic Site) that the rear yard shall be measured from the east (Connecticut Avenue) lot line. (See Attachment 2 to the OP Hearing Report, § 1006.2)*
 - *Removed the requirement within the proposed NMU-4/CC2 (Civic Site) that access to parking, loading and trash collection be from the adjacent alley as the alley is narrow and would be adjacent to the low-density homes in the R-1B Zone. The new requirement would allow access from either Northampton Street or McKinley Street. Vehicular access would be prohibited along Connecticut Avenue NW. (See Attachment 2 to the OP Hearing Report, § 1010.1(b))*
 - *Updated the information relating to the progress being made by the Rock Creek West Area in meeting the Mayor's 2025 Housing Equity Goals.*
- *Community Outreach – in addition to responding to various enquiries:*
 - *Attended ANC Meeting on March 27, 2024 presented the proposal, took comments and answered questions from ANC members and residents of the area on the proposed text amendment. Summaries of the planning/zoning process, and of the proposed zoning were made available.*
 - *The presentation was subsequently modified to address some community comments and questions, and forwarded to the ANC representatives and posted on the OP website. Summaries of the planning/zoning process, and of the proposed zoning were also uploaded.*
 - *Convened a virtual meeting on March 28, 2024 with a representative of the Chevy Chase Main Street businesses and provided information, answered questions, and provided newsletter language on the proposed text amendment.*
 - *Attended the ANC Meeting on April 11, 2024 to hear ANC and community discussions.*
 - *Attended the ANC Meeting on April 17, 2024 to hear ANC deliberations.*
 - *Multiple meetings with the community have also been organized by DMPED with respect to the ongoing RFP for the Civic Site. These have included presentations and discussions at ANC meetings, and at community meetings organized by DMPED.*

Potential Inconsistencies with Specific Comp Plan Policies

In addition, the OP Hearing Report discussed potential inconsistencies with specific Comp Plan policies. It stated the following:

If approved, this map amendment could provide an opportunity for new development consistent with the intent of the Comp Plan and Chevy Chase Small Area Plan. Through the RFP process for the Civic Site, there has been and will continue to be additional opportunities for the development to address community concerns and policy objectives.

Policy LU-2.1.4: Rehabilitation Before Demolition

In redeveloping areas characterized by vacant, abandoned, and underused older buildings, generally encourage rehabilitation and adaptive reuse of architecturally or historically significant existing buildings rather than demolition. 310.11

While retention, at least of the façade, of existing commercial buildings is encouraged and incentivized in the NMU-4/CC-1 zone, the nature of the existing and the likely new development on the Civic Site would indicate that rehabilitation of the existing buildings is unlikely. Unlike the existing buildings, it is likely that parking would be placed underground, and new housing opportunities would be provided above grade. While the benefits of the potential new development would outweigh this policy statement, any development would be encouraged to use best practices for both demolition (to reduce off-site impacts) and reuse of the existing materials on the site.

Policy ED-3.2.6: Commercial Displacement

Avoid displacement of small, minority, and local businesses due to rising real estate costs. Develop programs to offset the impacts of rising operating expenses on small businesses in areas of rapidly rising rents and prices. Also consider enhanced technical support that helps long-standing businesses grow their revenues and thrive in the strengthening retail economy. 714.11

The proposed map amendment could impact small business retention in the existing structures. Like most commercial corridors, there are typically some vacant spaces available for businesses that need to relocate. However, should a commercial building with a retail tenant choose to redevelop it could lead to a displacement, at least temporarily, for some small businesses. While the rezoning could also result in additional new commercial space on the site, it could be at a higher cost to small and minority-owned businesses. However, redevelopment could also create new retail opportunities, and an increased population base to support small and minority-owned businesses in the area. On balance, while the rezoning could have some impacts on existing businesses, overall, the impact should be minimal or mitigated by the increased population base to support local businesses.

Policy UD-4.2.3: Continuity and Consistency of Building Frontages

The proposed zoning does include a requirement that any new development on a commercial site, within the NMU-4/CC-1 zone, must be located at the front lot line to ensure continuity and consistency of building frontages. Additional provisions limit surface parking next to the street, prohibit curb cuts from Connecticut Avenue, and require that new buildings provide ground floor commercial space level with the sidewalk – all to further this policy. However, the NMU-4/CC-2 zone, for the large Civic site, does not include the provision that it be located at the front lot line. While other provisions, mainly the rear setback and step-backs, would encourage development closer to Connecticut Avenue than the rear lot line abutting existing residences, the presence of existing green space (part of which is located on public space, within the Connecticut Avenue right-of-way) and at least one Heritage Tree towards the front of the site indicated that greater flexibility for building placement was warranted. As such,

although the provisions would not further this policy for the Civic Site, other important factors outweigh this.

Finally, some concerns have been raised that modifications made to reduce the potential density, lower potential lot occupancy, and increase setbacks and step-backs on the Civic Site could be inconsistent with various Comp Plan policies to prioritize the production of new housing, including affordable housing, on city-owned sites, on a major corridor, in a high-cost and high-priority area. The changes would reduce the amount of housing compared to the maximum potential under Comp Plan guidance but are intended to balance the proposed development with other Comp Plan policy statements related to transitioning development down to lower density residential area, and to provide open, green space on this property. Many community members have argued for larger reductions, or elimination of housing on the civic site altogether. Changes such as those would be clearly inconsistent with the clear direction of the Comp Plan, the small area plan and all other relevant planning documents and would, therefore, not be supported by OP.

Potential Impact of the Proposed Zoning Action

The OP Hearing Report also addressed the potential impact of the proposed zoning action, which is stated as follows:

There is no expectation that local residents will be displaced, either directly or indirectly, as a result of the proposed text and map amendment. There are no residences on the Civic Site or on this section of the corridor. This zoning action would continue to enable mixed-use redevelopment on the commercial properties and the Civic Site, but with a more substantial residential component including introducing dedicated affordable housing into the neighborhood, consistent with Comp Plan policy direction.

Some residents have expressed an opinion that this zoning action would jeopardize rent controlled units elsewhere on this corridor, presumably within the RA-4 zone. Rent controlled units are not dedicated affordable units; rents can be raised, and units can be vacated to allow a redevelopment of those buildings. While this could be a concern for existing rent-controlled buildings within the area to be rezoned, there are no residences within the area to be rezoned. The change in zoning should have limited if any impact on multi-family buildings, rent controlled or not, other than to potentially provide more options for housing in the neighborhood.

Displacement pressures on existing businesses could be intensified by the proposed text and map amendment. These could be mitigated through recommendations in the CCSAP that are not within the purview of zoning but which would support a thriving retail corridor, such as technical assistance administered by the Main Street organization. In addition, the new regulations would require the provision of ground floor retail space which could accommodate existing businesses and provide opportunities for larger or better space.

These changes appear to have been received as generally positive steps by some members of the ANC and community members, while other members of the ANC and community have

indicated opposition – sometimes very strong opposition - to aspects of the zoning, mainly on the grounds of intensified use, building height/scale, consistency with the low density residential areas, traffic impacts, and an opposition to the provision of new housing on the Civic Site.

Concerns have also been raised that some of the CCSAP guidelines have not been incorporated into the proposed zoning text. Guidelines pertaining to streetscape design are not within the jurisdiction of zoning to regulate; rather they would be administered through the Public Space Permitting process. Other guidelines are simply impractical to administer through zoning, such as guidelines related to requiring specific façade materials of buildings - something that is not currently regulated in zoning and which would be very difficult to craft in a meaningful, comprehensive way and more difficult to administer.

Progress Toward Meeting the Mayor's 2025 Housing Equity Goals

Also, the OP Hearing Report discussed the Rock Creek West (RCW) Planning Area progress toward meeting its affordable housing goal, stating the following:

The RCW Planning Area has the least amount of dedicated affordable housing and therefore the most ambitious target for meeting the Mayor's 2025 affordable housing goal of one thousand nine hundred ninety (1,990) new affordable units. DMPED provided an update at the end of February 2024 which shows that the RCW Planning Area has made the least amount of progress of the District's ten (10) planning areas in meeting the goal, achieving only ten and one-tenths percent (10.1%) of the target. The proposed text and amendment would increase opportunities for new residential development in RCW and through IZ Plus, a greater amount of dedicated housing affordability in a neighborhood and planning area where it presently does not exist.

Discussion of issues related to IZ Plus designation for the NMU-4/CC1 and NMU-4/CC2 and lack of IZ Plus designation for RF-1

OP stated that it was recommending IZ Plus apply to the new NMU-4/CC1 and CC2 zones.

In its discussion of the reasons for the proposed RF-1 zoning, OP stated that it was proposing RF-1 zoning without IZ Plus for a small number of sites fronting side streets that are currently zoned R-2 or R-1B. OP further stated the reason for this was to provide an appropriate transition to the lower density zoning adjacent to these sites, that a higher intensity zone would be inconsistent with the Comprehensive Plan FLUM guidance, and that the community objected to even this relatively modest proposed change to the current zoning.

9. Pre-hearing submissions from the public

Prior to the April 24, 2024 public hearing, the Commission received extensive written comments on the proposed Text and Map Amendments from members of the public:

A. Comments in support

- Comments from individuals in support of the Text and Map Amendments asserted the following reasons for their support:¹⁴
 - Support for the additional affordable housing that would be facilitated by the Text and Map amendments;
 - Addressing Legacies of Housing Segregation in Chevy Chase;
 - Enhancing the quality of public life by guiding building designs that support a vibrant, pedestrian-scale street and inviting public spaces;
 - Align with the District's Comprehensive Plan and the Chevy Chase Small Area Plan, but they also adhere to the principles outlined in the American Planning Association's Equity in Zoning Policy Guide;
 - The Chevy Chase Neighborhood Library and the neighboring community center are in dire need of modernization;
 - Promote greater socio-economic diversity and inclusion within the community;
 - Promote sustainable urban development;
 - The relative affluence found in Chevy Chase offers significant advantages to residents of other parts of D.C.;
 - Compatible with the goals of Chevy Chase residents in such matters as density, building height, recreation, green open space, and parking;
 - In need of experienced and qualified developers who will bid in a fair and open process. This process must not be compromised by any influence on DC politicians; and
 - Beneficial to businesses by providing additional potential customers.

B. Comments in opposition

- Comments from individuals in opposition to the Text and Map Amendments asserted the following reasons for their opposition:¹⁵
 - Concerns about the effects of the amendments on the health of the commercial district, by encouraging redevelopment and displacing existing businesses;
 - Concerns about the effect of the additional height and density on the community character and livability;
 - Skepticism and concerns about the RFP and land disposition process that is happening concurrently with this zoning case to redevelop the Civic Site; and
 - Belief that the upzoning would not adequately address or solve the affordable housing problem.

C. Chevy Chase Voice Inc. comments and responses thereto

- Chevy Chase Voice Inc. submitted several documents that were filed in other fora questioning several aspects of the Commission's decision to set down and hear the case as a rulemaking rather than contested case. The Commission addresses them here to further explain its decision to hear this case as a rulemaking. Because the documents

¹⁴ Hundreds of submissions were filed to the record in this case. The following list is a summary of the issues highlighted in letters of support but not intended to be an exhaustive list of all comments in support received prior to the public hearing.

¹⁵ Hundreds of submissions were filed to the record in this case. The following list is a distillation of the issues highlighted in letters of opposition but not an exhaustive list of all comments in opposition received prior to the public hearing.

were filed in other fora, the Commission did not respond directly, but instead the OZ filed responses on behalf of the Commission. The Commission concurs with the positions taken by OZ:

1. March 12, 2024 Complaint to the District of Columbia Office of Open Government alleging Violation of the Open Meetings Act (Ex. 18).

The Complaint asserts that:

- The Commission’s November 9, 2023 public meeting, violated the Open Meetings Act, specifically D.C. Official Code § 2-576, because notice of the public meeting was not published in the *District of Columbia Register* as required by the Act;
- OP failed to serve Notice of Intent to file the petition on property owners within two hundred feet (200 ft). as required by the Zoning Regulations, specifically Title 11 of the District of Columbia Municipal Regulations (DCMR) Subtitle Z § 304.5; and
- The Commission wrongfully set down the map amendment portion as a rulemaking case and should have set down the map amendment as a contested case. Specifically, because Subtitle Z § 201.2(e) of the Zoning Regulations describes contested case map amendments as “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,” and the map amendment meets this definition.

