

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

ZONING COMMISSIONER ORDER NO. 24-02

Z.C. CASE NO. 24-02

Washington Metropolitan Area Transit Authority

(Zoning Map Amendment @ Square 5123, Lots 1-9, 35, 800, and 801; Square 5170, Lots 9, 10, 809, and 814; and PAR 0184 0100)

September [12], 2024

Pursuant to notice, at its public hearing on July 15, 2024, the Zoning Commission for the District of Columbia (the “Commission”) considered an application (the “Application”) by the Washington Metropolitan Area Transit Authority (“WMATA” or the “Applicant”) for approval of an amendment to the Zoning Map from the PDR-1 and RA-1 zones (collectively, the “Existing Zone”) to the MU-5B zone (the “Map Amendment”) for Lots 1-9, 35, 800, and 801 in Square 5123, Lots 9, 10, 809, and 814 in Square 5170, and PAR 0184 0100 (the “Property”), pursuant to Subtitle X § 500.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all subsequent section references are made unless otherwise specified).¹

The Commission determined IZ Plus is not appropriate for the Property.

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

FINDINGS OF FACT

I. BACKGROUND

PARTIES

1. In addition to the Applicant, the only other party to this case was Advisory Neighborhood Commission (“ANC”) 7C, the ANC in which the Property is located and the “affected ANC” pursuant to Subtitle Z §§ 101.8 and 403.5(b).
2. The Commission received no requests for party status.

¹ The Commission took proposed action and final action to approve the Application on July 15, 2024, and September [], 2024, respectively.

NOTICE

3. On November 7, 2023, the Applicant mailed a Notice of Intent to file the Application to all property owners within 200 feet of the Property and to ANC 7C, as required by Subtitle Z §§ 304.5 and 304.6. (Exhibit [“Ex.”] 2D4.)
4. On January 30, 2024, the Office of Zoning (“OZ”) sent copies of the Notice of Filing to:
 - The *D.C. Register*;
 - The Applicant’s land use counsel;
 - ANC 7C;
 - ANC Single Member District (“SMD”) 7C07;
 - Councilmember Vincent Gray, the Ward 7 Councilmember in whose district the Property is located;
 - Chairman and At-Large Members of the D.C. Council;
 - Office of the ANCs;
 - Office of Planning (“OP”);
 - District Department of Transportation (“DDOT”);
 - Department of Energy & Environment (“DOEE”)
 - Department of Buildings (“DOB”) General Counsel; and
 - Zoning Commission Lead Attorney.(Ex. 9.)
5. On May 22, 2024, OZ sent notice of the July 15, 2024 virtual public hearing to:
 - The Applicant’s land use counsel;
 - ANC 7C;
 - ANC SMD 7C07;
 - Councilmember Vincent Gray, the Ward 7 Councilmember;
 - Chairman and At-Large Members of the D.C. Council;
 - Office of the ANCs;
 - OP;
 - DDOT;
 - DOEE;
 - DOB General Counsel;
 - Zoning Commission Lead Attorney; and
 - Property owners within 200 feet of the Property.(Ex. 18, 19.)
6. OZ published notice of the public hearing in the May 31, 2024 *District of Columbia Register* (71 DCR 6497 *et seq.*), as well as on the calendar on OZ’s website. (Ex. 17.)
7. The Applicant submitted evidence that it posted notice of the public hearing on the Property in accordance with Subtitle Z § 402.9 and maintained said notice in accordance with Subtitle Z § 402.10. (Ex. 20.)

THE PROPERTY

8. The Property is located in Ward 7 and bounded by WMATA's rail lines to the northwest, Quarles Street, N.E. to the northeast, Minnesota Avenue, N.E. to the southeast, and private property to the southwest. The Property contains approximately 167,073 square feet of land area. (Ex. 2A2.)
9. The Property is improved with a Metrorail station, bus turnaround, related buildings, daily surface parking for Metrorail users, a "kiss and ride" drop off area, and landscaping. (Ex. 2A2.)
10. The Property is designated Mixed Use (Medium Density Residential, Low Density Commercial, and Local Public Facilities) on the Comprehensive Plan's Future Land Use Map. The Property is in a Neighborhood Enhancement Area and designated as a New Neighborhood Commercial Center on the Comprehensive Plan's Generalized Policy Map. (Ex. 2A2.)
11. The Property is also located within the boundary of the Deanwood Strategic Development Plan ("Deanwood SAP"), which was approved by the D.C. Council on April 15, 2008, pursuant to PR17-0879. Other applicable public policies include the Mayor's Housing Order, the OP Housing Equity Report, WMATA's 10-Year Strategic Plan for Joint Development ("WMATA Plan"), and DC Public Library's "Next Libris: Library Facilities Master Plan: 2021-2030" ("DCPL Plan"). (Exs. 2A2 and 23.)
12. The neighborhood surrounding the Property is largely residential with a number of churches and civic uses. Notably, the Deanwood Aquatic and Recreation Center is directly across the street from the Property. This facility houses one of a small number of public indoor pools in the District and offers a diverse area of recreational activities for District residents and neighbors. The facility also includes the existing branch of the Deanwood Neighborhood Library. (Ex. 2A2.)
13. Ron Brown High School, Houston Elementary School, and IDEA Public Charter School are all within walking distance of the Property. There are few existing commercial uses near the Property. (Ex. 2A2.)

CURRENT ZONING

14. The Property is currently split-zoned PDR-1 and RA-1, with the vast majority of the Property in the PDR-1 zone and only a small portion in the RA-1 zone. (Ex. 2A2.)
15. The Production, Distribution, and Repair (PDR) zones provide for the following:
 - Heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that minimize any adverse effect on other nearby, more restrictive zones; and

- Areas suitable for development as heavy industrial sites, but at the same time protect those industrial developments from the intrusion of non-industrial uses that impede the full utilization of properly located industrial sites. (Subtitle J § 101.1.)
16. In particular, the PDR-1 zone is intended to permit moderate-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones. (Subtitle J § 101.3.)
 17. The PDR-1 zone imposes the following limits and permissions for matter of right development:
 - A maximum density of 3.5 FAR for certain PDR use categories and, and 2.0 FAR for all other uses permitted in the PDR-1 zone; (Subtitle J § 201.1.)
 - A maximum building height of 50 feet with no limit on the number of stories; and (Subtitle J § 203.2.)
 - A maximum penthouse height of 12 feet and one story, except 15 feet and a second story are permitted for penthouse mechanical space. (Subtitle J § 205.1.)
 18. The PDR-1 zone does not permit most residential uses. (Subtitle U § 801.1(w).)
 19. The Residential Apartment (RA) zones are residential zones, designed to provide for residential areas suitable for multiple dwelling unit development and supporting uses. (Subtitle F §§ 101.1.)
 20. In particular, the RA-1 zone provides for areas predominantly developed with low- to moderate-density development, including detached houses, row houses, and low-rise apartments. (Subtitle F §§ 101.4.)
 21. The RA-1 zone does not permit most commercial uses. (Subtitle U § 401.1.)
 22. The RA-1 zone imposes the following limits and permissions for matter of right development:
 - A maximum density of 0.9 FAR for non-public library structures, and 1.08 FAR for IZ developments; (Subtitle F § 201.1, 201.4.)
 - A maximum building height of 40 feet and three stories; (Subtitle F § 203.2.)
 - A maximum penthouse height of 12 feet and one story; and (Subtitle F § 205.1.)
 - A maximum lot occupancy of 60%. (Subtitle F § 210.1.)

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

Equity and the Comprehensive Plan

23. Pursuant to Subtitle X § 500.3, the Commission shall find that the Map Amendment is not inconsistent with the CP and with other adopted public policies and active programs related to the Property.

