

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 24-05
Z.C. CASE NO. 24-05
The Bennett Corporation
(Map Amendment @ Square 3657, Lots 827 and 831
[700 Monroe Street, N.E.]
[INSERT DATE]

Pursuant to notice, at its public hearing on September 16, 2024, the Zoning Commission for the District of Columbia (the “Commission”) considered an application by The Bennett Corporation (the “Applicant”) pursuant to Subtitle X § 500.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all references are made unless otherwise specified) for an amendment to the Zoning Map from the MU-3A zone to the MU-2 zone (the “Map Amendment” or “Application”) for the property located at 700 Monroe Street, N.E. (Square 3657, Lots 827 and 831) (the “Property”).

The Commission determined that the Property is appropriate for Inclusionary Zoning (“IZ”) Plus pursuant to Subtitle X § 502.1(b). The Property shall be indicated with an “IZ+” symbol on the Zoning Map.

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

FINDINGS OF FACT

I. BACKGROUND

PARTIES

1. In addition to the Applicant, Advisory Neighborhood Commissions (“ANC”) 5F was an automatic party to the Application. (Subtitle Z § 403.5.)
2. The Commission did not receive requests for party status.

NOTICE

3. On February 8, 2023, the Applicant mailed a Notice of Intent to file the Application to all property owners within 200 feet of the Property as well as ANC 5F, as required by Subtitle Z §§ 304.5. (Exhibit (“Ex.”) 3J.)
4. On April 2, 2024, the Office of Zoning (“OZ”) sent notice of the Application’s filing to:
 - Applicant;
 - ANC 5F;
 - ANC Single Member District (“SMD”) 5F01;
 - ANC SMD 5F02;
 - ANC 5A;
 - ANC SMD 5A04;
 - Office of ANC;

- Office of Planning (“OP”);
 - District Department of Transportation (“DDOT”);
 - At-Large Councilmembers and the Chair of the Council;
 - The Ward 5 Councilmember;
 - Department of Energy & Environment (“DOEE”);
 - Department of Buildings (“DOB”) General Counsel; and
 - Office of Zoning Legal Division (“OZLD”);
- (Ex. 6–8, 10.)
5. OZ published notice of the filing of the Application in the April 19, 2024, *District of Columbia Register* (71 DCR 4604). (Ex. 9.)
 6. On July 1, 2024, the Office of Zoning (“OZ”) sent notice of the Applicant’s public hearing to:
 - Applicant;
 - ANC 5F;
 - ANC SMD 5F01;
 - ANC SMD 5F02;
 - ANC 5A;
 - ANC SMD 5A04;
 - Office of the ANC;
 - OP;
 - DDOT;
 - At-Large Councilmembers and the Chair of the Council;
 - The Ward 5 Councilmember;
 - DOEE;
 - DOB General Counsel;
 - OZLD; and
 - Property owners within 200 feet of the Property.
 7. The Applicant submitted evidence that the Applicant had posted notice of the public hearing as required by Subtitle Z § 402.3 and maintained said notice in accordance with Subtitle Z § 402.10. (Ex. 20–20A4, 24.)

THE PROPERTY

8. The Property is located in the northeast quadrant of the District and consists of approximately 18,835 square feet of land area (0.43 acres). The Property is presently improved with a three-story commercial building and a surface parking lot. (Ex. 3.)
9. The Property is generally bounded by private property to the north and to the east, Monroe Street, N.E. to the south, and 7th Street, N.E. to the west. (Ex. 3.)
10. The area surrounding the Property is comprised of a mix of residential and nonresidential uses. The buildings located to the east and to the west of the Property are mixed-used buildings that were developed as part of a Planned Unit Development (“PUD”) approved

in 2009. *See* ZC Order No. 08-24. The building located to the west of the Property, across 7th Street, N.E., is a 6-story (70 feet) mixed-used building containing ground-floor retail and upper-floor residential uses. The buildings located to the east of the Property are known as the Brookland Arts Walk buildings, which are 5-story (65 feet) mixed-use buildings containing retail and artist studio space on the ground-floor and residential uses on the floors above. The three buildings located south of the Property have a height of 70-feet and contain ground floor-retail uses and upper floor residential uses. (Ex. 3.)