2. OZ filed a response with the Office of Open Government (Ex. 61).

OZ’s response asserts that:

- OZ published a Schedule of Monthly Open Meeting Dates for calendar year 2023 in the *District of Columbia Register* on December 16, 2022, including notice of the November 9, 2023 public meeting;
- The language of Subtitle Z § 304.5 specifically references applications (which refers to contested cases) and does not reference petitions (which refers to rulemakings). The map amendment that was filed as a part of Z.C. Case No. 23-25 was filed as a petition and not an application. Therefore, the notice requirements of Subtitle Z § 304.5 do not apply to Z.C. Case No. 23-25; and
- Though the contested case map amendment criteria described in Subtitle Z § 201.2(e) is met by the map amendment, it also meets the rulemaking case map amendment criteria set forth in Subtitle Z § 201.7(a) because it was initiated by a public agency, OP, and it involves a neighborhood, Chevy Chase. Under Subtitle Z § 201.9, the Commission has discretion in setting down a map amendment case as a rulemaking or a contested case. The Commission, in its discretion under the Zoning Regulations, determined that the map amendment was more appropriately a rulemaking case. OZ contends that the Commission acted within its authority and did not violate Subtitle Z § 201.2(e) by setting down the map amendment in Z.C. Case No. 23-25 as a rulemaking case.

3. March 14, 2024 Complaint to the District of Columbia Office of Open Government alleging Violations of the Open Meetings Act (Ex. 64).

The Complaint asserts that:

- The Commission is holding illegal closed meetings in violation of the Open Meetings Act, specifically D.C. Official Code § 2-575, because the Commission holds stand-alone closed meetings without first convening an open meeting, voting to go into closed session, and providing a reason for going into closed session.
- The Complaint raises concerns about whether proper electronic recordings and minutes are being made by the Commission of each closed meeting.

4. OZ filed a response with the Office of Open Government (Ex. 62).

OZ's response asserts that:

- By letter dated July 23, 2019, the Commission's legal counsel, OAG's Land Use Section of the Commercial Division, received a legal opinion letter from the Office of the Attorney General Legal Counsel Division, in response to a request for advice on whether the Commission's closed meeting procedures complied with the Open Meetings Act (Act). The Legal Counsel Division legal opinion letter (LCD Opinion) provided a thorough legal analysis of the Commission's closed meeting procedures and reached the following three main conclusions:
 - The Commission's closed meeting procedures comply with the notice, approval, and meeting conduct requirements of the Act;
 - The Act does not prohibit the Commission from conducting stand-alone closed meetings, and the Act does not require the Commission to return immediately to open session after it finishes a closed meeting to put on the record any official action taken during the closed meeting because the Commission cannot take official action in a closed meeting as § 742(a) of the Home Rule Act requires that all official Commission actions be taken at open meetings; and
 - The Act and the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (BEGA Act) confirm that the opinions issued by the Office of Open Government (OOG) are advisory opinions and carry no binding force; and
- OZ records every closed meeting held by the Commission. However, because the purpose of the closed meetings is to receive legal advice from counsel, the closed meetings are protected by attorney-client privilege, under D.C. Official Code § 2-575(b)(4)(A). Though the privilege is waivable, the Commission has elected not to waive the privilege in these circumstances because the primary concern raised in the Complaint is whether the closed meeting on November 9, 2023, was recorded and whether the closed meetings that have followed were recorded, not the content of the closed meeting on November 9, 2023. OZ can

confirm that the Commission did hold a closed meeting on November 9, 2023, at 3:15 p.m. and the closed meeting was recorded, and all closed meetings that followed were recorded, in accordance with the Act, specifically D.C. Official Code § 2-578.

5. April 3, 2024 letter stating that Chevy Chase Voice Inc. intends to sue if the Commission proceeds with hearing the case as a rulemaking instead of as a contested case (Ex. 30B).

The Commission responded to this threat to sue by stating that the map amendment in Z.C. Case No. 23-25 meets the rulemaking case map amendment criteria set forth in Subtitle Z § 201.7(a) because it was initiated by a public agency, OP, and it involves a neighborhood¹⁶, Chevy Chase. Under Subtitle Z § 201.9, the Commission has discretion in setting down a map amendment case as a rulemaking or a contested case. In this case the Commission exercised its discretion under the Zoning Regulations and determined that the map amendment was more appropriately a rulemaking case. The Commission acted within its authority and did not violate Subtitle Z § 201.2(e) by setting down the map amendment in Z.C. Case No. 23-25 as a rulemaking case (Ex. 61).

D. David Brown submitted a letter on April 28, 2024 on behalf of neighboring property owners opposed to the Petition (Ex. 170), which asserted the following:

- The Civic Center site is singled out for its own zone, and should therefore be heard and decided as a contested case because:
 - The Commission gave little thought to this issue at set down;
 - The response that OZ made to OOG at Ex. 61 goes into greater detail about the ZC's decision to setdown as rulemaking, but was not actually adopted by the Commission; and
 - The Civic site is a single property. Cites Subtitle Z § 201.2(e), which states that single property rezoning should be contested cases (Also cites *Schneider v. D.C. Zoning Commission*, 383 A.2d 324, 325 (D.C. 1978)).
- The petition was procedurally deficient because it creates new zones, and:
 - Not accompanied by “evidence of community support for the zone including property owners within the defined area” and “relevant civic community and business groups” (Subtitle X, §400.6(a));
 - Under Subtitle X, 400.7, “an affected property owner in opposition shall be given an equal amount of time as the property owner to present their opposition”;
 - Petition to create a new zone must comply with the procedural requirements for both a map amendment (Subtitle Z § 304) and text amendment (Subtitle Z § 305; X §401.1);
 - The map amendment process includes the obligation to furnish the Commission with self-stick name and address labels “of the owners of all property located within two hundred feet (200 ft). of the subject property (Subtitle Z § 304.7(f)); and

¹⁶ The Commission notes that the rezoning also qualifies as a rulemaking because it involves multiple properties forming a commercial corridor for the Chevy Chase neighborhood. See Subtitle Z, § 201.7(a).

- The letter further alleges that:
 - The OP Setdown Report does not address compliance with Chapter 4, Subtitle X;
 - No address labels were provided;
 - Obligation to present evidence of significant community support was not addressed; and
 - Instead, there was a short, generalized discussion of OP outreach to the community, and generic statements of quite mixed community reaction overall (OP Setdown Report at 17-18):
 - “this was particularly glaring with respect to the Civic Site, as OP noted that there was “strong feedback” to the original iteration of the development standards under the proposed rezoning.”
 - “OP submitted no evidence showing support from property owners living near the Civic Site for the revised standards of the NMU-4/CC2 zone as finally configured in the draft text amendment in the OP Report.”
- Civic Site rezoning is inconsistent with 2021 CP revisions and CCSAP:
 - Claims the NMU-4/CC1 zoning is inconsistent with 2021 FLUM designation of low density commercial and moderate density residential:
 - Argues that it is consistent with low density commercial because low density commercial specifically mentions MU-4; and
 - Argues that it is not consistent with moderate density residential because “the FLUM makes clear that the primary focus is on low rise apartment buildings at an FAR of up to 1.8 FAR (exclusive of any Inclusionary Zoning bonus)”;
 - Claims NMU-4/CC2 zoning is inconsistent with 2021 FLUM designation because by right FAR is 20% higher than MU-4 (to 3.0 FAR) and height is 30% higher than MU-4 (to 65 feet), which Brown argues is therefore inconsistent with FLUM, which envisions residential use at moderate density; and
- Choice between rulemaking and contested case is inconsistent with CCSAP because CCSAP calls for “coordinated approach rooted in community engagement ...” claims the community engagement process is “severely compromised” and the NMU-4/CC2 zone allows a height and density that’s the equivalent of a PUD in the NMU-4/CC1 zone. However, when the City accepts redevelopment plans for the Civic Site (under the proposed new NMU-4/CC2 zone), it can go straight to the permitting process without any community input, which is exactly the opposite of what was promised for the Civic Site redevelopment in the CCSAP.

10. **Public Hearings**

The Commission held a hearing on April 29, 2024, on the Petition, and continued that hearing on May 23, 2024, to allow all interested persons to testify.

April 29, 2024 hearing

At the beginning of the April 29, 2024 hearing, the Commission considered the arguments made by Chevy Chase Inc. and David Brown in favor of converting the case from a rulemaking to a contested case. The Commission decided to proceed with hearing the case as a rulemaking because the text amendments must be heard as rulemakings under the Zoning Regulations, and

the Commission continued to believe that the map amendment portion was appropriately setdown as a rulemaking.

The Commission believes that this case is legislative in nature because it involves issues for resolution that affect large numbers of persons, and a large number of properties. The case involves rezoning an entire commercial corridor, with the Civic Site at the center of that corridor. Therefore, this situation squarely fits within the criteria for a rulemaking case established by Subtitle Z § 201.5.

The Commission stated that the Zoning Regulations authorize the Commission to exercise discretion in determining whether to hear map amendment cases as either rulemakings or contested cases, and that the Regulations explicitly provide that cases initiated by public agencies that involve “a neighborhood, commercial district, or other geographic area encompassing multiple properties”, as in this case, are properly characterized as rulemaking cases (*See* Subtitle Z §§ 201.7(a)). This regulation further supports the Commission’s decision to hear the case as a rulemaking, because the case includes text and map amendments initiated by public agency to amend the zoning map for an entire commercial district. So, it squarely fits within one of the explicit examples provided of a rulemaking case.

The Commission further believes that the Civic Center Site is not “singled out” as the opponents contend. To the contrary, it is part of a cohesive rezoning of a multi-block long commercial corridor containing over forty (40) properties with multiple owners. It involves several different zone districts. It also involves new zoning text. The policy reasons stated in the various OP Reports have broad impacts. When rezoning commercial corridors, the Commission believes that it is more appropriate to consider the whole thing together, then it is to break the case up into constituent parts to be judged individually.

The Commission therefore continued to believe that it should hear the case as a rulemaking.

The Commission considered the allegation by Mr. Brown that the Petition was deficient because it was not accompanied by evidence of community support for the zone including property owners within the defined area and relevant civic community and business groups. The Commission believes that the discussion of community outreach in the OP Setdown Report was sufficient to meet the requirement that the Petition is accompanied by evidence of community support.¹⁷ OP stated in the Setdown Report that there was substantial community support for the Petition and discussed the nature of that support. The OP Setdown Report also discussed that there was community opposition. The Commission does not interpret the rule cited by Mr. Brown as requiring unanimous support in the community, nor does it believe that the discussion must identify with particularity who the supporters are, and where they own property. The Commission therefore believes the general statements provided by OP are sufficient under the circumstances.

The Commission considered the allegation by Mr. Brown that the Petition was deficient because it did not allow for equal time for affected property owners in opposition to present

¹⁷ Subtitle X, § 400.6(a).

their opposition. The rule cited by Mr. Brown, Subtitle X, § 400.7,¹⁸ only applies to cases where the Petitioner seeks a rezoning that reduces development standards or property rights. Here, the requested rezoning increases the development standards, so the rule does not apply.

The Commission also considered the procedural defects alleged by Chevy Chase Inc. in its letters to the Commission, and in other fora, as well as the procedural defects alleged by Mr. Brown. As the Commission discussed above when it set down the case, there was ample evidence presented by OP that there was actual notice of the case in the affected community. Since that time, OP continued its outreach to the community, as discussed in the OP Hearing Report. Over 100 comments were entered into the record by community members. The Commission therefore believes that it is appropriate to waive the procedural defects cited by Chevy Chase Inc., and David Brown, to the extent that they apply to this case.

The Commission heard testimony from OP, ANC 3/4G, and persons in support of the Petition.

At the hearing, OP walked through the proposal, addressed its consistency with the CP, and also addressed how the proposal met the elements of Subtitle X § 400 that apply to new zones.

In response to a question from the Commission, OP stated that it made several changes to the proposed text in response to comments from the ANC, including:

- For the Civic Site’s proposed NMU-4/CC-2 zone, reducing the maximum FAR, maximum penthouse height, maximum lot occupancy; and increased the size of the required rear yard; and
- For the proposed NMU-4/CC-1 zone, added 0.5 FAR bonus for retention of pre-1958 facades, added a mandatory three-foot setback when adding to and retaining the façade, where the property abuts low density residential uses requiring a fifteen foot (15 ft.) rear yard, and providing setbacks for upper floors.