24. In applying the standard of review applicable to the Map Amendment, the CP requires the Commission to do so through a racial equity lens. (CP §§ 2501.4-2501.6, 2501.8.) Consideration of equity is intended to be based on the policies of the CP, and part of the Commission’s considerations of whether the Map Amendment is “not inconsistent” with the CP, rather than a separate determination about a zoning action’s equitable impact.
25. The CP Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities, but is not the same as equality. (CP § 213.6.) Further, “[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development, and employment opportunities.” (CP § 213.7.) The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions. (CP § 213.9.)
26. The CP Implementation Element provides guidance to help the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states “[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of different areas of the District.” (CP § 2501.6.) In addition, the CP Implementation Element suggests to prepare and implement tools to use as a part of the Commission’s evaluation process. Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity Tool in evaluating zoning actions through a racial equity lens; the Commission released a revised Tool on February 3, 2023. The Tool requires submissions from applicants and the Office of Planning analyzing the zoning action’s consistency with the Citywide and Area Elements of the Comprehensive Plan, and Small Area Plans, if applicable; a submission from applicants including information about their community outreach and engagement efforts regarding the zoning action; and a submission from the Office of Planning including disaggregated race and ethnicity data for the Planning Area affected by the zoning action. The Racial Equity Tool emphasizes community outreach, and is intended to facilitate proactive and meaningful engagement with the community most likely to be affected by the proposed zoning action to gain insight on negative conditions that may exist in the community, particularly those that are a result of past and present discrimination, develop an understanding of community priorities, and solicit input on potential positive and negative outcomes of the proposed zoning action.

Generalized Policy Map

27. The CP’s GPM designates the Property as a Neighborhood Enhancement Area, which the Framework Element describes as:
 - “[N]eighborhoods with substantial amounts of vacant and underutilized land. They include areas that are primarily residential in character, as well as mixed-use and

industrial areas. Many of these areas are characterized by a patchwork of existing homes and individual vacant lots, some privately owned and others owned by the public sector or non-profit developers. These areas present opportunities for compatible infill development, including new single-family homes, townhomes, other density housing types, mixed-use buildings, and, where appropriate, light industrial facilities. Land uses that reflect the historical mixture and diversity of each community and promote inclusivity should be encouraged. [...] The guiding philosophy in Neighborhood Enhancement Areas is to ensure that new development responds to the existing character, natural features, and existing/planned infrastructure capacity. New housing should be encouraged to improve the neighborhood and must be consistent with the land-use designation on the Future Land Use Map and with Comprehensive Plan Policies...” (CP §§ 225.6-225.7.)

28. Further, the CP’s GPM designates the Property as a New Neighborhood Commercial Center, which the Framework Element describes as:

- *The areas identified as commercial or mixed use correspond to the city’s business districts, many of which form the heart of the city’s neighborhoods. Five categories are used, defining the physical and economic character of each area along with generalized long-range conservation and development objectives. The commercial areas are: “Main Street Mixed Use Corridors,” “Neighborhood Commercial Centers,” “Multi-Neighborhood Centers,” “Regional Centers,” and the “Central Employment Area.” All categories allow commercial and residential uses. Neighborhood Commercial Centers meet the day-to-day needs of residents and workers in the adjacent neighborhoods. The area served by a Neighborhood Commercial Center is usually less than one mile. Typical uses include convenience stores, sundries, small food markets, supermarkets, branch banks, restaurants, and basic services such as dry cleaners, hair cutting, and childcare. Office space for small businesses, such as local real estate and insurance offices, doctors and dentists, and similar uses, also may be found in such locations. Many buildings have upper-story residential uses.” (CP §§ 225.13, 225.15.)*

Future Land Use Map (the “FLUM”)

29. The CP’s FLUM designates the Property as Mixed Use – Medium Density Residential / Low Density Commercial / Local Public Facilities.

- Medium Density Residential – *“This designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. Pockets of low and moderate density housing may exist within these areas. Density typically ranges from 1.8 to 4.0 FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-3 Zone District is consistent with the Medium Density Residential category, and other zones may also apply.” (CP § 227.7.)*

- 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.” (CP § 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 non-governmental facilities may be co-located on site. While included in this category, local public facilities smaller than one acre – including some of the District’s libraries, police and fire stations, and similar uses – may not appear on the map due to scale. Zoning designations vary depending on surrounding uses.” (CP § 227.17.)*
- Mixed Use
 - The FLUM indicates areas where the mixing of two or more land uses is encouraged, and the mixed-use category generally applies in established, pedestrian-oriented commercial areas, commercial corridors where more housing is desired in the future, large sites where opportunities for multiple uses exist, and development that includes residential uses, particularly affordable housing; (CP § 227.20.)
 - The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. The CP Area Elements may also provide detail on the specific mix of uses envisioned; (CP § 227.21.)
 - The “Mixed Use” designation is intended primarily for larger areas where no single use predominates today, or areas where multiple uses are specifically encouraged in the future; and (CP § 227.22.)
 - A variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities. (CP § 227.23.)

Far Northeast & Southeast Area Element

30. The Property is located within the Far Northeast & Southeast Area Element of the Comprehensive Plan. The Far Northeast & Southeast Area encompasses the 8.3 square miles located east of I-295 and north of Naylor Road SE. (CP § 1700.1.) Far Northeast and Southeast is known for its established neighborhoods and its diverse mix of housing. The area has a robust transportation network, including the Minnesota Avenue, Benning Road, and Deanwood Metro stations, Interstate I-295, and several major avenues linking neighborhoods to the underserved communities in Wards 7 and 8 to Central Washington. (CP § 1700.2.) According to the CP, the addition of new residents and daytime office workers has made the ground floor retail here a success, sparking more interest from the

private sector to consider Far Northeast and Southeast as an upcoming retail and commercial market. (CP § 1700.7.)

Small Area Plan

31. The Property is located within the boundary of the Deanwood SAP, which was adopted by the D.C. Council as a Small Area Plan in July 2008.
32. The purpose of the Deanwood SAP is intended to “provide an implementation framework for public and private investment in a broad range of areas, leading to neighborhood stabilization and revitalization over a 10-year horizon.” (Deanwood SAP, Executive Summary.)
33. The Deanwood SAP sets forth a vision that is focused on strengthening Deanwood as a historically stable, self-reliant, self-sufficient and close-knit community, enhancing Deanwood as the greenest neighborhood in the District, and supporting a complimentary mix of housing, employment, retail, open space, and recreational and institutional facilities. *Id.* To realize this vision, the Deanwood SAP identifies four primary strategies (*Id.*):
 - Strengthen and enhance “focus nodes” in Deanwood with higher quality commercial and mixed-use development;
 - Focus strategic residential infill in the areas where there are significant vacant lots and explore alternative community-beneficial uses for vacant lots, such as community gardens;
 - In areas with few lot vacancies, develop strategies to preserve and strengthen the neighborhood; and
 - Promote residential infill along Nannie Helen Burroughs Avenue, N.E. and Sheriff Road, N.E. (*Id.*)
34. The Property is located within the “Deanwood Metro” focus node. (Deanwood SAP, p. 56.)
35. Within this focus node, the Deanwood SAP recognizes the untapped potential for new mixed-use development, stating that “acres of underdeveloped land within walking distance [to Metro] offer a prime opportunity for future mixed-use development, but the adjacent residential neighborhoods suggest careful attention to the scale and intensity of that development.” (*Id.*)
36. Regarding the Property, the Deanwood SAP states that “surface parking at the Deanwood Station is well situated to accommodate transit-oriented, mixed-use development.” (*Id.*)
37. Noting that new development within the Deanwood Focus node can be categorized as a “high priority goal,” the Deanwood SAP supports a land use change from light industrial to moderate-medium density mixed-use between Minnesota Avenue, N.E. and the CSX rail line which “will provide additional housing, retail, and service opportunities while reducing potential conflicts between industrial and non-industrial land uses.” (*Id.*)

II. THE APPLICATION

PROPOSED ZONING

38. The Application proposes to rezone the Property in its entirety from the PDR-1 and RA-1 zones to the MU-5B zone. (Ex. 2A2.)
39. The MU-5 zones are specifically intended to: (Subtitle G § 101.10.)
- Permit medium density, compact mixed-use development with an emphasis on residential use;
 - Provide facilities for shopping and business needs, housing, and mixed-uses for large segments of the District of Columbia outside the central core; and
 - Be located on arterial streets, in uptown and regional centers, and at rapid transit stops.
40. As a matter of right, the MU-5B zone permits:
- A maximum density of 3.5 FAR and 4.2 FAR for IZ developments, of which up to 1.5 FAR can be devoted to non-residential use; (Subtitle G § 201.1.)
 - A maximum building height of 75 feet with no limit on the number of stories; (Subtitle G § 203.2.)
 - A maximum penthouse height of 20 feet with a second story permitted for penthouse mechanical space; (Subtitle G § 205.1.) and
 - A maximum lot occupancy of 80%. (Subtitle G § 210.1.)