11. The Brookland-CUA Metrorail station is located less than 300 feet to the east of the Property, and the Property is within 0.25 miles of several WMATA bus routes (e.g., G8, H8, H2, H4, 80). (Ex. 3.)

CURRENT ZONING

12. The Property is in the MU-3A zone. The MU-3A zone is intended to permit low-density, mixed-use development to provide convenient retail and personal service establishments for the day-to-day needs of a local neighborhood, as well as residential and limited community facilities with a minimum impact upon surrounding residential development. (Subtitle G §§ 101.8(a)–(b).)
13. As a matter of right, the MU-3A zone requires/permits:
 - Building Height: 40 feet and 3 stories (Subtitle G § 203.2.)
 - Penthouse Height: 12 feet and 1 story; except 15 feet and a second story is permitted for penthouse mechanical space (Subtitle G § 205.1.)
 - Floor Area Ratio (“FAR”): 1.0 (1.2 w/ IZ); maximum 1.0 non-residential FAR (Subtitle G § 201.1.)
 - Rear Yard: 20 feet (Subtitle G § 207.5.)
 - Side Yard: None required, but if provided, at least 2 inches for each 1-foot of building height, but no less than 5 feet (Subtitle G § 208.2.)
 - Lot Occupancy: 60% for residential use (Subtitle G § 210.1.)
 - Green Area Ratio: 0.30 (Subtitle G § 211.1.)

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

14. 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.

Equity and the Comprehensive Plan

15. 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 consistent” with the CP, rather than a separate determination about a zoning action’s equitable impact.
16. 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

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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.)

17. 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 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.

Generalized Policy Map (the “GPM”)

18. The GPM highlights areas where more detailed policies are necessary, both within the CP and in follow-up plans, to most effectively chart the District’s envisioned growth. (CP § 225.1.)
19. The GPM is intended to “guide land use decision-making in conjunction with the text of the CP, the Future Land Use Map, and other CP maps. Boundaries on the map are to be interpreted in concert with these other sources as well as the context of each location.” (CP § 225.2.)
20. The CP’s GPM designates the Property as being within a Neighborhood Conservation Area. The CP defines Neighborhood Conservation Areas as:

Neighborhood Conservation Areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public facilities, and institutional uses. Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map. Neighborhood Conservation Areas that are designated

“PDR” on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided. (CP § 225.4.)

Future Land Use Map (the “FLUM”)

21. The FLUM shows the general character and distribution of recommended and planned uses across the District, and, along with the GPM, is intended to provide generalized guidance on whether areas are designated for conservation, enhancement, or change and guidance on anticipated future land uses. (CP §§ 200.5, 224.4.)
22. The CP’s FLUM designates the Property as Mixed Use Medium Density Residential / Medium Density Commercial.

Mixed Use

The FLUM indicates areas where the mixing of two or more land uses is especially encouraged, which generally applies in established, pedestrian oriented areas, commercial corridors where more housing is desired, large sites, and development that includes residential uses, particularly affordable housing. (CP § 227.20.) The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown therein. 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, or areas where multiple uses are specifically encouraged in the future. (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.)

The CP defines Medium Density Residential as:

*“[The Medium Density Residential] . . . 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.” (See CP § 227.7; emphasis added.)*

The CP defines Medium Density Commercial as:

“[The Medium Density Commercial] . . . designation is used to define shopping and service areas that are somewhat greater in scale and intensity than the Moderate Density Commercial areas. Retail, office, and service businesses are

*the predominant uses, although residential uses are common. Areas with this designation generally draw from a citywide market area. Buildings are larger and/or taller than those in Moderate Density Commercial areas. Density typically ranges between a FAR of 4.0 and 6.0, with **greater density possible when complying with Inclusionary Zoning** or when approved through a Planned Unit Development. The MU-8 and MU-10 Zone Districts are consistent with the Medium Density category, and **other zones may also apply.**” (See CP § 227.12; emphasis added.)*