(April 29, 2024 Tr. at 29-32).

OP stated that it had not yet had an opportunity adequately digest the substance in order to respond to the ANC counter proposal that was submitted the day before the hearing (April 29, 2024 Tr. at 32-36).

In response to a question from the Commission, OP stated that it wanted to get some direction from the Commission about its proposal before considering further changes (April 29, 2024 Tr. at 47-48).

OAG testified in support of the proposal.

¹⁸ “If the proposed new zone involves a reduction in any development standard or property right, an effected property owner in opposition shall be given an equal amount of time as the petitioner to present their opposition. The opposing property owner shall not be required to meet the same burden as that of significant community support.” (Subtitle X, § 400.7).

ANC 3/4G testified that there was a split within the ANC and that it was seeking a compromise that all could support. It discussed the elements of what it described as its own proposal, that includes the elements listed above herein, which are:

- “It supports the proposed framework for the NMU-4/CC1 and RF-1 zones but concludes the maximum allowable height with permissible penthouses and various height bonuses for the NMU-4/CC1 zone of 70 feet and lot occupancy of 60 percent for residential or 75 percent with affordable housing and unlimited for non-residential are outsized and would permit development that is out of scale with the current commercial corridor:
 - It asks the Commission to reduce the maximum allowable height to 60 feet;
 - It calls for a uniform lot occupancy maximum of 60 percent;
 - It reserves judgement on the proposed maximum floor area ratios, side yard requirements and inclusion by reference of District parking minimums and maximums.”
- It “[r]ecognizes that OP has made changes to its proposal for the NMU-4/CC2 zone covering the Community Center-Library site, it believes that the 80-foot proposed building height maximum with penthouses bonuses could result in a building or buildings out of scale with the rest of the commercial corridor.
- Therefore, it asks the Zoning Commission to eliminate the NMU-4/CC2 zone and apply the NMU-4/CC1 provisions modified as above to the entire upper Connecticut Avenue commercial corridor, including the Community Center-Library site.”;
- It “[f]avors ensuring the same amount or more green/open space in the upper Connecticut Avenue commercial corridor to include the square footage of non-parking space at the Community Center-Library site as well as sidewalks and tree boxes along the Avenue. It asks to Zoning Commission to include protections in the rezoning it approves to protect these spaces.”; and
- It “[r]ecognizes the continuing need for vehicle transportation, especially among the community’s substantial population of post-65 residents and those of all ages who are disabled. It asks the Zoning Commission to ensure adequate parking along the entire length of the upper Connecticut Avenue corridor by, among other things, requiring that any parking lost to development in the proposed RF-1 zones be replaced.”

Several individuals testified in support of the proposal.

May 23, 2024 Hearing

At the May 23, 2024 continued public hearing, the Commission heard from individuals and organizations opposed to the petition. The testimony included the following¹⁹.

- Concerns about the effects of the amendments on the health of the commercial district, including testimony by Robert Gordon who represents the Chevy Chase business association. He testified that he believes that upzoning the district will encourage redevelopment and displace existing businesses;
- Concerns about the effect of the additional height and density on the community character and livability;

¹⁹ This is a summary and distillation of the arguments raised by the opposition in their testimony. It is not an exhaustive list of all the opposition testimony.

- Skepticism and concerns about the RFP and land disposition process that is happening concurrently with this zoning case to redevelop the Civic Site (also referred to as the Community Center-Library Site; and
- Belief that the upzoning would not adequately address or solve the affordable housing problem.

At the conclusion of the May 23, 2024 public hearing, the Commission asked OP to provide a supplemental report that addressed the following issues:

- Potential impacts on retail and office uses along the corridor;
- Changes made to the proposed text amendment as a result of suggestions by the ANC or others;
- Potential loss of housing with the ANC proposal compared to the OP proposal on Civic Site;
- Illustrations showing the OP proposal and the ANC's latest proposal;
- Status of the Chevy Chase Civic Site RFP; and
- Livability.

In addition, the Commission asked the ANC to consider whether other alternatives could unify its proposal with OP's.

11. **OP Supplemental Report**

On July 1, 2024, OP submitted a supplemental report that addressed the six issues requested by the Commission at the conclusion of the hearing (Ex. 297):

- Potential impacts on retail and office uses along the corridor

OP response

The report provided statistical analysis of retail and office vacancy rates. With respect to retail space, OP concluded that the corridor has low retail vacant space, and is considered very low when compared to District wide over the last ten years. OP also concluded that available retail space in the corridor is considered low compared to District wide, which is relatively high when compared to rates over the last ten years. The report also stated that OP acknowledged in its Hearing Report that displacement pressures on retail businesses could be intensified by the amendments. The report further stated that these pressures could be mitigated over the long term because the proposed regulations would require the provision of ground floor retail space in any new building, something not required in current zoning. This could, over the long term, provide opportunities for relocation of existing businesses, and for new retail and service options in the neighborhood.

With respect to office space, OP concluded that the amount of vacant space in the corridor is high when compared to District wide. Both the office vacancy rate and space availability for the corridor and District wide are considered high.

The OP Supplemental Report further concluded that The CCSAP also includes guidelines to “attract commercial uses that activate the corridor” (5.1) but to also “support continuity of operations for small businesses...during times of change” (5.3). While not within the

scope of zoning, initiatives noted in the CCSAP to support a thriving retail and office corridor could include technical assistance and the promotion of independent businesses by the Chevy Chase Main Street, grant assistance, working with businesses during lease negotiation, and promoting interim uses of any vacant space.

B. Changes made to the proposed text amendment as a result of suggestions by the ANC or others

OP response

The OP Supplemental Report provided a chart listing the changes OP made to the proposed text amendment as a result of the OP's dialogue with the ANC and community, including the original proposal, the setdown proposal, and the public hearing proposal along with some aspects of the zoning that did not change for clarity. The report noted several changes made between the original proposal and setdown; and two changes that were made between setdown and the public hearing. Specifically, with regard to the proposed NMU-4/CC2 zone defining the east lot line as the rear lot line for purposes of rear yard measurement; and clarifying the trash collection, loading and parking access will be from McKinley or Northampton only. See full chart listing changes immediately below:

Commercial Corridor	Original Proposal	Set down Proposal	Public Hearing Proposal
NMU-4/CC1 zone	Based on MU-4 zone	unchanged	unchanged
FAR	2.5 3.0 IZ+ max.	unchanged	unchanged
Pre-1958 façade retention	0.5 FAR bonus for retention of façade	unchanged	unchanged
Building Height	40 ft.; 50 ft. IZ+ max.	unchanged	unchanged
Minimum Building Height	-	25 ft. min.	unchanged
Penthouse Height	12 ft. max. 15 ft. for mechanical	unchanged	unchanged
Ground Floor Retail Height	14 ft. min.	14 ft. min. 5 ft. bonus for an 18-foot tall ground floor	unchanged
Lot Occupancy	60% residential; 75% IZ+ max. Nonresidential not regulated	unchanged	unchanged
Rear Yard	15 ft from a point 25 ft. up from the rear lot line if there is an alley; 15 ft. min. if no alley	unchanged	unchanged
Rear Step-back	1:1 setback from a point 25 ft above grade at the rear lot line	unchanged	unchanged
Side Yard	None required; 6 ft. min. if provided	None required; 6 ft. min. if provided, or 15 ft. foot min. if abutting residentially zoned properties and not separated by an alley	unchanged

Commercial Corridor	Original Proposal	Set down Proposal	Public Hearing Proposal
Upper Level Glazing	-	Limitations on glazing on upper floors	unchanged
Front Façade Upper Stories Step-back	1:1 step-back above 35 ft.	3 ft. step-back above the third floor or above a preserved façade	unchanged
Trash collection, loading and parking access	From the alley where existing; not from Connecticut Avenue NW	unchanged	unchanged

Civic Site	Original Proposal	Set down Proposal	Public Hearing Proposal
NMU-4/CC2 zone	Based on MU-5A zone	Based on MU-4 PUD	unchanged
FAR	3.5 4.2 IZ+ max.	3.0 3.6 IZ+ max.	unchanged
Building Height	65 ft.; 70 ft. IZ+ max.	65 ft. max. including IZ+	unchanged
Penthouse Height	12 ft. habitable; 18.5 ft. mechanical max.	12 ft. habitable 15 ft. mechanical max.	unchanged
Lot Occupancy	80% residential max. 80% nonresidential	60% residential 60% nonresidential	unchanged
Rear Yard	15 ft from a point 25 ft. up from the rear lot line if there is an alley; 15 ft. min. if no alley	15 ft. from rear lot line	Define east lot line as rear lot line
Rear Step back	1:1 setback from a point 45 ft. above grade at the rear lot line	1:1 setback from a point 25 ft above grade at the rear lot line	unchanged
Side Yard	None required; 6 ft. min. if provided	None required; 6 ft. min. if provided, or 15 ft. foot min. if abutting residentially zoned properties and not separated by an alley	unchanged
Trash collection, loading and parking access	From the alley where existing; not from Connecticut Avenue NW	unchanged	From Mckinley or Northampton Street only

Other Lots	Original Proposal	Set down Proposal	Public Hearing Proposal
R-1-B and R-2 zones	Retain zoning or include in new mixed-use zones	Rezone to RF-1, a transition zone	unchanged

The OP Supplemental Report also listed the extensive outreach that OP did to engage with the ANC, which is also outlined in the OP Setdown Report and discussed in detail above herein.

C. Potential loss of housing with the ANC proposal compared to the OP proposal on Civic Site

OP response

The OP Supplemental Report stated that adopting the ANC proposal would result in an estimated loss of 87 units, and 26 affordable units on the Civic Site, and an estimated loss of 9 dwelling units and 1 affordable unit on the commercial corridor. OP noted the difficulty in addressing the housing potential or lost housing potential based on proposed zoning for the Civic Site and the commercial corridor because of varied programming scenarios.

D. Illustrations showing the OP proposal and the ANC's latest proposal

OP response

The OP Supplemental Report stated that it was OP's understanding that an ANC alternative proposal was proposed but was not adopted by the ANC, and there is not a new proposal in the record. The OP Supplemental Report therefore provided illustrations comparing the OP proposal to the original ANC proposal.

E. Status of the Chevy Chase Civic Site RFP

OP response

The OP Supplemental Report states that the:

"Chevy Chase Civic Site RFP (RFP) was opened on January 17, 2024, with a due date of April 18, 2024. The due date was subsequently amended to extend to April 28, 2024 and again to August 28, 2024. The RFP specifies that the proposal for the "Development Parcel must include housing and the replacement of the Library and Community Center on the Development Parcel ("Required Uses).. " (page 2 of 51). The RFP outlines some of the development standards that were in the OP Set down report, but also states that respondents should assume the NMU-4/CC2 zone in their proposals (page 7 of 51)."

F. Livability

OP response

OP noted that livability is a subjective term and described it as "the sum of the factors that add up to a community's quality of life- including the built and natural environments, economic prosperity, social stability and equity, educational opportunity, and cultural, entertainment and recreation possibilities." OP stated that the proposal would add much needed affordable housing, which OP believes is an important component of livability. The OP Supplemental Report also concluded that the CCSAP urban design guidelines and requirements for any redevelopment of the site, along with the additional requirements of the zoning regulations, would promote buildings, uses and spaces that create social stability, equity, and improved cultural, entertainment and recreation opportunities.

12. **Proposed Action**

At its July 11, 2024 public meeting, the Commission considered the case record, including the supplemental report from OP the Commission requested at the end of the second hearing (discussed above) and the report submitted by the ANC Single Member District Representative for ANC 3G05 (Ex. 298). The ANC did not file a post hearing submission to address the Commission's request of whether other alternatives could unify its proposal with OP's. However, the ANC Single Member District Representative's report explained that based on his time serving the immediate neighbors of the site, he believes the community priorities are maintaining the existing square footage of the community center, library, and open space on the site; concentrating taller buildings towards Connecticut Avenue and McKinley; requiring an equal number of affordable and market rate units if market rate units are allowed on the site; and prohibiting retail uses on the site.