APPLICANT'S JUSTIFICATION OF RELIEF

Not Inconsistent with the CP

41. The Application stated that the Map Amendment would not be inconsistent with the CP nor would it be inconsistent with other adopted public policies and active programs applicable to the Property, as detailed below in Findings of Fact ("FF") Nos. 42-60, 63. (Ex. 2A2, 2C, 12, 15, 23, 23C, 24.)
42. Overall, the Property is underutilized and currently improved with surface parking lot that does not permit residential uses on the PDR-1 portion of the Property or commercial uses on the RA-1 portion of the Property. The Map Amendment would permit additional height and a modest amount of additional density at the Property, thus enabling new development with expanded opportunities for residential use in upper levels. Moreover, the Map Amendment is not inconsistent with the District's racial equity objectives. (Ex. 2A2, 2C, 12, 15, 23, 23C, 24.)

GPM

43. The Map Amendment would not be inconsistent with the Property's GPM designation as a Neighborhood Enhancement Area and New Neighborhood Commercial Center because: (Ex. 2A2, 2C, 12.)

- The Map Amendment allows for the redevelopment of the Property potentially resulting in new housing and affordable housing in accordance with the set aside requirements of the District's inclusionary zoning program, which promotes inclusivity; (Ex. 2A2, 2C, 12.) and
- The Map Amendment presents opportunities for compatible infill development that enhance the surrounding community and may include commercial and residential uses that meet the day-to-day needs of residents and workers in the adjacent neighborhoods, including uses such as convenience stores, small food markets, supermarkets, branch banks, restaurants, and services such as dry cleaners, hair cutting, and childcare, office space for small businesses, and upper-story residential uses. (Ex. 2A2, 2C, 12.)

FLUM

44. The Map Amendment would not be inconsistent with the Property's FLUM designation of Mixed Use (Medium Density Residential / Low Density Commercial / Local Public Facilities.) because: (Ex. 2A2, 2C.)
- The Medium Density Residential category contemplates density ranging from 1.8-4.0 FAR but states that greater density may be possible when complying with IZ; (CP § 227.7.)
 - The Low Density Commercial category contemplates buildings that range in density generally up to a FAR of 2.5, with greater density possible when complying with IZ; (CP § 227.10.)
 - The Local Public Facilities category includes land and facilities occupied and used by the District of Columbia government or other local government agencies (such as WMATA), and non-governmental facilities may be co-located on site; (CP § 227.17.)
 - The MU-5B zone is specifically intended to permit compact mixed-use development with an emphasis on residential development, and permits a maximum FAR of 3.5 (4.2 for an IZ development), of which up to 1.5 FAR can be devoted to non-residential use;
 - The density permissions of the MU-5B zone fall within the density ranges recommended by the Property's FLUM designation; and
 - The Mixed-Use designation indicates where the mixing of two or more land uses is especially encouraged, and the Map Amendment would provide opportunities to integrate multiple uses at the Property. (CP § 227.20.)

Racial Equity

45. The Map Amendment furthers racial equity goals. Specifically, the rezoning allows additional density that could result in both market-rate and affordable housing as well as neighborhood serving commercial uses. The rezoning also makes possible the future development of the Property with a new, full-size branch of the D.C. Public Library, which accommodates arts, cultural, and other community programming and events. By enabling future redevelopment of the Property, the Map Amendment could also lead to new streetscape, pedestrian, and environmental improvements that benefit all District residents. The Property is not improved with any existing structures and therefore avoids any direct displacement of residents or businesses. The Application also asserted that the Map

Amendment, and any associated redevelopment of the Property, could expand access to employment opportunities and other neighborhood amenities in ways the current state of the Property does not facilitate.

46. The Application included information regarding the Applicant's engagement with ANC 7C, and outreach efforts to the broader community, including the Deanwood Citizens Association, and neighboring residents. Specifically, the Applicant introduced the Application to the full ANC 7C at its duly noticed, regularly scheduled public meeting on January 11, 2024. The Applicant subsequently presented the Map Amendment to the Deanwood Citizens Association at its meeting on February 26, 2024. Then, the Applicant met with ANC 7C at its duly noticed, regularly scheduled public meeting on June 13, 2024, to receive further questions and feedback regarding the Application. The Applicant also conducted outreach to the surrounding neighborhood and independently hosted an Open House on June 4, 2024. Finally, the Applicant met with ANC 7C at its duly noticed, regularly scheduled public meeting on July 11, 2024 and received a unanimous vote in support. Additionally, the Applicant submitted logs detailing its outreach efforts, meeting dates, and participants as well as reaching out to the Deanwood Citizens Association. (Ex. 23, 23B.)
47. The Applicant identified the following concerns raised by the community:
- A desire for certainty in what will be built at the Property, especially with respect to provision of neighborhood-serving uses and avoiding continued overconcentration of subsidized affordable housing; and
 - Concerns about how the future developer will engage with the community throughout the development process. Specifically, WMATA has heard concerns that, following selection of its joint development partner through the Request for Proposals ("RFP") process, the developer will proceed with a matter of right design and not further engage with the community. (Ex. 23C.)
48. In response to those concerns, the Applicant took the following steps:
- As a part of WMATA's RFP process for selecting a development partner, a community engagement strategy is explicitly a criterion for all respondents. The Applicant included a copy of the RFP at Exhibit 23D;
 - Inclusion in the RFP of resources regarding grocery store market demand and subsidies available through the District, along with direct comments from the ANC and DCA regarding the preferred uses of each;
 - A requirement that ongoing "community engagement" be part of the design development timeline following the completion of the Zoning Map amendment;
 - Citations to the preferences and designations in the Deanwood SAP and Comprehensive Plan;
 - Confirmation that WMATA verified that the Property is eligible for location-based supermarket tax incentives available in the District; and

- Averring that WMATA is committed to ensuring that its development partner continue the collaborative work WMATA has already began with community representatives to ensure that regular consultation occurs throughout the development process. (Ex. 23.)

Far Northeast / Southeast Area Element

49. The Map Amendment advances the goals of the Far Northeast / Southeast Area Element. Rezoning the Property to the MU-5B zone provides an opportunity to redevelop an underutilized site with new construction that can provide new, diverse housing options and commercial uses. The Application also asserted that any future development facilitated by the Map Amendment would maintain and enhance the distinctive character of the Deanwood neighborhood. The proposed Zoning Map amendment to MU-5B supports the redevelopment of an underutilized site near transit, and out of the surrounding lower-scale neighborhood, with new development containing housing (market rate and affordable) where none is permitted today to help meet the housing goals of the FNS Planning Area and the District overall (FNS-1.1.1, FNS-1.1.2, FNS-1.1.3). The rezoning also promotes long sought after neighborhood-serving retail and service uses in Deanwood and the wider Ward 7 area (FNS-1.1.4). In addition to the FLUM, the medium-density mixed-use development permitted under the proposed MU-5B zone is also consistent with the FNS policy guidance provided for the Deanwood policy focus area, which calls for “additional mixed-use development consisting of medium density housing and low-density neighborhood commercial uses in the vicinity of the Deanwood Metro station. (FNS-2.2.4 and FNS-2.2.5.) (Ex. 2A2, 2C; CP §§ 1708.2, 1708.3, 1708.4, 1708.5, 1712.13, 1712.14.)