Upper Northeast Planning Area

23. The Property falls within the Upper Northeast Planning Area. The Upper Northeast Planning Area element states:

- The Upper Northeast Planning Area is comprised of approximately 8.7 square miles and includes approximately two-thirds of the District’s northeastern quadrant. (CP § 2400.1.)
- The Upper Northeast Planning Area’s western boundary is formed by North Capitol Street (north of Rhode Island Avenue) and the CSX railroad tracks (south of Rhode Island Avenue), its southern boundary is formed by Florida Avenue, Benning Road, and the Anacostia waterfront area, and its northern/eastern boundary is formed by Eastern Avenue at the District of Columbia boundary line. (CP § 2400.1.)
- The Upper Northeast Planning Area is comprised of the following neighborhoods: Arboretum; Woodridge; Edgewood; Queens Chapel; Brookland; Ivy City; Fort Totten; and Riggs Park. (CP § 2400.2.)
- The Upper Northeast Planning Area is particularly diverse as the planning area contains the largest concentration of industrial land uses in the District, and also includes three major higher educational institutions— the Catholic University of America, Trinity University, and Gallaudet University—and numerous other institutional uses. (CP § 2400.3.)
- The Upper Northeast Planning Area “has experienced significant growth along the Red Line” and this growth is anticipated to continue to underperforming areas near Metro stations and along neighboring corridors. (CP § 2400.7.)
- The Upper Northeast Planning Area seeks to encourage growth while enhancing existing neighborhoods, preserving the character of the neighborhoods, and incentivizing housing opportunities for all incomes. (CP § 2408.2.)
- The Upper Northeast Planning Area encourages the capitalization on the presence of Metro stations to provide new transit-oriented housing, community services, and jobs. (CP § 2408.4.)
- The Upper Northeast Planning Area encourages the creation of new opportunities for small, local, and minority businesses within the Upper Northeast and encourages the mixed-use development on vacant and underused property in the vicinity of the Brookland-CUA Metro station. (CP § 2409.5, CP § 2416.3.)

II. THE APPLICATION

PROPOSED ZONING

24. The Application proposes to rezone the Property from the MU-3A zone to the MU-2 zone. (Ex. 1–3K.) The Application asserts that the Property’s existing MU-3A zone is inconsistent with the CP, particularly because the density permitted as a matter-of-right in the MU-2 zone is consistent with the Property’s Medium Density Commercial FLUM designation. (Ex. 3; CP § 227.12.)
25. The MU-2 zone is specifically intended to permit medium-density development in areas predominantly developed with residential buildings and is also intended to permit medium-density development in areas developed with non-residential buildings. (Subtitle G § 101.6)
26. As a matter of right, the MU-2 zone permits/requires:
- Building Height: 90 feet (Subtitle G § 203.2.)
 - Penthouse Height: 20 feet, one-story plus mezzanine; second story permitted for penthouse mechanical space (Subtitle G § 205.1.)
 - FAR: 6.0 (7.2 w/ IZ); maximum 3.5 non-residential FAR (Subtitle G § 201.1.)
 - Rear Yard: 2.5 inches per 1 feet of height; 12 feet minimum (Subtitle G § 207.3.)
 - Side Yard: None required, but if provided, 2 inches per 1 foot of height, but no less than 5 feet (Subtitle G § 208.2.)
 - Maximum Residential Lot Occupancy: 80% (90% w/ IZ) (Subtitle G § 210.1.)
 - Green Area Ratio: 0.30 (Subtitle G § 211.1.)
27. The proposed Map Amendment would permit enhanced development standards that could facilitate the redevelopment of the Property with additional residential and commercial uses, as anticipated by the FLUM.

APPLICANT’S JUSTIFICATION FOR REZONING

Not Inconsistent with the CP

28. The Applicant asserted that the Map Amendment is not inconsistent with the CP—including the Property’s designations on the GPM and the FLUM—advances the objectives and the recommendations of the Upper Northeast Planning Area, and furthers racial equity goals. The Applicant also asserted that the Map Amendment is consistent with the purposes of the Zoning Act in that it will create conditions that are favorable to public health, safety, welfare, and convenience; and that the Map Amendment is consistent with other adopted public policies and active programs applicable to the Property, as detailed below. (Ex. 3.)

GPM

29. The Applicant asserted that the Map Amendment is not inconsistent with the GPM because:
- As shown on the GPM, the Property is located within a Neighborhood Conservation Area;

- According to the Framework Element of the CP, the guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but Neighborhood Conservation Areas are not intended to preclude development, particularly development which addresses citywide housing needs;
- According to the Framework Element of the CP, limited development and redevelopment opportunities exist within Neighborhood Conservation Areas, and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of the area;
- The proposed MU-2 zone is not inconsistent with the Property's GPM designation because the MU-2 zone will enhance the pedestrian environment, address city-wide priorities, and enhance the surrounding corridor by enabling a new mix of uses on the Property that has the potential to help the District achieve its housing goals—especially affordable housing. (Ex. 3; CP § 225.5.)