In its discussion of the merits of the case, the Commission concluded that the Text and Map Amendments will create room for affordable housing, and in doing so advance important Comprehensive Plan policies, including policies specific to the Rock Creek West Area Element, as well as goals of the Chevy Chase Small Area Plan. In addition, the Commission noted that allowing the construction of additional housing will activate the area at night, which would benefit existing businesses and enhance public safety. The Commission also concluded that the height and setbacks proposed are sufficient to address concerns about preserving neighborhood character.

The Commission noted that it was concerned that approving the case could create displacement pressures with negative consequences for existing businesses, and that this was a significant downside to approval. The Commission believes that these concerns are partially mitigated by the fact that the Text and Map Amendments require ground floor retail uses, which could enable existing or new tenant businesses to relocate or expand within the community, and that other non-zoning tools available through the government to protect existing retail businesses that are mentioned in the CCSAP could also partially mitigate the effects of the Text and Map Amendments.

The Commission acknowledged that there was not a consensus within the community, and the ANC was split. The Commission did not find the ANC's counter-proposal persuasive because it would result in the reduction of the potential amount of housing and affordable housing that could be produced, and would not facilitate upgrading and replacing civic uses to the same degree as the OP proposal, which are the major policy reasons for the case (July 11, 2024 Meeting Tr. at 42-58).

The Commission voted to take **PROPOSED ACTION** to adopt the Text and Map Amendments and to authorize the publication of a Notice of Proposed Rulemaking (NOPR) to amend the Zoning Regulations and Zoning Map, as proposed by OP in its Hearing Report.

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

(Anthony J. Hood, Robert E. Miller, Joseph S. Imamura, and Tammy Stidham to **APPROVE**; 3rd Mayoral Appointee seat vacant, not voting)

13. National Capital Planning Commission (NCPC) Referral and Response

After the July 11 meeting, the Commission referred the proposed Text and Map Amendments to the NCPC on July 12, 2024 for the thirty (30)-day review period required by § 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2)); D.C. Official Code 6-641.05 (2018 Repl)) (Ex. 299).

In response, NCPC submitted a report, dated September 5, 2024, stating that the proposed Text and Map Amendments to create the Chevy Chase Neighborhood Mixed Use Zones are not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital and would not adversely impact any identified federal interest (Ex. 300; 300A).

14. Proposed Rulemaking Notice and Comments

The NOPR was published in the *District of Columbia Register* on November 1, 2024 (See Ex. 301, 302). The Commission received over one hundred fifty (150) comments in response to the NOPR expressing both support and opposition.

A. Support

The Commission found the written comments from the Washington Interfaith Council particularly persuasive. It stated support for the proposal for the following two (2) reasons:

- The connection to development of affordable housing:
 - The current zoning for the Civic Core Site allows for just 55 feet in height (including penthouse); therefore, adding housing on the site while retaining green space can only be realized if height restrictions are lifted. It is important to note that in developing its proposal, the Office of Planning (OP) took note of feedback from the Advisory Neighborhood Commission for the affected site (ANC 3/4G) and community members by reducing its initial proposal for total maximum height (including penthouse) from 93.5 feet to 80 feet in the setdown report. This change reflected OP's willingness to accommodate concerns that increased height limits should not create future buildings that are out of character with surrounding commercial buildings and private residences. The OP report also substantially increases the minimum floor area ratio, allowing for the density necessary to build multifamily housing.”; and
- Consistency with the Comprehensive Plan and CCSAP”
 - “Second, the changes clearly carry out the intent and needed policy changes described in the Comprehensive Plan and the Chevy Chase SAP, both of which were informed by substantial community input and approved by the DC Council. ... The SAP placed a heavy emphasis on affordable housing—in part to recognize the imperative to address Chevy Chase’s history of deliberate exclusion and displacement of Black Washingtonians. Specifically, the SAP recommended expanding housing options in Chevy Chase to: accommodate a greater range of incomes, ages, and racial diversity to advance the District’s housing equity goals, support the commercial main street, and enhance the social and economic well-being of the community.”

(Ex. 311).

The Commission also received many other comments from individuals in support²⁰ and found the following to represent an overall summary of the most persuasive comments in support:

- “The Commission should take into account the primacy of the needs of the entire population of the District of Columbia, and not limit its understanding of need to a small sector of the population in the upper Northwest segment.”;
- “Some will argue to you that the "character" of the Connecticut Avenue corridor in the neighborhood must be maintained for "historical" reasons. However, it is not important to cater to an ephemeral and subjective perception of the area at the expense of

²⁰ The Commission received over forty (40) comments in support in response to the NOPR. The comments listed represent a summary of the points the Commission found the most persuasive, but is not an exhaustive list of all the points raised.

increased housing opportunities that will benefit the population of residents and families that have been disadvantaged by the actual historic exclusion from the Chevy Chase area by policy and economic circumstance.”; and

- “I have been involved in every step of this process from the Comp Plan amendments to the Small Area Plan to the zoning, and I applaud OP and everyone who stood up for Smart Growth principles and equitable development. The plan, the zoning, and the RFP currently under consideration are all excellent examples of enlightened planning including substantial community input. Not everyone is happy, but isn’t that always the case when inevitable change comes to established neighborhoods?”

B. Opposition

The Commission received many comments in opposition, some submitted by individuals who submitted similar comments before or at the hearing. The vast majority of the opposition comments listed several similar themes, which are listed in numbered paragraphs, with representative examples of the comments listed as bullet points below.²¹

1. Belief that the case should have been set down and heard as a contested case instead of as a rulemaking:
 - “Zoning case 23-25 was set down improperly; Chevy Chase residents deserve their rights to a contested case.”
2. Belief that development concept involves the improper use/transfer of public land:
 - “We oppose giving private developers building rights on public lands that are actively in public use. To declare such lands "surplus" is not only illogical but dishonest.”;
 - “I am opposed to giving private developers building rights on public lands that is still used for public purposes. In passing the proposed rezoning you would be providing a gift of public land - the Chevy Chase Commons Park, Library and Community Center - to developers for their personal profit.”;
 - Opposition based on the notion that publicly owned land will be “given over” to private developers;
 - “The city's stated plans to 'surplus' the Public Library and Community Center in Chevy Chase for private development is shameful. Forcibly converting public lands--set aside decades ago for the express purpose of educating and providing respite for the neighborhood--is anti-democratic. It smacks of the crony development more common during the Barry years.”;
 - Belief that the District is “providing the gift of public land.”;
 - “History has shown that, once this public land has been turned over to private developers, they will charge high rents and make big profits.”;
 - “Worst of all, our public land -the library and the community center - is consistently and fully used by our diverse community. If cynically given away in this fashion it can never be reclaimed.”;

²¹ Because of the large number of comments, the Commission has not provided citations to exhibit numbers. The listing of opposition issues provided herein is intended to summarize the main opposition arguments raised among numerous filings to the record.

- Belief that the rezoning will result in the “gift of public land to private developers for personal profit”; and
 - Opposed to giving private developers building rights on public lands still used for public use.
3. Issues with RFP process for future redevelopment of the Site:
- “The RFP process was flawed. I am opposed to locating an outsized 80-foot building height and 60% lot coverage at the site and eliminating the ball court, children’s play area, reading area outside the library and community center and all possible on-site parking. Important community resources that will be lost and the character of the low-rise commercial area will be forever lost. The zoning proposed is completely out of sync with existing land uses and the neighborhood. We do not want Connecticut Ave to be turned into a high-rise canyon.”;
 - “The development proposal will result in higher rents and negatively impact the many small businesses on Connecticut Ave. Chevy Chase small businesses will be displaced just as small business have been lost in every other densified and gentrified DC neighborhood.”;
 - Belief that the redeveloped library will be of a lower quality, and related comparison to the M Street library which is viewed of as low-quality space;
 - Belief that the redeveloped community center will not be as good as the current one, and/or will not provide necessary public services;
 - Concerns about a “flawed RFP process;”
 - Concern that RFP shows “no above ground parking;”
 - Concern that RFP calls for tall building;
 - Belief that the “community” would not benefit from increased height and density, but “developers” will;
 - Opposition to building housing on top of library because it is “structurally a bad idea” – citing M Street library issues;
 - Belief that the rezoning will result in elimination of “ball court, children’s play area, reading area outside the library and community center” and on-site parking;
 - Belief that relocating play area and ball court on top of proposed building is inappropriate;
 - Rezoning is “inextricably linked” to redevelopment proposal;
 - RFP include potential commercial use of the space, belief that these uses are “out of sync” with existing land uses;
 - The citizens of the District of Columbia own very few properties like these in our part of town. While the buildings are aging and in need of upgrade, the property on which they sit is unique and irreplaceable. It serves as an outdoor informal gathering place, close to commercial amenities, but sufficiently separated to provide a place for conversation, contemplation, tranquility and enjoyment among the wonderfully mature trees and gardens; and
 - “While both buildings on this property would benefit significantly from renovations and other investment, this area, which includes two important facilities, a patch of green space, some outdoor play space and some accessible parking space is an important community resource. If additional higher density housing is erected

on other available nearby sites, it will become even more important. Rather than hand this land over to development that will not serve the public interest long term, the city should be funding restoration work and community programs that benefit the children and families of this neighborhood. Rebuilding smaller facilities inside an outsized building that would consume the majority of the space on that site is short-sighted and unnecessary when other nearby properties are available that could provide the housing options being sought.”

- “The DMPED RFP process has been a sham. Here’s why:
 - Despite overwhelming community pushback, DMPED is proposing an outsized 80 foot building height and 60% lot coverage. This will result in the loss of vital green space and an increase in the heat island effect.
 - According to the RFP, prospective developers are given points for minimizing the amount of parking at the site. Chevy Chase has the highest concentration of older adults in the city and many, like me, live miles away from the library and community center. Parking is critical to me and my neighbors in Hawthorne and Barnaby Woods who regularly use these facilities. Even Ward 3 Councilmember Frumin has said he will not support this project if it doesn’t have adequate parking.
 - The proposed upzoning will not make a noticeable difference in the stock of affordable housing. DC’s definition of affordable housing is not truly affordable for those who need it. This is really a luxury housing project with a handful of affordable units.
 - I reject the notion that Chevy Chase does not have enough affordable housing units and is not sharing in the distribution of these units. The DC government does not count the rent controlled and Section 8 housing in the many apartment buildings along Connecticut Ave. I find this manipulative and disingenuous.”

4. Rezoning will be detrimental to small businesses in neighborhood:

- “The inclusion of commercial use of the space would be detrimental to neighborhood small businesses.”;
- “The development proposal will result in higher rents and negatively impact the many small businesses on Connecticut Ave. Chevy Chase small business will be displaced just as small business have been lost in every other densified and gentrified DC neighborhood.”;
- Belief that small businesses will be priced out of commercial spaces;
- Related concern that existing small businesses will be forced out and/or displaced in redevelopment;
- Owner of neighborhood restaurant writes that, “if the upzoning is enacted, local landlords will take advantage of the greater building heights to take steps to redevelop their properties. Old building will need to be razed. We foresee that we can be pushed out of our locations for 2-3 years during the reconstruction period. That will put us out of business. After that, there is no reassurance that we will be able to afford the increased rent that will be charged. We foresee that mom-and-pop stores will not be able to compete with national chain stores. This will harm current tenants and undo the unique nature of Chevy Chase.”; and