Land Use Element

50. The Map Amendment is not inconsistent with the policies of the Land Use Element because the Map Amendment encourages mixed-use development at an underutilized, transit-oriented site, and may provide new market-rate housing, affordable housing, and commercial uses as well as a new library and ongoing public transit uses, the latter two of which are “Local Public Facilities” uses. The Application also asserted that the current split-zoning of the Property limits the amount of residential density that is available to be utilized. As such, the Existing Zone is inconsistent with the Property’s FLUM designation, and rezoning the Property would help to facilitate meeting long-term neighborhood and citywide demands for additional housing. Further, the height and density permitted under the proposed MU-5B zone appropriately balances the need to respect the character, scale, and integrity of the adjacent neighborhood. (Ex. 2A2, 2C; CP §§ 307.9, 307.10, 307.11, 307.12, 307.14, 307.15, 307.17, 307.20, 310.7, 310.9, 310.10, 313.9, 313.10, 313.14, 316.17.)

Transportation Element

51. The Map Amendment is not inconsistent with the policies of the Transportation Element. The Map Amendment enables new mixed-use development, inclusive of housing and affordable housing, on a site that is located within immediate proximity to the Deanwood Metrorail stations and multiple Metrobus stops. In connection with a future redevelopment

of the Property, the Map Amendment also has the potential to trigger streetscape improvements that enhance the pedestrian experience and facilitate improved access to and from the Property. (Ex. 2A2, 2C; CP §§ 403.8, 403.10, 403.11, 403.13, 403.14.)

Housing Element and OP Housing Equity Report

52. The Map Amendment is not inconsistent with the policies of the Housing Element because the Map Amendment increases the permitted residential density at the Property, thus creating new opportunities for housing and affordable housing. The Property is located within the Far Northeast / Southeast Area Element, where the recommended number of affordable housing units is satisfied. (Housing Equity Report at 12.) Still, the Map Amendment advances high-priority planning objectives related to inclusivity and equity, increasing potential for demographic diversity and access to market-rate housing in a high-opportunity, transit-accessible area. The affordable housing provided on the Property in accordance with the proposed MU-5B zone and IZ set aside requirements helps address citywide housing needs for low- and moderate-income households, while avoiding the continued overconcentration of affordable housing that has occurred for several decades in neighborhoods on the east side of the Anacostia River (H-1.2.1). (Ex. 2A2, 2C; CP §§ 503.3-503.6, 504.8, 504.9, 504.10, 504.17, 504.19, 505.9, 506.11.)

Environmental Protection Element

53. The Map Amendment is not inconsistent with the policies of the Environmental Protection element because future development of the Property will lead to the conversion of an existing surface parking lot to a more efficient and sustainable construction. Given the Property's proximity to multiple modes of transit, including Metrorail and well-connected bicycle and pedestrian networks, future development of the Property does not induce automobile dependency and lead to improved air quality. Furthermore, the Map Amendment and any associated redevelopment of the Property could trigger new landscaping and environmentally friendly enhancements to the abutting streetscape. (Ex. 2A2, 2C; CP §§ 603.6, 605.6, 605.7, 616.3.)

Economic Development Element

54. The Map Amendment is not inconsistent with the policies of the Economic Development Protection element. The proposed MU-5B zone supports new, neighborhood-serving retail and service uses. The MU-5B zone's limit on non-residential density helps ensure that the amount and type of new retail and service use that may result from the rezoning does not unduly impact the surrounding neighborhood in terms of noise, traffic, and loading. In addition to new commercial uses, the proposed rezoning also allows development of new housing next to Metrorail, where housing is currently not permitted under the existing PDR-1 zoning. (Ex. 2A2, 2C; CP §§ 708.6, 708.8, 713.5, 718.10.)

Urban Design Element

55. The Applicant finds the proposed Zoning Map amendment to be not inconsistent with the policies and actions of the Urban Design Element. The proposed Zoning Map amendment

allows for the redevelopment of the Property with new mixed-use development that can bring needed neighborhood-serving amenities and housing to the Deanwood community and Ward 7 neighborhoods. Future development on the Property involves reconstruction of adjacent public space to DDOT standards, including new sidewalks that can accommodate safe and comfortable pedestrian circulation along active ground floor frontages. The combination of a new public library and new mixed-use development (including potential neighborhood-serving uses like coffee shops, cafes, and restaurants) activates the area and provide places for neighborhood public life through indoor and outdoor places to gather (Ex. 2A2, 2C; CP §§ 908.3, 908. 4, 909.8, 915.3.)

Community Services and Facilities Element

56. The Applicant finds the proposed Zoning Map amendment to be not inconsistent with the policies and actions of the Community Services and Facilities Element. As currently contemplated and as funded in the District’s FY25 Budget, a new Deanwood branch library will be a component of the future overall redevelopment of the Property. Together with the new housing and neighborhood-serving commercial uses that will come with future development on the Property, the new library supports the continued revitalization of the Deanwood neighborhood. Additionally, as civic infrastructure the new library can support Deanwood residents of all ages with intellectual development, workforce development, cultural activation and exchange, and placemaking and social interaction. (Ex. 2A2, 2C, and 23; CP §§ 1103.13, 1103.19, 1111.6, 1111.12, 1112.2, 1112.6.)

Potential Inconsistencies with the CP

57. The Applicant acknowledged that the Map Amendment may be viewed as being inconsistent with certain CP policies. The Applicant cited to Policy UD-2.2.4 (titled, “Transitions in Buildings Intensity”) (CP § 909.9) as one potential inconsistency, given that a future development may conflict with the surrounding neighborhood context. The Applicant also identified Policy LU1.5.1 (titled, “Infill Development”) and Policy UD-2.2.5 (titled, (“Infill Development”) as other potential inconsistencies during the public hearing on the Application. Further, the Applicant identified Policy LU-1.4.C (titled, “Metro Station and Inclusionary Zoning”) and H-1.2.4 (titled, “Housing Affordability on Publicly Owned Sites”) as potential inconsistencies, given the emphasis of increased affordable housing near Metrorail stations. However, the Applicant asserted that the Map Amendment advances numerous other policies in the CP, particularly under the Land Use Element and Housing Element, and that the proposed rezoning of the Property is not inconsistent with the CP when read as a whole. Moreover, the Applicant provided a detailed analysis for each of the foregoing policy objectives explaining how each objective is either inapplicable when read in conjunction with alternative policy guidance (e.g., *compare* LU-1.4.C, H-1.2.E, and H-1.2.4 *with* the OP Housing Equity Report, H-1.2.3 and H-1.2.11) or is outweighed when reviewed in the context of the CP as a whole (e.g., *compare* UD-2.2.4, UD-2.2.5, and LU-1.5.1 *with* numerous other CP land use, transportation, housing, and urban design policy objectives cited at Ex. 2C, pages 18-20). (Ex. 2A2, 2C, and 27C; *see also* Transcript [“Tr.”] from July 15, 2024, hearing at pp. 41-47.)