- Belief that other existing commercial spaces would be better for commercial uses.
5. Belief that the additional affordable housing provided by Project does not justify rezoning
- “It is clear that what is proposed will NOT result in affordable or low-cost housing; there are other and better potential sites for affordable housing in the neighborhood.”;
 - “I am in favor of development to create more affordable housing in appropriate locations, but not on Connecticut Ave between Livingston St and Chevy Chase Circle. For example, I do not oppose the construction of apartments on the site of the Lisner Home, which is one block from my home, or the former site of Mazza Gallerie. The Friendship Heights area, where high-rise office and apartment buildings already predominate and most businesses are national chains, is an excellent example of an appropriate location for additional development. Connecticut Avenue, with its low-rise buildings, some of which have historical significance, and many small businesses, is not, and I have no confidence that the proposed development on Connecticut Ave will result in more affordable housing.”;
 - “This rezoning does nothing to lower housing costs in DC. You will, by upzoning Chevy Chase, lose 1000s of Naturally Occurring Affordable Homes in rent-controlled buildings. Our Chevy Chase workforce - teachers, police, retail workers, etc. - will be displaced by your actions, as workforce housing has been lost in every other densified and gentrified DC neighborhood. You will displace the Chevy Chase small businesses just as small businesses have been lost in every other densified and gentrified DC neighborhood.”;
 - Belief that the proposal will result in middle income rent payers being priced out of market;
 - Belief that the rezoning will not result in more affordable housing;
 - “If 20% of this building should be for low income housing we are talking about 10 apartments. It doesn't seem like this is going to in any way make a dent in the affordability problem facing the city, nor significantly move the needle in regards to economically diversifying Chevy Chase.”;
 - Belief that rentals in new buildings will be priced out of reach; and
 - “DC landlords are given way too much latitude in deciding who gets affordable housing. DC does not regulate this process leading to abuses.”
6. Belief that Commission is biased against neighborhood:
- “The proposed upzoning across Ward 3, including Case 23-25, has been framed by the DC Office of Planning as a corrective measure to historic housing injustices and an effort to foster affordable housing. Chevy Chase Voice contends that these arguments are simply tactics to shame and intimidate residents into accepting harmful policies.”;
 - “While the Commission, through its Director Sara Bardin, asserted, erroneously, that it had absolute discretion to set down the Case in the manner of its choosing, Chair Hood made it absolutely clear that he felt personal irritation with and animus

against citizens of the District of Columbia residing in “Ward 3—West of the Park,” and that his intention was to avoid personal inconvenience and discomfort that he might experience, if those citizens were accorded their proper right to engage fully in the zoning process. While Chair Hood may feel that his convenience is of greater value than the rights DC citizens affected by his actions, this brazenly autocratic behavior undermines public confidence in the objectivity and evenhandedness of the Zoning Commission and brings disrepute upon the Government of the District of Columbia in condoning his behavior.”; and

- “Moreover, I am opposed to a zoning process in which the Chairperson of the Zoning Commission publicly and shockingly denigrates the residents of Chevy Chase and the area of Rock Creek West and unapologetically shows his deep bias against the area. He has done this publicly in recorded sessions not once - or twice - but at least three times, even doubling down on statements when their bias was pointed out to him, saying he would not retract his statements or apologize for them. At a minimum, Mr. Hood should not be permitted to have any role in or take any action concerning zoning anywhere in "Rock Creek West" given his clear animus towards the community.”

7. Other issues:

- “Survey showing that a majority of Chevy Chase residents are opposed to upzoning.”;
- Belief that rezoning will change the character of the community;
- Dislike of character of Friendship Heights density and concern that it will occur in Chevy Chase;
- Belief that 80-foot building height with 60 % lot occupancy is “outsized”;
- Lack of “feasibility studies” regarding infrastructure;
- Concerns about loss of mature trees on site;
- Concern about traffic being re-routed to side streets; and
- Concerns about increased parking demand.

15. Second ANC Resolution

On December 13, 2024, following the November 1st publication of the NOPR, ANC 3/4G submitted a letter attaching a further resolution. The letter stated that the resolution, adopted at its regularly scheduled December 9, 2024 meeting, modified its prior April 28 resolution (which was dated April 25, 2024 and at Ex. 175 in the case record). The letter noted that like the community, the ANC remains divided on this proposal as evidenced by the ANC vote on the resolution of 4-1-1 but believes pursuing a middle path as proposed in the resolution is the most effective way forward. The Resolution states that the ANC reaffirms the positions taken in its April 28 resolution, but modifies it in two ways (which call for changes to the proposed text):

- It raises the maximum allowable building height with permissible penthouses and various height bonuses that the ANC seeks for the modified NMU-4/CC1 zone from sixty feet (60 ft.) to sixty-five feet (65 ft.) to address concerns about floor loss and crowded mechanical space that OP described at the April 29th public hearing; and

- It adjusts its call for a uniform lot occupancy maximum of sixty percent (60%) to take into account the needs for affordable housing incentives and the ability to create continuous retail storefront along Connecticut Avenue. The ANC now calls for sixty percent (60%) lot occupancy for residential or seventy-five percent (75%) with inclusionary zoning and up to one hundred percent (100%) lot occupancy for non-residential:
 - Because of the need to ensure adequate open space at the Community Center Library site, ANC seeks a uniform sixty percent (60%) lot occupancy maximum for that site. (Ex. 469, 469A).

16. OP Second Supplemental Report (Ex. 470).

On December 17, 2024, OP submitted a supplemental report responding to the Second ANC Resolution (Ex. 470):

- OP states that it opposes the changes suggested in the new ANC resolution;
- OP states that it does not support the changes suggested in the new resolution because the OP proposal:
 - Is not inconsistent with, and furthers, policy direction of the Comprehensive Plan (Comp Plan) including the Future Land Use Map, Generalized Policy Map, Citywide Elements, and Rock Creek West Area Element and Connecticut Avenue Policy Focus Area;
 - Incorporates the land use and design criteria of the Chevy Chase Small Area Plan (CCSAP); and
 - Would further objectives of other important policy documents, including the Rock Creek West Roadmap and the 2025 Housing Equity Goals;
- OP states it is opposed to the ANC's support for eliminating the NMU-4/CC-2 zone for the Civic Site, and instead applying the NMU-4/CC-1 zone to the Civic Site as well as the rest of the corridor, because it believes:
 - This would be less consistent with the Comprehensive Plan and CCSAP direction;
 - Both CC zones have MU-4 as the base, but the NMU-4/CC-1 zone includes design related requirements specific to the guidelines for the corridor which would not be appropriate for the civic site, while the NMU-4/CC-2 zone includes different criteria for the civic site that would be lost under a single zone approach. "This modified proposal [of increasing the maximum building height for the NMU-4/CC-1 zone from 60 to 65 feet] would be generally consistent with the OP proposal for the NMU-4/CC-1 zone. However, it would remain significantly lower than the proposal for the NMU-4/CC-2 zone for the civic site - a building maximum height of 65 feet, plus a penthouse of 12 feet max. for habitable or 15 feet for mechanical space, for a total maximum of 80 feet to the top of a penthouse. Particularly when combined with the lot occupancy restriction and set back and step-back proposals for the civic site, the ANC proposed change would limit the ability to replace existing civic facilities and provide the housing and affordable housing opportunities envisioned in the policy and planning direction for this site. As such, OP would not support this change."
 - OP also notes that the modified proposed lot occupancy from uniform 60% maximum for all uses to 60% for residential or 75% with IZ and up to 100% for non-residential appears consistent with the OP proposal for the NMU-4/CC-1 zone; and

- OP also notes that the modified proposed uniform 60% maximum for all uses on the Community Center-Library site appears consistent with the OP proposal for the NMU-4/CC-2 zone.

17. **Final Action**

At its January 30, 2025 public meeting, the Commission considered the case record, including the NCPC report, the ANC Second Resolution and the response thereto by OP, as well as the public comments in support and in opposition to the NOPR (January 30, 2025 Tr. at 29-45).

With respect to the ANC Second Resolution, the Commission was persuaded by OP's response that the alternative proposed by the ANC would be less consistent with the policy guidance of the Comprehensive Plan and CCSAP.

With respect to the public comments received, the Commission concluded that the letters in support were highly persuasive, particularly the letter submitted by the Washington Interfaith Council.

With respect to the comments in opposition, the Commission concluded as follows:

1. Belief that the case should have been set down and heard as a contested case instead of as a rulemaking.
Commission response: the Commission has addressed this issue several times by stating that it has the authority under the Zoning Regulations to hear the case as a rulemaking. A more complete discussion is above in Section 4, Commission Setdown Report, Section 10, Public Hearing, and in the Conclusions section below.
2. Belief that development concept involves the improper use/transfer of public land.
Commission response: the disposition of public land is not within the Commission's purview. The Commission only has the power to zone.
3. Issues with RFP process for future redevelopment of the Site
Commission response: the RFP process is not within the Commission's purview. The Commission only has the power to zone.
4. Rezoning will be detrimental to small businesses in neighborhood.
Commission response: this is a judgment call for the Commission and involves weighing conflicting Comprehensive Plan guidance, and other factors. Ultimately the Commission concludes that the policy guidance cited by OP outweighs the possible harm to small businesses caused by potential displacement; a more complete discussion is above in OP Reports under Section 2, Petition and Section 8, OP Hearing Report and in the Conclusions section below.
5. Belief that the additional affordable housing provided by Project does not justify rezoning
Commission response: this is a judgment call for the Commission and involves weighing conflicting Comprehensive Plan guidance. The Commission concludes that the policy guidance cited by OP outweighs the policy guidance cited by the opponents; a more

complete discussion is above in OP Reports under Section 2, Petition and Section 8, OP Hearing Report and in the Conclusions section below.

6. Belief that Commission is biased against neighborhood

Commission response: the Commission decided this case in accordance with the Zoning Regulations. The Commission acknowledges the argument raised by opponents that Chairman Hood should have disqualified himself from participating in this case because of statements he has made specific to Ward 3. The Commission takes its Rules of Ethics under Subtitle Z, § 105 of the Zoning Regulations seriously and firmly believes (i) Chairman Hood was not required to disqualify himself from this case based on the requirements set forth in Subtitle Z, § 105.8; and (ii) this case was decided in accordance with the requirements of the Zoning Regulations, inclusive of the Rules of Ethics applicable to the Commission.

7. Other issues

- Survey showing that a majority of Chevy Chase residents are opposed to upzoning;
- Belief that rezoning will change the character of the community;
- Dislike of character of Friendship Heights density and concern that it will occur in Chevy Chase;
- Belief that eighty (80)-foot building height with sixty percent (60%) lot occupancy is “outsized.”;
- Lack of “feasibility studies” regarding infrastructure;
- Concerns about loss of mature trees on site;
- Concern about traffic being re-routed to side streets; and
- Concerns about increased parking demand.

Commission response: these issues are judgment calls for the Commission and involve weighing conflicting Comprehensive Plan guidance. The Commission concludes that the weight of the policy guidance cited by OP justifies the rezoning despite these issues; a more complete discussion is above in OP Reports under Section 2, Petition and Section 8, OP Hearing Report and in the Conclusions section below.

18. Conclusions

Pursuant to Subtitle X §§ 500.3 and 1300.2, the Commission shall find that a map amendment and a text amendment petition are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site; and the Zoning Commission shall find that petitions for creation of a new zone shall be consistent with the conditions of Subtitle X § 400.

Notice

Opponents alleged the Commission failed to comply with several applicable notice requirements of the Zoning Regulations.

The Commission begins by noting that it has fully complied with the notice requirements of the Zoning Act and District Administrative Procedure Act. The Zoning Act requires that before it can amend the zoning regulations or maps, the Commission must publish a public hearing notice thirty (30) days prior to the meeting, and comply with some other requirements, all of

which were met in this case (D.C. Official Code § 6-641.03; 6-641.05(a)(1)(A)). The Zoning Act further requires that the Commission hold the hearing and allow public comment (D.C. Official Code § 6-641.03, 6-641.05(a)(1)(A)). It then requires that the Commission send the proposed action to NCPC for comment (6-641.05(a)(1)(B)). The Commission has also fully complied with the notice and comment requirements of the District Administrative Procedure Act by both publishing a notice of proposed rulemaking for public comment for thirty (30) days and referring the proposed action to NCPC for comment, and considering those comments received before taking final action (D.C. Official Code § 2-505(a)). All of these provisions were met.

The Commission has imposed heightened notice requirements in the Zoning Regulations. As discussed above, OP and the Commission did not comply with all of those requirements. However, OP demonstrated to the Commission that it undertook a good faith effort at community outreach that provided notice that in many ways far exceeded the requirements of the Zoning Regulations. In addition, there was ample evidence that the affected public had actual notice of the case, and actively participated through written comments before the hearings, testimony at the hearings, and written comments submitted in response to the notice of proposed rulemaking. The Commission has the authority to waive the notice requirements of the Zoning Regulations, and did so in this case; the discussion of the notice requirement waivers granted by the Commission in this case are discussed in detail above under Section 4, Commission Setdown Meeting. The Commission hereby also waives any notice requirements of the Zoning Regulations that were not explicitly considered by the Commission at its meetings or hearings²².

Decision to proceed as rulemaking vs. contested case

Opponents alleged that the Commission should hear and decide the map amendment portion of the case as a contested case. Opponents also alleged that the Commission should hear the map amendment for Civic Site property as a separate contested case.