Deanwood SAP

58. The Applicant asserted that the Map Amendment advances the goals of the Deanwood SAP. The Map Amendment would enable a future mixed-use project that aligns with the recommendations of the Deanwood SAP. For example, the Deanwood SAP specifically supports a land use change from light industrial to moderate-medium density mixed-use between Minnesota Avenue, N.E. and the CSX rail line which “will provide additional housing, retail, and service opportunities while reducing potential conflicts between industrial and non-industrial land uses.” The Deanwood SAP states that “surface parking at the Deanwood Station is well situated to accommodate transit-oriented, mixed-use development” and noting that new development within the Deanwood Focus node can be categorized as a “high priority goal.” (Deanwood SAP at 56.) In addition, consistent with recommendations expressed in the Deanwood, the Map Amendment would enable the production of more housing and commercial uses. (Ex. 2A2, 2C.)

WMATA Plan

59. The Applicant provided evidence that the Project is consistent with the WMATA Plan, an adopted policy of a public agency. Under WMATA’s plan, Deanwood is identified as one of the next ten stations for new development across the entire Metro portfolio with a target date range of 2024-26 to execute a joint development agreement with a private sector development partner, advance building permits, and approve plans. The Deanwood Station is located within a Metropolitan Washington Council of Governments (“MWCOC”) identified Equity Emphasis Area (“EEA”), which are census tracts with higher concentrations of low-income and/or minority populations. Consistent with MWCOC’s goals for EEAs, and with WMATA’s own Transit Equity Framework, joint development at the Deanwood Station helps advance equitable development by attracting public and private investment, new businesses, and jobs; increasing overall housing production and providing housing in desired transit-accessible locations where car ownership or dependency is reduced or not required; supporting access to services and amenities such as grocery stores, libraries, and open spaces; and providing small businesses and minority- and women-owned firms contracting and development opportunities. (Ex. 23.)

DCPL Plan

60. The Applicant also provided evidence that the Project is consistent with the DCPL Plan. The DCPL Plan calls for a full-service expansion of the Deanwood branch of the DCPL to 20,000 square feet from its current 7,300 square feet. The new branch of the library helps strengthen the Deanwood Metrorail Station area as a civic node for Ward 7, which already includes the Deanwood Community Center, with a large indoor public pool and other recreational facilities, a multipurpose all-weather outdoor field and playground, and multiple public and charter schools nearby. (Ex. 23.)

Promotion of Health, Safety, Morals, Convenience, Order, Prosperity, and General Welfare

61. The Applicant asserted that the Map Amendment furthers the public health, safety, and general welfare of the District because the requested rezoning to the MU-5B zone allows

the Property to be put to more productive use, thus contributing to the ongoing revitalization of the Deanwood neighborhood and Ward 7 overall. The Map Amendment does not result in adverse consequences. Instead, the requested rezoning contributes to several positive and important benefits as it facilitates the redevelopment of a significantly underutilized site with new mixed-use development that can bring new housing (market rate and affordable) and long sought after neighborhood-serving amenities. Redevelopment of the Property will replace a large surface parking lot within the Deanwood neighborhood with a high-quality mixed-use development that will help address some of the critical planning and development objectives of the FNS Planning Area. Overall, the rezoning promotes the efficient use of high value land in a manner that supports a substantial amount of new housing and neighborhood-serving amenities, improves community facilities, advances environmental justice, and increases access to economic opportunity.

Public Hearing Testimony

62. At the July 15, 2024 public hearing, the Applicant presented its case, including testimony from:
- Howard Ways, representative of the Applicant; and
 - Shane Dettman, Urban Planner Goulston & Storrs, who was proffered and qualified as an expert witness in urban planning.
- (Tr. from July 15, 2024 hearing at pp. 9-47.)

III. RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

63. OP submitted a report dated April 1, 2024, recommending the Commission set down the Application for a public hearing (the “OP Setdown Report”) and concluding that the Map Amendment is not inconsistent with the CP for the following reasons:
- **GPM** – The Generalized Policy Map designates the subject property as a Neighborhood Enhancement area. The proposed map amendment would not be inconsistent with the Generalized Policy Map’s Neighborhood Enhancement and New Neighborhood Commercial Center designations for the area of the site. The new MU-5B zoning would be compatible with the surrounding neighborhood. The density and height permitted in the MU-5B zone would preserve the character and scale of the surrounding neighborhood while allowing for adequate new residential density adjacent to a Metrorail facility and would permit a mix of uses that could provide neighborhood retail and services, as well as additional population to support those commercial uses;
 - **FLUM** – In the most recent Comprehensive Plan update, the FLUM designation for the subject property was changed from moderate density residential and low-density commercial to medium density residential, low-density commercial and local public facilities. The FLUM designation on the property was changed to permit medium density mixed-use development on the site. The proposed MU-5B zone is consistent

with a medium density mixed use development so it would not be inconsistent with the Comprehensive Plan's FLUM designation for the property;

- **Land Use Element** – The site is underutilized surface parking adjacent to a Metro station. Approval of a map amendment would facilitate infill development on this site for new housing, including affordable and market rate housing, and for commercial, service, and community facilities; (CP §§ 307.9, 307.10, 307.11, 307.12, 307.14, 307.15, 307.17, 307.20, 308.6, 310.7, 310.9, 310.10, 313.9, 313.10, 313.14, 316.7.)
- **Transportation Element** – The Property is located a short walking distance from the Deanwood Metrorail station and numerous bus lines. The proposed MU-5B zone would not be inconsistent with the policies of the transportation element. The proposed zone would allow more development near a transit station, which would likely mean allowing more people to live and work within walking distance of a Metrorail station; (CP § 403.8, 403.10, 403.11, 403.13, 403.14, 411.5, 44.6.)
- **Housing Element** – The proposed map amendment would encourage housing where it is not currently allowed in the PDR zone but called for in the Comp Plan FLUM and increase density from low/moderate- to medium density in the RA-1 zone. Allowing more density on the Property would encourage it to be redeveloped with more housing, including more affordable housing. As noted below, while certain policies encourage an increased number of affordable housing units close to metro stations, OP notes the disproportionate share of affordable housing already in this planning area, and has recommended the IZ Plus not apply, although regular IZ would apply; (CP §§ 503.3-503.6, 504.8, 504.9, 504.17, 504.19, 505.9, 506.11.)
- **Environmental Sustainability Element** – The new zoning should encourage redevelopment of the site, which would result in a development that complies with the District's most up-to-date environmental protection requirements. These include complying with the Green Building Act and the District's stormwater management regulations. The provision of new housing and commercial opportunities directly on a Metro location would also further broader sustainability goals. (CP §§ 603.6, 605.6, 605.7, 616.3)
- **Economic Development Element** – In a mixed-use zone, the Property could provide neighborhood serving retail and services alongside new residential uses. Neighborhood serving retail on the site would enhance the corridor along Minnesota Ave. N.E., which is an underserved community in comparison to many other neighborhoods in the District. The increase in residential units on the property would add more potential shoppers who could support the local business in the immediate area. While the proposed development of the site is not established, the amount of potential retail could accommodate a small grocery store which is a critical use in the area; the Applicant is recommended to pursue this use for this site. (CP §§ 703.12, 708.6, 708.8, 708.11, 708.14, 713.5)
- **Urban Design Element** – This Element encourages streetscape enhancements that improve walkability and the overall experience at the human scale. The site is currently designed to accommodate vehicle travel and storage, providing few enhancements for the human experience. The MU-5B zone would encourage street level retail and community space to encourage walking and the use of public spaces. (CP §§ 908.3, 909.8, 915.3)

- **Community Services and Facilities Element** – The CSF element encourages the siting of community facilities in locations that optimize efficient delivery of public services. The MU-5B zone would allow for siting of a community library, as is specifically called for in the Applicant’s statement of support. (CP §§ 1103.13, 1103.19, 1111.6, 1111.12, 1112.2, 1112.6)
- **Far Northeast / Southeast Area Element** – As part of the Update to the Comp Plan, leading to the current version, the community noted that “more density is appropriate on land within one-quarter mile of the Metro Stations at Minnesota Avenue, Benning Road, and Deanwood...”; that neighborhood including Deanwood would “benefit from additional quality retail services”; and that “... public facilities in Far Northeast and Southeast should be upgraded to meet the needs of the community”. (FNS-1709.11.) The Plan encourages more development in this area and the proposed MU-5B could help to achieve this goal. The proposed zone would be sited adjacent to an existing Metrorail station and along Minnesota Avenue, N.E., which is a street appropriate for more mixed-use and residential density. This map amendment could attract more new housing development to this location and help to protect the surrounding single-family community by focusing development to this location; (CP §§ 1708.2, 1708.3, 1708.4, 1708.5, 1712.13, 1712.14.)
- **Racial Equity** – The OP Setdown Report provides a racial equity analysis, anticipating that the MU-5B zone generally leads to positive impacts, and that the Map Amendment, when evaluated through a racial equity lens, is not inconsistent with the CP because:
 - Direct Displacement - The proposed map amendment would not result in direct displacement of any residents or businesses because the Property is currently a surface parking lot and bus infrastructure;
 - Indirect Displacement – The Map Amendment would enable new residential development that can alleviate housing cost pressures, as is recognized by the CP. Any newly constructed residential development on the Property will comply with the regular Inclusionary Zoning program. Thus, a residential development would add to the total number of affordable units and add housing where non exists now;
 - Physical - It is not likely that the proposed rezoning would result in negative impacts on the physical environment as the primary use allowed by the requested MU-5B is residential, as non-residential use is limited to a 1.5 FAR. Further, any impact is balanced by CP § 500.6a, which asserts that “it is the availability of safe, decent, affordable housing across all neighborhoods that will determine whether the District’s vision for an inclusive District will be realized.”;
 - Access to Opportunity – While there are limited commercial uses within walking distance, the Deanwood Recreation Center is across the street from the Property. Further, there are various modes of public transit readily accessible to the Property;
 - Disaggregated Race and Ethnicity Data- The OP racial equity analysis provides disaggregated race and ethnicity data for the Far Northeast / Southeast Planning Area, in which the Property is located. Based on the data it compiled, OP made the following observations and conclusions about the area immediately surrounding the Property:
 - Within the Far Northeast / Southeast Planning Area, the Property is in the Deanwood neighborhood, which has some of the oldest, consistently Black / African American communities in the District;

- In the 2017-2021 period, the Far Northeast/Far Southeast Planning Area had a population of 85,074 or about 12.45% of the District's total population. The rate of increase was consistent with that of the District as a whole, and in the 2012-2016 time period, Black residents made up by far the largest portion of the population in the planning area, at 93.8% of the area's residents. This is also considerably more than for the District as a whole (48.3%). In the 2017-2021 period, Blacks continued to make up the largest portion of the population but the percentage fell slightly to 91.6%, although the number of Black residents increased by almost 3,000.
 - The median income of the Far Northeast/Far Southeast Planning Area was below that of the District in both the 2012-2016 and 2017-2021 time periods. Black or African American residents had the lowest median income of all segments of the population in both time periods, (approximately \$36,000 and \$48,000), and the lowest increase, \$12,000. Whites, Asians and "Some Other Race" had higher median incomes.
 - Between 2012-2016 and 2017-2021, the percentage of owner occupancy in the District rose only slightly, from 40.7% to 41.5%. The percentage of owner occupancy in the Far Northeast and Far Southeast Planning Area rose at a higher rate, from 35% to 41.3%, to a level similar to that of the District as a whole.
 - The Far Northeast Southeast Planning Area had a higher percentage of both children and older adults 2012-2016 time period when compared to the District as a whole. However, between the two time periods, the percentage of seniors rose, while that of children remained relatively constant.
 - In 2012-2016, the 18.2% unemployment rate in the Planning Area was more than twice the rate for the District as a whole. While the unemployment rate fell for both the District and the Planning Area in 2017-2021, the Planning Area's unemployment rate remained over twice that of the District's at 15.8%.
 - The proposed Map Amendment to the MU-5B zone would permit a greater variety of permitted housing types than the existing zoning, thus increasing the potential to create housing and particularly affordable housing on the site. (Ex. 12, 24.)
- **Potential CP Inconsistencies** – The OP Setdown Report acknowledges that the Comprehensive Plan contains several differing policies that can be conflicting. Specifically, Land Use Element policy LU-1.4.C, which encourages developments in and around Metro station areas to exceed the affordable units required by the Inclusionary Zoning Program, with appropriate bonus density and height allowances. (CP §§ 307.21.) OP also identified H-1.2.4, which requires that 20 to 30 percent of the housing units built on publicly owned sites disposed of for housing, co-located with local public facilities, or sites being transferred from federal to District jurisdiction, are reserved for a range of affordable housing with long-term commitments to maintain affordability, and UD-2.2.4, which considers design transitions between large-and small-scale development. (CP §§ 504.12, 909.9.) OP concludes that any potential CP inconsistencies with the proposal are outweighed by the numerous CP policies that encourage more market rate and affordable housing, which in turn provides additional housing options for low-income households who are majority residents of color. (Ex. 12.)

64. The OP Setdown Report also stated that an IZ Plus set-aside requirement is not appropriate for the Map Amendment, pursuant to Subtitle X § 502.1(b), noting, among other things, that:
- The Far Northeast/Far Southeast Planning Area has the second largest proportion (19%) of all the city’s affordable housing units; and
 - The Far Northeast/Far Southeast Planning Area has a Housing Production Goal of 2,990 housing units by 2025 and an Affordable Housing Production goal of 490 affordable units. With 1,290 affordable units in the pipeline, the Planning Area is on track to significantly exceed its 2025 housing goal. (Ex. 12.)
65. The OP Setdown Report also noted that the Map Amendment would advance the objectives and recommendations of the Deanwood SAP because the Deanwood SAP specifically called out the area around the Property as an opportunity site for neighborhood enhancement and the proposed MU-5B zone would be not inconsistent with the development types envisioned in the plan, which included new residential development, community serving retail and public services. (Ex. 12.)
66. The OP Setdown Report also notes the District’s “Comprehensive Community Development Model” (“CCDM”) to support neighborhood development in Ward 7 and finds that the Map Amendment would help implement the CCDM by increasing the redevelopment potential for the Property to potentially bring significantly more housing and additional commercial space to the area. (Ex. 12.)
67. OP submitted a hearing report dated July 5, 2024, (the “OP Hearing Report” and, together with the OP Setdown Report, the “OP Reports”), that largely reiterated the OP Setdown Report’s conclusions, including OP’s recommendation that the Map Amendment would not be appropriate for IZ Plus, and recommended approval of the Map Amendment. (Ex. 24.)
68. At the July 15, 2024, public hearing, OP reiterated its support for the Application as detailed in its reports. (Tr. from July 15, 2024, hearing at pp. 54-56.)

DDOT REPORT

69. DDOT submitted a July 5, 2024 report (the “DDOT Report”), stating that it had no objection to the Application because:
- DDOT found that the additional vehicle trips generated by the additional density are expected to have a minimal impact on the roadway network; and
 - DDOT found that the proposed rezoning would support nearby transit and generate additional foot traffic to support nearby businesses, which is consistent with DDOT’s approach to infill sites which should be dense, compact, transit-oriented, and improve the public realm. (Ex. 25.)
70. At the July 31, 2023 public hearing, DDOT did not provide testimony.

DCPL

71. DCPL submitted a letter, dated July 15, 2024, expressing support for the Application and confirming that the Map Amendment is compatible with the proposed new full-service 20,000 square foot Deanwood Library envisioned within the DCPL Plan. (Ex. 29.)
72. At the July 15, 2024, public hearing, DCPL reiterated its support for the Application as detailed in its letter. (Tr. from July 15, 2024, hearing at pp. 58-62.)