The Zoning Regulations contemplate the Commission will use its discretion and decide whether to decide map amendment cases as rulemakings or contested cases based on the circumstances of the case (*See* Subtitle Z, §§ 201.2, 201.5, 201.7, and 210.9). The Commission must make this determination in advance (*Schneider v. District of Columbia Zoning Commission*, 383 A.2d 324 (1978)).

Here, the Commission determined that the map amendment case should be heard and decided as a rulemaking. The Commission believes that this case is legislative in nature because it involves issues for resolution that affect large numbers of persons, and a large number of properties. The case involves rezoning an entire commercial corridor, with the Civic Site at the

²² The Zoning Regulations were amended in Z.C. Order No. 22-25, effective August 2, 2024, and several changes to the Commission's notice rules were adopted as of the effective date. The waivers the Commission granted at setdown on November 9, 2023 and the waivers of any notice requirements of the Zoning Regulations that were not explicitly considered by the Commission at its meetings or hearings are based on the Zoning Regulations in effect before Z.C. Order No. 22-25 became effective. The Commission's procedural rulings and proposed action in this case preceded the August 2, 2024 effective date of Z.C. Order No. 22-25.

center of that corridor. Therefore, this situation squarely fits within the criteria for a rulemaking case established by Subtitle Z § 201.5.

The case was initiated by a public agency, includes multiple properties, and the properties make up a neighborhood commercial corridor, so it also fits squarely within the type of case that the Zoning Regulations explicitly contemplate would be heard as a rulemaking under Subtitle Z § 201.7(a). The case also includes text amendments, which the Zoning Regulations explicitly provide should be heard as a rulemaking cases under Subtitle Z § 201.5(a). Hearing both the text and map amendments together would allow interested members of the community to present their concerns at a single hearing, and would also allow the Commission to more efficiently consider the issues in a single case, a further reasons for hearing and deciding this case as a rulemaking.

The Commission revisited this decision at the beginning of the first hearing, after the Commission's decision made at setdown was criticized by opponents in written submissions. One group of opponents also suggested that the Commission should consider the proposed map amendment for the Civic Site separately because it was a single property, and the Petitioner requested a more intense zoning designation for that property.

The Commission decided to stick with its previous decision to hear the entire case as a rulemaking.

The Commission believes this case is legislative in nature, and involves broader issues of public policy, not a rezoning that presents issues for resolution that have only a limited scope of impact (*See* Subtitle Z, § 201.2, 201.5). It encompasses a multi-block long commercial corridor containing over forty (40) properties with multiple owners. It involves several different zone districts. It also involves new zoning text. The policy reasons stated in the various OP Reports have broad impacts.

The Commission stated that the Zoning Regulations authorize the Commission to exercise discretion in determining whether to hear map amendment cases as either rulemakings or contested cases, and that the Regulations explicitly provide that cases initiated by public agencies that involve “a neighborhood, commercial district, or other geographic area encompassing multiple properties”, as is the exact situation here, are properly characterized as rulemaking cases (Subtitle Z, § 201.7(a)). This regulation further supports the Commission's decision to hear the case as a rulemaking, because the case involves text and map amendments initiated by public agency to amend the zoning map for an entire commercial district. So, it squarely fits within one of the explicit examples provided of a rulemaking case.

The Commission further believes that the Civic Center Site is not “singled out” as the opponents contend. To the contrary, it is part of a cohesive rezoning of the entire corridor, which involves multiple zoning designations, and new text. When rezoning commercial corridors, the Commission believes that it should consider the whole corridor cohesively, not break it up into constituent parts to be judged separately.

For these reasons, the Commission concludes it appropriately heard and decided this case as a rulemaking (*See* Section 4, Commission Setdown Meeting and Section 10, Public Hearings)._

Amendments are not inconsistent with Comprehensive Plan

The Commission largely agrees with OP that the amendments are consistent with the Comprehensive Plan for the reasons set forth in the OP Reports, as summarized above in Section 2, Petition; Section 8, OP Hearing Report; Section 11, OP Supplemental Report; and Section 16, OP Second Supplemental Report.

The Commission agrees with the opponents that the densities of the new NMU-4/CC2, and to a lesser extent the new NMU-4/CC1 zone, are at the upper range of, or exceed, the density guidance on the FLUM. However, the FLUM guidance contemplates higher density ranges when complying with IZ and IZ Plus would apply to both new zones. In addition, as a District-owned property, the new NMU-4/CC-2 zone for the Civic Site would be subject to the requirements of District Law 10-801, which requires a higher affordable housing set-aside and affordability requirements than IZ Plus. The Commission also acknowledges that there are additional Comprehensive Plan policies, and CCSAP policies, that are potentially inconsistent with the map and text amendments.

The Commission considered all of the CP policy guidance and concludes that any potential CP inconsistencies are outweighed by the clear CP policy guidance identified in the case record that favors more intense zoning to accomplish multiple, sometimes competing, goals, particularly for the Civic Site. The Commission agrees with OP that the proposed zoning is an appropriate compromise. The Commission believes that any inconsistent CP policies are outweighed by the guidance of the 2021 update of the CP, including the changes to the Future Land Use Map and the Generalized Policy Map; Citywide Elements, including policy goals of the Land Use, Housing, Economic Development, and Community Services and Facilities Elements; and Rock Creek West Area Element policies, inclusive of the Chevy Chase corridor, all of which are cited in the OP Reports, primarily the OP Setdown Report, as summarized above (*See* Section 2, Petition and Section 8, OP Hearing Report). This new CP guidance placed a much stronger emphasis on the provision of new housing and new affordable housing opportunities, particularly in areas such as the Rock Creek West Planning Area where there is a lack of dedicated affordable housing. The provision of additional density for the corridor, and the Civic Site, allows it to meet these housing and affordable housing goals, while also accommodating important civic uses on the Civic Site. The Commission recognizes that some compromise is necessary to accomplish all of these goals, and finds the balance struck by the OP proposal reasonable overall.

The Commission therefore concludes that when all of the relevant CP policy guidelines are considered, the proposal is not inconsistent with the Comprehensive Plan because the inconsistent CP policies are outweighed by other policies that would be advanced by the proposal. The Commission further notes that the proposal would further objectives of the CCSAP, the Rock Creek West Roadmap, the 2025 Housing Equity Goals for the RCW Planning Area, and the Connecticut Avenue Policy Focus Area.

The Commission concludes that the proposal would further CP racial equity goals and advance racial equity. The Commission reaches this conclusion based on the OP Reports, specifically the OP Setdown and Hearing Reports, which included responses to the four (4) components of the Commission's Racial Equity Tool, including Community Outreach and Engagement and Disaggregated Race and Ethnicity Data, and are summarized in detail above. The Commission notes the following from the OP Reports in reaching its racial equity conclusions.

Displacement - The proposal would not result in any direct displacement of residents as there is no current residential use on the Property site. However, the Commission acknowledges that the proposal could result in commercial displacement impacts for small local businesses, particularly. The Commission is hopeful that such impacts could be mitigated by the provision of ground floor uses in the proposal, which could facilitate relocation and expansion opportunities for existing business. The Commission also notes that non-zoning government tools, such as technical assistance programming, to protect retail businesses are mentioned in the CCSAP. However, to the extent that the proposal is inconsistent with CP policy guidance to prevent commercial displacement, the Commission finds such inconsistencies to be outweighed by the CP policies that would be advanced by the proposal.

Community Outreach and Engagement - The Commission finds the community outreach and engagement conducted by OP sufficient, as summarized in the OP Setdown and Hearing Reports above, and inclusive of meetings with ANC representatives and the ANC subcommittee, attendance at ANC public meetings, a meeting with a representative of the Chevy Chase Main Street businesses, and one-on-one discussions and emails, as well as multiple meetings separately organized by DMPED; the OP outreach efforts began in August 2022 and continued through March 2024. The Commission notes that community input resulted in changes to the OP proposal prior to setdown of the Petition, specifically adding rear and side setbacks where commercial properties abut residentially zoned properties not separated by an alley, and other provisions intended to provide transition to lower density residential areas for both proposed zones; and for the Civic Site, a reduction in maximum lot occupancy from eighty percent (80%) to sixty percent (60%) for all uses. These pre-setdown changes to the proposed zones are discussed in detail in the summary of the OP Setdown Report above under Section 2, Petition. Then between setdown and the public hearing, OP made two additional changes to the proposed NMU-4/CC-2 zone for the Civic Site, specifically defining the east lot line as the rear lot line for purposes of rear yard measurement; and clarifying the trash collection, loading and parking access will be from McKinley or Northampton only and prohibited along Connecticut. These changes and all OP changes are outlined in a chart included in the OP Supplemental Report at Ex. 297 included herein above under Section 11, OP Supplemental Report. The Commission recognizes that, despite the changes made by OP in response to community input, many community members remain opposed to the proposed zones and do not believe OP's changes were sufficient to reflect community input and concerns. The Commission acknowledges the considerable opposition to the proposed zones. Nevertheless, the Commission finds the NMU-4/CC-1 and NMU-4/CC-2 zones, as revised, to represent a reasonable compromise between both OP and community participants/stakeholders.

Disaggregated Race and Ethnicity Data - The OP Setdown and Hearing Reports, summarized in Sections 2 and 8 above, included disaggregated race and ethnicity data for the Rock Creek West (RCW) Planning Area noting the following trends for the 2016-2021 time period:

- Population - The RCW Planning Area retains the highest percentage of white residents and the lowest percentage of Black residents of all ten (10) planning areas; however, the percentage of Asians, Blacks, and Hispanics rose during the time period;
- Median Income - The RCW Planning Area was one of only two (2) planning areas (along with Central Washington) where the median income of Black or African Americans did not increase during this time period. Meanwhile, the median income for white households rose at a rate higher than that of the planning area as a whole;
- Median Age - The median age of the RCW Planning Area is increasing compared to Districtwide and it has the second highest median age among the ten (10) planning areas; and
- Housing Tenure - The RCW Planning Area has the second highest percentage of owner-occupied housing of the District's ten (10) planning areas at fifty-five and one-tenths percent (55.1%) compared to forty and seven-tenths percent (40.7%) Districtwide.

Progress Toward the Mayor's 2025 Housing Equity Goals - The RCW Planning Area has the least amount of dedicated affordable housing and as of the end of February 2024 (based on the DMPED thirty-six thousand (36,000) by 2025 Dashboard) had made the least amount of progress of the District's ten (10) planning areas of achieving the goal of one thousand nine hundred ninety (1,990) new affordable units, achieving ten and one-tenths percent (10.1%) of the target.

The Commission is encouraged that the provision of increased density on this Property site will facilitate new housing opportunities- both market rate and affordable and both rental and ownership- within the RCW Planning Area on a site where no housing currently exists. The Commission notes that most of the rental housing stock in the RCW Planning Area is in larger multifamily buildings, none of which are in the area of the proposed amendments. The proposal would facilitate more housing options for District residents, including the RCW Planning Area's small but growing racial diversity of residents, as well as housing opportunities for moderate and lower income residents of all racial and ethnic backgrounds, in a pedestrian oriented location. The Commission is hopeful that the future development facilitated by the proposal will provide an improved library and community center and open space with corresponding community serving activation; could help to ease upward pressure on housing costs in the area; and could result in new or improved retail services in the corridor along with permanent job opportunities.

New zones comply with petitions for new zones requirements of Subtitle X, § 400

The Commission finds that the new zones comply with the requirements of Subtitle X, § 400. For the reasons stated above herein, the Commission finds that the new zones are for a well-defined geographic area of the Chevy Chase neighborhood; the new zones are not inconsistent with the CP or with the CCSAP; the new zones have appropriate development standards such that they will not result in adverse impacts on the environment or adjacent lands nor will they result in undue diminution of property rights; the Petition included evidence of significant

community support for the new zones, as discussed in more detail immediately below; and the Petition included information documenting how the new zones would change development standards (*See* Subtitle X, § 400.1-400.6).

Alleged deficiencies with requirements of Subtitle X, § 400 that apply to petitions for new zones

Opponents argued that the OP Setdown Report did not meet the requirement of Subtitle X § 400.6(a) that a petition for a new zone be accompanied by evidence of community support including property owners within the defined area and relevant civic community and business groups. The Commission believes that the OP Setdown Report met this requirement with the evidence of community outreach and engagement and a support narrative description, although just barely. The evidence was later supplemented by OP in its Hearing Report, and there was ample support of members of the community provided in the case record. The Commission acknowledges that this support was far from unanimous, and there was also ample community opposition.