ANC REPORTS AND TESTIMONY

73. On July 15, 2024, ANC 7C submitted a letter in support (“ANC 7C Letter”) indicating the ANC’s vote of 7-0-0 in support of the Map Amendment. (Ex. 28.)
74. At the July 15, 2024, public hearing, Antawan Holmes, the affected SMD Commissioner and Chairman of ANC 7C, testified on behalf of ANC 7C and reiterated the ANC’s support for the Application. (Tr. from July 15, 2024, hearing at p. 63-69.)

PERSONS IN SUPPORT

75. Letters in support of the Application were submitted to the record from the following:
 - Brian Glover, President of the Deanwood Citizens Association; (Exs. 13 and 30)
 - The first DCA letter, dated March 27, 2024, acknowledged the Applicant’s outreach to the DCA and supported approval of the Application. Specifically, the letter underscored the community’s priorities for (a) more dense, transit-oriented development, including a desire for a grocery store and public library at the Property, (b) continued coordination with DCPL on development of a full scale library at the Property, and (c) and market rate housing, all of which should be consistent with the goals of the Deanwood SAP, CP, and ongoing stakeholder input.
 - The second DCA letter, dated July 12, 2024, affirmed the DCA’s support of the Application. It also reiterated the community’s preference for a public library and mixed-use development, including a full-service grocery store, at the Property. Further, it expressed a strong preference in favor of market-rate housing rather than all affordable housing at the Property in order to attract high-quality retailers and more diverse economic opportunities as well as ongoing participation in the development of the Property through WMATA’s joint development RFP process.
 - David Smith, CEO of Deanwood Community Development Organization; (Ex. 31.)
 - This letter expressed conditional support for the Application, subject to a “community benefits agreement” taking guidance from the Deanwood SAP and CP, and including a public library as well as market-rate housing and mixed-use development at the Property.
76. David Smith, Jennifer Stecklow, and Javier Sanchez testified at the July 15, 2024 public hearing.

NATIONAL CAPITAL PLANNING COMMISSION (“NCPC”)

77. The Commission referred the Application to NCPC on July 26, 2024, for the 30-day review period required by § 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93–198, title IV, § 492(b)(2); D.C. Official Code 6-6401.05).) (Ex. 35.)
78. On [REDACTED], 2024, NCPC filed a letter stating that the proposed Map Amendment is not inconsistent with the Comprehensive Plan for the National Capital and would not adversely impact any other identified federal interests. (Ex. [REDACTED].)

CONCLUSIONS OF LAW

1. Section 1 of the Zoning Act of 1938 (effective June 20, 1938, as amended, 52 Stat. 797 ch. 534; D.C. Official Code § 6-641.01 et seq. (2012 Repl.)) (the “Zoning Act”) authorizes the Commission to create zones within which the Commission may regulate the construction and use of property in order to “promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital.”
2. Section 2 of the Zoning Act (D.C. Official Code § 6-641.02) further provides that:
Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.
3. The Commission must ensure that the Zoning Map, and all amendments to it, are “not inconsistent” with the CP pursuant to § 492(b)(1) of the District of Columbia Home Rule Act. (§ 2 of the Zoning Act; D.C. Official Code § 6-641.02.) Subtitle X § 500.3 incorporates this intent to the Zoning Regulations by requiring that map amendments be “not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.”

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

4. The Commission concludes, based on the filings in the record, including OP’s Reports, and the testimony from the public hearing, that the Map Amendment from the existing PDR-1 and RA-1 zones to the MU-5B zone is not inconsistent with the CP, including its maps and written elements, and advances a number of CP policies as discussed below.

5. Even if the Map Amendment conflicts with one or more individual policies associated with the CP, this does not, in and of itself, preclude the Commission from concluding that the Map Amendment would be consistent with the CP as a whole. (*Durant v. District of Columbia Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013).) In this case, the Commission concludes that any inconsistencies with CP policies, including policies that support mitigating the transition in density and increasing the amount of affordable housing in transit-oriented developments or on property owned by District agencies, are outweighed by the Map Amendment’s overall consistency with the CP. The Map Amendment would be consistent with the CP Maps and Citywide and Far Northeast / Southeast Area Element policies, which support, among other things, increasing density to permit more mixed-use and housing development, including affordable housing, on underutilized property that is in proximity to transit. (FF 63.)

Racial Equity

6. The Commission concludes that the Map Amendment is not inconsistent with the CP when evaluated through a racial equity lens. The Commission reaches this conclusion based on the case record and the racial equity analyses provided by the Applicant, inclusive of community outreach and engagement information, and the OP Reports, inclusive of disaggregated race and ethnicity data for the Far Northeast / Southeast Planning Area. (FF 45-48.) The Commission finds that the racial equity analyses provided address the components of the Commission’s Racial Equity Tool and that the Map Amendment furthers CP racial equity goals, primarily because of its potential for new housing and affordable housing development, as discussed in more detail below: (*Id.*)
- Displacement – The Map Amendment does not result in any direct displacement of residents or businesses because there is no existing use on the Property other than surface parking. The Commission also acknowledges that the Map Amendment likely does not result in any indirect displacement because it is a unique site located on existing transit related infrastructure; (*Id.*)
 - Community Outreach and Engagement – The Applicant’s racial equity analysis included evidence that it conducted outreach with various community stakeholders as detailed in outreach logs filed to the record, including ANC 7C, community organizations, and neighbors. Much of the community input and concerns that were raised deal specifically with development plans for the Property and potential adverse impacts that could result. However, this Application only pertains to a Map Amendment to the MU-5B zone, that is whether the matter-of-right development standards under the MU-5B zone are not inconsistent with the Comprehensive Plan. Nevertheless, the Commission acknowledges the community’s concerns and the Applicant’s efforts, as evidenced in the case record, to meet address those concerns; (FF 45-48.) and
 - Disaggregated Race and Ethnicity Data – OP’s racial equity analysis included disaggregated race and ethnicity data for the Far Northeast / Southeast Planning Area showing that the Planning Area is significantly higher percentage of Black residents than the District as a whole; and though the Black population has declined in percentage terms in recent years, it has increased in absolute population growth. Stark racial disparities exist in terms of household income. The Planning Area data

shows significant the disparity between median household income is greatest between White residents and Black residents, with incomes among Black residents of the Planning Area lagging behind those in the District generally and showing only very modest growth over the past decade. (*Id.*) Owner occupancy rates in the Planning Area exceed those District-wide for nearly all races and have increased over the past decade. Unemployment rates, the percentage of cost-burdened households, and poverty rates have all declined over the past decade but all show persistent gaps between Black residents of the Planning Area and residents of other races.

GPM

7. The Commission concludes that the Map Amendment is not inconsistent with the GPM's designation of the Property as a Neighborhood Enhancement Area and New Neighborhood Commercial Center because the Map Amendment permits redevelopment of an infill site with mixed-use development that is compatible with the scale and character of the surrounding area, and that could help to address the District's city-wide housing needs and provide commercial services for existing and future residents. (FF 43.)