Opponents also argued that the Commission did not comply with the requirement of Subtitle X § 400.7 that Commission give equal time to affected property owners to present their opposition. The Commission believes that this provision does not apply in this case because this case is an upzoning, not a downzoning, and that provision by its own terms applies only when the Commission is considering a proposed new zone that “involves a reduction in any development standard or property right.”(Subtitle X, § 400.7).

Several opponents further argued that a petition to create a new zone must comply with all of the procedural requirements for both a map and text amendment under Subtitle Z, including self-stick name and address labels for all property owners within two hundred feet (200 ft). of the subject property, and that these requirements were not met. As discussed above, the Commission acknowledges that OP did not meet all of these requirements, but the Commission decided to waive the requirements that were not met because OP substantially complied with many of the notice requirements, performed substantial community outreach and engagement that in other ways exceeded the requirements, and there was overwhelming evidence of actual notice in the affected community.

“Great Weight” to the Recommendations of OP

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 § 504.6 (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

The Commission finds OP’s recommendation that the Commission adopt the proposed Text and Map Amendments persuasive and concurs in that judgment based on the analyses in the OP Reports detailed above. The Commission also notes its agreement with OP’s recommendation to rezone a small number of sites fronting side streets, specifically McKinley and Morrison Streets, to the RF-1 zone, which is included in this proposal.

IZ Plus

The Commission also finds OP's recommendations as to the applicability of IZ Plus persuasive and concurs in OP's judgment. The Commission notes that the petition involves two components. First, the creation of two (2) new zones, NMU-4/CC1 and NMU-4/CC2, with text amendments and map amendments to map the new zones; and second, the map amendment to RF-1 of properties fronting McKinley and Morrison Streets with map amendments.

With respect to the first component, the Commission believes that Subtitle X § 502.1(b), which automatically applies IZ Plus to a map amendment that results in a higher maximum FAR, does not automatically apply because this component is both a text amendment to create development standards for the new zones as well as a map amendment to map the new zones. However, in these factual circumstances, the Commission finds it appropriate for IZ Plus to apply because doing so would advance numerous Comprehensive Plan policies, as discussed above. The Commission notes that consistent with the map amendment specific rule under Subtitle X § 502.1(b), the new NMU-4/CC1 and NMU-4/CC2 zones would allow a higher maximum FAR than the existing MU-3A and R-1B zoning on the Property site.

With respect to the second component, which is only a map amendment, IZ Plus automatically applies, pursuant to Subtitle X § 502.1(b), because the proposed RF-1 zone allows a higher maximum FAR than the existing R-2 and R-1B zoning on the sites. However, OP recommends that IZ Plus not apply to the proposed rezoning of the sites to RF-1 because the properties involved are existing surface parking lots in common ownership with commercial properties fronting Connecticut Avenue, NW and the objective of rezoning them is to provide a transition between the existing low-density residential use and the mixed-use zoning proposed under the two new zones, which is too intense for these sites. The Commission finds that the RF-1 zone would strike an appropriate balance for transition purposes as it allows residential one or two family development, but would not permit commercial use. Accordingly, the Commission agrees with OP that IZ Plus should not apply to the sites proposed for rezoning to RF-1.

"Great Weight" to the Written Reports of the ANC 3/4G

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 § 505.1 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. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted)).

ANC 3/4G submitted three reports that were approved by the entire ANC, a November 8, 2023 letter, an April 28, 2024 resolution, and a December 13, 2024 resolution. The Commission considered all three, and the Commission's responses to the issues and concerns raised in the reports are listed below:

November 8, 2023 letter

On November 8, 2023, ANC 3/4G submitted a letter requesting the Commission postpone consideration of setdown of the case as scheduled for November 9, 2023. The ANC stated that they required additional time to “complete our community engagement and issue our further resolution on OP’s proposals.” (Ex. 4).

Commission response

The Commission felt it was appropriate to consider setdown at the November 9, 2023 public meeting because it was convinced by the evidence presented in OP’s Setdown Report that OP had done significant outreach and engagement with the ANC well in advance of the public meeting and given it ample time to reach a position on the proposal.

April 28, 2024 resolution

On April 28, 2024, ANC 3/4G submitted a resolution, dated April 25, 2024, that states it takes the following positions with respect to the Text and Map Amendments (Ex. 175):

- ANC 3/4G “supports the proposed framework for the NMU-4/CC1 and RF-1 zones but concludes the maximum allowable height with permissible penthouses and various height bonuses for the NMU-4/CC1 zone of 70 feet and lot occupancy of 60 percent for residential or 75 percent with affordable housing and unlimited for non-residential are outsized and would permit development that is out of scale with the current commercial corridor.” It asks the Zoning Commission to reduce the maximum allowable height to sixty feet (60 ft.), calls for a uniform lot occupancy maximum of sixty percent (60%), and reserves judgement on the proposed maximum floor area ratios, side yard requirements and inclusion by reference of District parking minimums and maximums.”;
- ANC 3/4G “recognizes that OP has made changes to its proposal for the NMU-4/CC2 zone covering the Community Center-Library site, it believes that the 80- foot proposed building height maximum with penthouses bonuses could result in a building or buildings out of scale with the rest of the commercial corridor.”;
- “Therefore, it asks the Zoning Commission to eliminate the NMU-4/CC2 zone and apply the NMU-4/CC1 provisions modified as above to the entire upper Connecticut Avenue commercial corridor, including the Community Center-Library site.”; and
- “The ANC favors ensuring the same amount or more green/open space in the upper Connecticut Avenue commercial corridor to include the square footage of non-parking space at the Community Center-Library site as well as sidewalks and tree boxes along the Avenue. It asks the Zoning Commission to include protections in the rezoning it approves to protect these spaces.”; and
- “The ANC recognizes the continuing need for vehicle transportation, especially among the community’s substantial population of post-65 residents and those of all ages who are disabled. It asks the Zoning Commission to ensure adequate parking along the entire length of the upper Connecticut Avenue corridor by, among other things, requiring that any parking lost to development in the proposed RF-1 zones be replaced.”

Commission response:

The Commission responds to the first three issues and concerns together because they concern a common topic, namely the appropriate zoning envelope for the affected properties. At the request of the Commission, OP provided an analysis that compared the zoning envelope of the

Text and Map Amendments with the ANC's alternative proposal. The analysis also compared the number of market and affordable rate housing units that would result in the respective proposals. Based on this comparison, the Commission is convinced that any negative impacts of the larger zoning envelope proposed by the Text and Map Amendments would be minimal on neighboring properties and neighborhood character especially given the respective development standards of the proposed zones, which include buffering and transition provisions toward lower density residential areas along with other provisions to preserve neighborhood character. However, the Commission finds that the ANC's more restrictive proposal would substantially reduce the amount of housing that could be produced on the overall site, and undermine the potential of these amendments to fulfil CP policy goals and objectives. Further, the Commission does not believe the proposed NMU-4/CC2 zoning's development standards are out of scale with the corridor.

Concerning the fourth issue/concern related to the amount of green and open space, the Commission responds that there was testimony at the public hearing that the amount of non-parking open space currently on the Civic Site is approximately forty percent (40%) of the lot area (April 29 Tr. at 128-129). The Commission therefore believes that the sixty percent (60%) lot occupancy limit proposed for the Civic Site roughly meets this request, and adequately protects the need for green and open space.

Concerning the fifth issue/concern regarding the adequacy of parking supply, the Commission is convinced there is adequate parking supply in the neighborhood, and that the number of properties being rezoned will not have a significant impact on the supply of parking spaces. In addition, future development on the site would have to comply with onsite parking requirements.

December 13, 2024 ANC Resolution

On December 13, 2024, ANC 3/4G submitted a letter attaching a further resolution. The letter stated that the resolution modified its prior April 28 resolution. The letter noted that like the community, the ANC remains divided on this proposal as evidenced by the ANC vote on the resolution of 4-1-1 but believes pursuing a middle path as proposed in the resolution is the most effective way forward. The Resolution states that the ANC reaffirms the positions taken in its April 28 resolution, but modifies it in two ways (which call for changes to the proposed text):

- It raises the maximum allowable building height with permissible penthouses and various height bonuses that the ANC seeks for the modified NMU-4/CC1 zone from 60 feet to 65 feet to address concerns about floor loss and crowded mechanical space that OP described at the April 29th public hearing; and
- It adjusts its call for a uniform lot occupancy maximum of sixty percent (60%) to take into account the needs for affordable housing incentives and the ability to create continuous retail storefront along Connecticut Avenue. The ANC now calls for sixty percent (60%) lot occupancy for residential or seventy-five percent (75%) with inclusionary zoning and up to one hundred percent (100%) lot occupancy for non-residential:
 - Because of the need to ensure adequate open space at the Community Center Library site, ANC seeks a uniform sixty percent (60%) lot occupancy maximum for that site.

(Ex. 469, 469A)

Commission response:

The Commission does not find this advice persuasive for the following reasons, most of which are outlined in the OP Second Supplemental Report, which the Commission finds persuasive.

The Commission would prefer to approve the OP proposal without considering further modifications because it believes the OP proposal is not inconsistent with, and furthers, policy direction of the Comprehensive Plan including the Future Land Use Map, Generalized Policy Map, Citywide Elements, the Rock Creek West Area Element and the Connecticut Avenue Policy Focus Area. It further believes the OP proposal incorporates the land use and design criteria of the CCSAP, and would further objectives of other important policy documents, including the Rock Creek West Roadmap and the 2025 Housing Equity Goals.

In addition, the Commission does not support eliminating the NMU-4/CC-2 zone for the Civic Site, and instead applying the NMU-4/CC-1 zone to the Civic Site, because it believes the NMU-4/CC-1 zone includes design related requirements specific to the guidelines for the corridor which would not be appropriate for the Civic Site, while the NMU-4/CC-2 zone includes different criteria for the Civic Site that would be lost under a single zone approach. The ANC proposed change would limit the ability to replace existing civic facilities and provide the housing and affordable housing opportunities envisioned in the policy and planning direction for this Property site.

Finally, the Commission notes that OP already included several modifications to its original proposal in an effort to address the issues raised by the ANC, and is entitled to an up or down vote on the ANC's new proposal.

At its January 30, 2025 public meeting, the Commission voted to take **FINAL ACTION** to:


- Adopt the Text and Map Amendments Petition as advertised in the Notice of Proposed Rulemaking; and
- Authorize the publication of a Notice of Final Rulemaking.


Vote (January 30, 2025): 4-0-1

(Anthony J. Hood, Joseph Imamura, Robert E. Miller, and Tammy Stidham to **APPROVE**; Gwen Wright, not participating, not voting)

The complete record in the case can be viewed online at the Office of Zoning's Interactive Zoning Information System (IZIS), at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 23-25 shall become final and effective upon publication in the *District of Columbia Register*; that is, on June 27, 2025.


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

Zoning Map amendments

The following amendments to the Zoning Map are hereby adopted:

Square	LOT(S)	FROM	TO
Square 1866	823	MU-3A and R-1B (split zoned)	NMU-4/CC2 with IZ+
Square 1865	90	MU-3A	NMU-4/CC1 with IZ+
Square 1867	92	MU-3A and R-1B (split zoned)	NMU-4/CC1 with IZ+
Square 1868	68	MU-3A	NMU-4/CC1 with IZ+
	69	MU-3A and R-1B (split zoned)	The portion of the lot currently zoned MU-3A to NMU-4/CC1 with IZ+ and the portion currently zoned R-1B to RF-1
Square 1860	1, 12, 13, 15, 22-24, 800, 801, 811, 812, 814, 816, 818, 819, 821, 824, 825	MU-3A	NMU-4/CC1 with IZ+
Square 1859	34, 54, 74, 86, 87, 93, 94, 801, 802, 804, 805, 808	MU-3A	NMU-4/CC1 with IZ+

Square	LOT(S)	FROM	TO
Square 1859	95	MU-3A and R-2 (split zoned)	The portion of the lot currently zoned MU-3A to NMU-4/CC1 with IZ+ and the portion currently zoned R-2 to RF-1
Square 1859	49, 50, 51, 92	R-2	RF-1
Square 1867	93	R-1B	RF-1

The Commission determined the portions of the Property rezoned to NMU-4/CC1 and NMU/CC2 are appropriate for Inclusionary Zoning (“IZ”) Plus. The Commission determined that the portions of the Property rezoned to RF-1 are not appropriate for IZ Plus.

Consistent with Subtitle X § 502.4, for the purposes of calculating an IZ+ set-aside requirement pursuant to Subtitle C § 1003, the maximum permitted FAR of the property’s existing MU-3A zoning is the equivalent of 1.0 FAR; and the maximum permitted FAR of the property’s existing R-1B zone is the equivalent of 0.4 FAR.

TEXT AMENDMENT

The following amendments to the text of the Zoning Regulations were adopted.

I. Amendments to Subtitle H, NEIGHBORHOOD MIXED-USE (NMU) ZONES

A new Chapter 10, CHEVY CHASE NEIGHBORHOOD MIXED-USE ZONES – NMU-4/CC1 and NMU-4/CC2, is added to Subtitle H, NEIGHBORHOOD MIXED-USE (NMU) ZONES, to read as follows:

CHAPTER 10 CHEVY CHASE NEIGHBORHOOD MIXED-USE ZONES – NMU-4/CC1 and NMU-4/CC2

1000 PURPOSE AND INTENT

1000.1 The purposes of the NMU-4/CC1 and NMU-4/CC2 zones shall be those of the MU-4 zone as set forth in Subtitle G § 101, those of the Neighborhood Mixed-Use zones, as set forth in Subtitle H § 101, and the following:

- (a) Implement the policies and goals of the Chevy Chase Small Area Plan as approved by the Council of the District of Columbia, effective July 12, 2022 (PR-0564);
- (b) Permit mixed-use development at a moderate density;
- (c) Permit reimagining of the Chevy Chase Community Center and Library site, including mixed-income housing and community gathering space.
- (d) Establish design guidelines that encourage sustainable, well designed new development that is compatible with the surrounding built environment and contributes to the main street character;

- (e) Establish Connecticut Avenue, N.W. between Western Avenue, N.W. and Livingston Street, N.W. as an attractive, active, pedestrian-oriented commercial corridor with a convenient mix of neighborhood-serving shops and services;
- (f) Allow and encourage residential development to help meet the need for housing, by accommodating a greater range of resident diversity to advance the District's housing equity goals, and by mapping both the NMU-4/CC1 and NMU-4/CC2 zones as subject to IZ Plus.

1000.2 The NMU-4/CC1 zone is intended to permit mixed-use development at a moderate density.

1000.3 The NMU-4/CC2 zone is intended to permit mixed-use development and institutional uses at a moderate density.

1001 DEVELOPMENT STANDARDS

1001.1 The MU-4 zone development standards in Subtitle G, Chapter 2 shall apply to the NMU-4/CC1 and NMU-4/CC2 zones except as specifically modified by this chapter. In the event of a conflict between the provisions of this chapter and other regulations of this title, the provisions of this chapter shall control.

1002 DESIGNATED USE AREA

1002.1 In the NMU-4/CC1 and NMU-4/CC2 zones, the designated use area shall include any lot that fronts onto Connecticut Avenue, NW. Within this area, designated uses shall be provided pursuant to Subtitle H § 6001.

1003 DESIGNATED ROADWAY

1003.1 In the NMU-4/CC1 and NMU-4/CC2 zones, the designated roadway shall be Connecticut Avenue, N.W.

1004 DENSITY

1004.1 In the NMU-4/CC2 zone, the maximum permitted floor area ratio (FAR) shall be as set forth in the following table:

TABLE H § 1004.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum Total FAR	Maximum Non-Residential FAR
NMU-4/CC2	3.0 3.6 (IZ)	1.5

1004.2 In the NMU-4/CC1 zone, new construction that preserves an existing façade constructed before 1958 is permitted an increase of 0.5 FAR to the maximum permitted density.

1005 HEIGHT

1005.1 In the NMU-4/CC1 and NMU-4/CC2 zones, the maximum permitted building height, not including a penthouse or rooftop structure, shall be as set forth in the following table:

TABLE H § 1005.1: MAXIMUM HEIGHT

Zones	Maximum Height, Not Including Penthouse or Rooftop Structure (ft).
NMU-4/CC2	65 65 (IZ)

1005.2 Buildings along the designated street should have a minimum height of twenty-five feet (25 ft)..

1006 REAR YARD

1006.1 The requirements of Subtitle G § 207.8 shall not apply to the NMU-4/CC2 zone.

1006.2 In the NMU-4/CC2:

- (a) The rear yard shall be measured from the east-most lot line of the existing property; and
- (b) The depth of the required rear yard shall be measured as the mean horizontal distance between the rear line of a building and the rear lot line abutting an alley or an R or RF zone.

1007 SIDE YARD

1007.1 In the NMU-4/CC1 and NMU-4/CC2 zones, no side yard is required for a building or structure other than a detached or semi-detached single household dwelling; however, if a side yard is provided it shall be at least two inches (2 in). wide for each one foot (1 ft). of height of building but no less than six feet (6 ft)..

1007.2 Notwithstanding Subtitle H § 1007.1, where an NMU-4/CC1 or NMU-4/CC2 zone is not separated by an alley from an R or RF zoned property, a side yard shall be provided of least fifteen feet (15 ft)..

1008 LOT OCCUPANCY

1008.1 In the NMU-4/CC2 zone, the maximum permitted lot occupancy for both residential use and all other uses shall be as set forth in the following table:

TABLE G § 1008.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Percentage of Lot Occupancy Residential Use (%)	Maximum Percentage of Lot Occupancy All Other Uses (%)
NMU-4/CC2	60 60 (IZ)	60

1009 DESIGN REQUIREMENTS CHEVY CHASE NEIGHBORHOOD NMU-4/CC1 MIXED-USE ZONE

1009.2 In the NMU-4/CC1 zone, the following design requirements shall apply to a new building or addition on any lot fronting onto Connecticut Avenue, N.W., Livingston Street, N.W., McKinley Street, N.W., or Northampton Street, N.W.:

- (a) No part of the building, including the penthouse or rooftop structure, shall project above a plane drawn at a forty-five degree (45°) angle from a line located twenty-five feet (25 ft). directly above a rear property line that abuts an alley, or zone boundary line with an R or RF zone;
- (b) A set back of not less than three feet (3 ft). shall be provided from the building façade along Connecticut Avenue, N.W. for:
 - (1) Any portion of a building or structure above the third story; or
 - (2) Any portion of a building or structure above a retained building façade pursuant to Subtitle H § 1009.1;
- (c) Buildings shall be designed and built so that not less than seventy-five percent (75%) of the street wall at the street level shall be constructed to the property line abutting the street right-of-way, not including permitted projections into public space;
- (d) Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft). on average for the linear frontage of the building;
- (e) Not less than fifty percent (50%) of the surface area of the street wall at the ground level of each building shall be devoted to display windows having clear or clear/low emissivity glass and to entrances to commercial uses or to the building;
- (f) Security grilles shall have no less than seventy percent (70%) transparency;
- (g) Not more than fifty percent (50%) of the front façade of each building above the ground level, or for a building which is retaining an existing façade, above the façade to be retained, may be devoted to windows or glazing of any type;

- (h) The ground floor level of each new building or building addition shall have a minimum clear floor-to-ceiling height of fourteen feet (14 ft).;
- (i) A building which provides a ground floor level clear floor-to-ceiling height of eighteen feet (18 ft). or more shall be permitted an additional five feet (5 ft). of building height over that permitted in the zone;
- (j) Each space devoted to a designated use with frontage on Connecticut Avenue, N.W. shall have an individual public entrance directly at grade with the public sidewalk along Connecticut Avenue, N.W.;
- (k) On a corner lot that fronts onto both Connecticut Avenue, N.W. and a side street, any entrance to residential portions of the building shall be located on the side street;
- (l) Vehicle parking, loading and trash collection shall be accessed from the alley where an alley of exists. Trash and recycling rooms shall be located internal to the building, and located at-grade level of the building; and
- (m) Vehicle parking spaces shall be located below or at grade. If at grade, no portion of the parking shall be within twenty feet (20 ft). of the Connecticut Avenue right of way and shall be screened along Connecticut Avenue with designated uses.

1009.3 The requirements of Subtitle H §§ 1009.2(c) through (i) shall not apply to a building preserving a front façade pursuant to Subtitle H § 1009.2.

1010 DESIGN REQUIREMENTS CHEVY CHASE NEIGHBORHOOD NMU-4/CC2 MIXED-USE ZONE

1010.1 In the NMU-4/CC2 zone, the following design requirements shall apply to any building fronting onto Connecticut Avenue, N.W.:

- (a) No part of the building, including the penthouse or rooftop structure, shall project above a plane drawn at a forty-five degree (45°) angle from a line located twenty-five feet (25 ft). directly above the rear property;
- (b) Vehicle parking, loading and trash collection shall be accessed only from adjacent streets, except Connecticut Avenue, N.W. Trash and recycling rooms shall be located internal to the building and located at-grade level of the building; and
- (c) Vehicle parking spaces shall be located below or at grade. If at grade, no portion of the parking shall be within twenty feet (20 ft). of the Connecticut Avenue right of way and shall be screened along Connecticut Avenue with designated uses.

CHAPTER 10 THROUGH CHAPTER 12 [RESERVED], Subtitle H, NEIGHBORHOOD MIXED-USE (NMU) ZONES, is amended to read as follows:

CHAPTERS ~~40~~11 through ~~42~~51 [RESERVED]

The table in Subtitle H § 6000.8 of § 6000, GENERAL USE PERMISSIONS, of CHAPTER 60, USE PERMISSIONS FOR NEIGHBORHOOD MIXED USE (NMU) ZONES, of Subtitle H, NEIGHBORHOOD MIXED USE (NMU) ZONES is amended to read as follows:

6000.8 Use groups for the NMU zones are as follows:

TABLE H § 6000.8: NMU USE GROUPS

Use Group A	Use Group B	Use Group C
NMU-3A/MW	... NMU-4/CC1 NMU-4/CC2	NMU-5A/WP ...

Subsections 6001.3(b) and 6001.4(f), (g), and (h) of § 6001, DESIGNATED AND RESTRICTED USES of CHAPTER 60, USE PERMISSIONS FOR NEIGHBORHOOD MIXED USE (NMU) ZONES, of Subtitle H, NEIGHBORHOOD MIXED USE (NMU) ZONES are amended to read as follows:

6001.3 The designated uses shall occupy ...

- (b) Except in the NMU-4/CC1, NMU-4/CC2, NMU-4/H-H, NMU-4/H-A, NMU-4/H-R, NMU-5A/H-H, NMU-5A/H-R, NMU-6B/H-H, NMU-7B/H-H, NMU-7B/ES, NMU-7B/H-A, and NMU-8B/H-H zones...

6001.4 The following conditions shall apply ...

- (f) In the NMU-4/H-A and NMU-7B/H-A zones, designated uses shall be limited to uses within the arts, design and creation, and the eating and drinking use categories; and
- (g) In the NMU-4/CC2 zone, designated uses shall also include Local Government and Parks and Recreation uses; and
- (h) In all NMU zones, animal sales, care, and boarding as a matter-of-right designated use ...

II. Amendments to Subtitle W, SPECIFIC ZONE BOUNDARIES

A new § 124, CHEVY CHASE MIXED USE ZONES, is added to the Chapter 1, BOUNDARIES, of Subtitle W, SPECIFIC ZONE BOUNDARIES, to read as follows:

124 CHEVY CHASE NEIGHBORHOOD MIXED-USE ZONES

- 124.1 The Chevy Chase Neighborhood Mixed Use Zone NMU-4/CC1 IZ+ shall be mapped in Squares 1859, 1860, 1865, 1867, and 1868 on lots generally along Connecticut Avenue, N.W., between Western Avenue, N.W. and Livingston Street, N.W., and identified in the Comp Plan and Chevy Chase Small Area Plan for mixed-use development.
- 124.2 The Chevy Chase Neighborhood Mixed Use Zone NMU-4/CC2 IZ+ shall be mapped in Square 1866 Lot 823 on Connecticut Avenue, N.W. between Northampton Street, N.W. and McKinley Street, N.W., and identified in the Comp Plan and Chevy Chase Small Area Plan for mixed-use and local public facility development.