FLUM

8. The Commission concludes that the Map Amendment is not inconsistent with the FLUM's designation of the Property as Mixed-Use Medium Density Residential, Low Density Commercial, and Local Public Facilities. The Map Amendment to the MU-5B zone provides for increased density on a site that is underutilized and would facilitate development with housing, including more affordable housing. The recent 2021 update to the Comprehensive Plan modified the Property's FLUM designation to Mixed-Use (Medium Density Residential, Low Density Commercial, and Local Public Facilities), thus contemplating greater density for the Property than the existing PDR-1 and RA-1 zones permit. Notably, the Map Amendment does not seek the maximum amount of density contemplated on the FLUM. The Property's Medium Density FLUM designations contemplate a density range of 1.8-4.0 FAR for the Property with greater density permitted when complying with Inclusionary Zoning. The maximum FAR allowed under the proposed MU-5B zone of 3.5 or 4.2 FAR with Inclusionary Zoning falls within this range. Consistent with the FLUM's preferred mix and intensity of uses, the MU-5B zone similarly prefers residential use over commercial use by limiting non-residential density to only 1.5 FAR of the overall 3.5 FAR (or 4.2 FAR with Inclusionary Zoning) permitted in the zone. The proposed MU-5B zone allows the uses that are contemplated by the Property's Mixed Use FLUM designation. Although the Framework Element describes the MU-3 and MU-4 zones as consistent with the Property's Low Density Commercial category, the Commission acknowledges that each FLUM category identifies representative zone districts and states that other zone districts may apply; therefore, some zone districts may be compatible with more than one FLUM designation. (CP §§ 227.2, 228.1.) The Commission finds the MU-5B zone appropriate for the Property as it allows for higher density development on the Property, as contemplated by the FLUM, given the Property's transitional location bordering low density residential development. (FF 44.)

Far Northeast / Southeast Planning Area

9. The Commission concludes that the Map Amendment furthers the policies of the area element because it:
- Facilitates mixed-use development, including new housing and affordable housing options;
 - Encourages new development at a location where additional density is appropriate for and envisioned along the Minnesota Avenue, N.E. corridor; and
 - Supports the vibrancy of the Deanwood neighborhood by introducing an influx of new residents and visitors to the area.
- (FF 49.)

Land Use Element

10. The Commission concludes that the Map Amendment furthers this element because it:
- Helps to revitalize an underutilized, transit-oriented site with mixed-use development that respects the character, scale, and integrity of the surrounding neighborhood, yet revitalizes an important area along Minnesota Avenue, N.E. corridor; and
 - Encourages housing development, and neighborhood serving commercial uses while appropriately balancing the need to respect the character, scale, and integrity of the adjacent neighborhood.
- (FF 50.)

Transportation Element

11. The Commission concludes that the Map Amendment furthers this element because it supports transit-oriented development given the Property's close proximity to Metrorail and several Metrobus routes. Moreover, redevelopment enabled by the Map Amendment could trigger pedestrian-oriented improvements that would enhance the pedestrian experience. (FF 51.)

Housing Element and OP Housing Equity Report

12. The Commission concludes that the Map Amendment furthers the Housing Element because it:
- Encourages private sector development of new market rate and affordable housing on underused land, and where no residential use currently exists; and
 - Ensures that land is planned and zoned to enable the District to meet its long-term housing needs, including the need for higher-density housing.
- (FF 52.)
13. The Map Amendment also furthers the OP Housing Equity Report and Mayor's Goal toward affordable housing by applying the baseline Inclusionary Zoning requirements to the Property given the high amount of affordable housing that already exists in Ward 7 and the Planning Area.

Environmental Protection Element

14. The Commission concludes that the Map Amendment furthers this element because it enables new development on a site that is currently a transit-adjacent surface parking lot. (FF 53.)

Economic Development Element

15. The Commission concludes that the Map Amendment furthers this element because it supports new, neighborhood-serving retail and service uses. (FF 54.)

Urban Design Element

16. The Commission concludes that the Map Amendment furthers this element because future development on the Property very likely involves reconstruction of adjacent public space to DDOT standards, including new sidewalks that can accommodate safe and comfortable pedestrian circulation along active ground floor frontages and replacing surface parking lots with urban forms more consistent with the objectives of the CP. (FF 55.)

Community Services and Facilities Element

17. The Commission concludes that the Map Amendment furthers this element because it enables a new Deanwood branch library as a component of the future overall redevelopment of the Property and the new library will support Deanwood residents of all ages with intellectual development, workforce development, cultural activation and exchange, and placemaking and social interaction. (FF 56.)

Deanwood SAP

18. The Commission concludes that the Map Amendment furthers the objectives and recommendations of the Deanwood SAP because it enables redevelopment of an infill site with new quality housing and affordable housing near public transit. In addition, the Map Amendment could help facilitate an improved pedestrian and retail experience along the Minnesota Avenue, N.E. corridor. (FF 58.)

WMATA Plan

19. The Commission concludes that the Map Amendment is consistent with the WMATA Plan, an adopted policy of a public agency, because the Deanwood Metrorail Station is one of the next ten stations for new development across the entire Metro portfolio with a target date range of 2024-26 to execute a joint development agreement with a private sector development partner, advance building permits. (FF 59.)

DCPL Plan

20. The Commission concludes that the Map Amendment is consistent with the DCPL Plan, which calls for a full-service expansion of the Deanwood branch of the DCPL to 20,000 square feet from its current 7,300 square feet. (FF 60.)

CCDM

21. The Commission concludes that the Map Amendment is consistent with the CCDM because the Application supports neighborhood development in Ward 7 by increasing the redevelopment potential for the Property to potentially bring significantly more housing and additional commercial space to the area. (FF 66.)

Potential Inconsistencies with the CP

22. The Commission has reviewed the potential inconsistencies with certain CP policies and concludes that when read as a whole the Map Amendment is more consistent with the CP than not and that it satisfies the relevant standard of being not inconsistent with the CP as a whole, including other adopted public policies and programs applicable to the Property (i.e., the Deanwood SAP, WMATA Plan, DCPL Plan and CCDM). In particular, the Application is not inconsistent with the seemingly mandatory language in action LU-1.4.C or policy objective H-1.2.4 because the devotion of IZ-Plus (or above) levels of affordable housing at the Property would perpetuate the overconcentration of affordable housing in neighborhoods located east of the Anacostia River contrary to policy H-1.2.11, which specifically supports mixed-income housing by supporting “affordable housing in high-cost areas and market rate housing in low-income areas”. Further, H-1.2.4 in this instance runs contrary to the goals in the OP Housing Equity Report and the Housing Element, which targets reserving as affordable 15% of all housing units in each Planning Area whereas the Far Northeast and Southeast Planning Area already exceeds that target and instead is deficient in its target for market rate housing. Similarly, the Application is not inconsistent with the urban design and land use objectives cited by the Applicant as potential inconsistencies, when those objectives are read in the context of the CP taken as a whole and through the lens of racial equity. (FF 57 and 63-64.)

GREAT WEIGHT TO THE RECOMMENDATIONS OF OP

23. The Commission must give “great weight” to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
24. The Commission concludes that OP’s Reports, which provided an in-depth analysis of the Map Amendment, are persuasive and concurs with OP’s recommendation that the Property’s rezoning would not be inconsistent with the CP Maps, the Citywide Elements and Far Northeast / Southeast Area Element and would advance CP equity goals when

evaluated through a racial equity lens, as discussed above. The Commission also concurs with OP that IZ Plus is not appropriate for the proposed Map Amendment. (FF 64, 67.)

GREAT WEIGHT TO THE ANC REPORTS

25. The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted).)
26. The Commission finds the ANC 7C Letter in support for the Map Amendment persuasive and concurs in ANC 7C’s judgement. (FF 73.) The Commission acknowledges the ANC’s concerns regarding DCPL, its desire that IZ Plus not apply to the Map Amendment, and the ANC’s priorities regarding a mix of uses, including grocery store use.

DECISION

In consideration of the record for Z.C. Case No. 24-02 and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application to amend the Zoning Map As follows:

SQUARE	LOT	MAP AMENDMENT
5123	1-9, 35, 800, 801	PDR-1 and RA-1 to <u>MU-5B</u>
5170	9, 10, 809, 814	
PAR 0184	0100	

Proposed Action

Vote (July 15, 2024): 4-0-1

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

Final Action

Vote (September [REDACTED], 2024): [x-x-x]

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

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 24-02 shall become final and effective upon publication in the D.C. Register, that is on [REDACTED], 202[4].

BY THE ORDER OF THE D.C. ZONING COMMISSION

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

ANTHONY HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.