FLUM

30. The Applicant asserted that the Map Amendment is not inconsistent with the FLUM because:
- The MU-2 zone permits a maximum density of 6.0 FAR (7.2 FAR with IZ), which falls within the FAR contemplated by the Medium Density Commercial FLUM designation; which states a density ranging between 4.0 FAR and 6.0 FAR, with greater density being possible when complying with IZ or when approved through a Planned Unit Development, is compatible with the designation;
 - Further, the MU-2 zone is more appropriate than the Property's existing zoning as the MU-2 would enable a broader range of uses at densities which are compatible with the surrounding area. (Ex. 3.)

Upper Northeast Planning Area

31. The Applicant asserted that the proposed Map Amendment to the MU-2 zone, which permits up to a 6.0 FAR (7.2 FAR with IZ) and a non-residential FAR of 3.5, will provide for increased development potential, enhancing both the residential character and economic vitality of the surrounding area. (UNE-1.1.3, UNE-1.1.6, UNE-1.2.5, UNE-2.6.1.) The Applicant stated the proposed Map Amendment will improve the neighborhood near the Brookland-CUA Metro station, and will help preserve Brookland's residential character while creating new housing opportunities for individuals of all income levels. (UNE-1.1.1.) Further, the proposed Map Amendment has the potential to facilitate higher-density housing near the Brookland-CUA Metro station, which will potentially reduce the impact of cars and traffic that would arise if residents lived farther from high-capacity transit. (UNE-1.1.3.) The Applicant asserted the possibility of mixed-use development on the Property, situated less than 500 feet from the Brookland-CUA Metro station, will bring economic opportunities for small, local, and minority businesses within the Planning Area (UNE-1.2.5.)

Land Use Element

32. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Land Use Element because the Map Amendment will provide for new

development and enhanced connectivity at the Property while advancing other important District objectives.

33. Specifically, the Applicant asserted that the Map Amendment will advance the Land Use Element by facilitating the redevelopment of the Property with a mix of uses that are well-positioned to enhance the Brookland and Edgewood neighborhoods and the vitality of the Brookland-CUA Metro station area, and that the proposed zone will allow for a mix of uses that will revitalize and increase growth in a transit-accessible neighborhood. (LU-1.4.1, LU-1.4.2, LU-1.4.3.)
34. Further, the Applicant asserted that the Map Amendment will enable the District to meet long-term neighborhood and citywide demands for additional housing and affordable housing. (LU-1.4.3, LU-2.1.3.)
35. Finally, the Applicant asserted that given the Property's proximity to the Brookland-CUA Metrorail station, the proposed map amendment has the potential to facilitate a transit-orientated development which could include new, multifamily housing which will have an affordable component in a high opportunity area near a Metrorail station. (LU-1.4.B, LU-1.4.C, LU-2.1.1; Ex. 3.)

Transportation Element

36. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Transportation Element because the Map Amendment would enable a new mixed-use development at the Property that is likely to involve streetscape improvements, and given the Property location near the Brookland-CUA Metro station, future redevelopment would provide increased access to neighborhood-serving commercial uses and to the District in general. (T-1.1.4, T-1.1.7, T-1.2.1, T-1.2.3, T-2.2.2, and T-2.6.1.) The Applicant further asserted that the Map Amendment could enhance the walkability of the surrounding area by discouraging auto-oriented uses which would strengthen the residential character of the immediate neighborhood. (T-1.2.3, T-2.2.2, T-2.4.1, T-2.4.2; Ex. 3.)

Housing Element

37. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Housing Element because the Map Amendment will provide a substantial increase in the permitted density for residential uses, ultimately expanding the District's housing and affordable housing supply. This increase in density is consistent with the District's housing and affordable housing goals set forth in the 2019 Housing Equity Report, which sets an affordable housing goal of 1,350 units in the Upper Northeast Planning Area. Moreover, the proposed rezoning will facilitate progress towards reaching the Housing Element's goal of achieving a minimum of 15% affordable units within each Planning Area by 2050. (H-1.2.9, H-1.2.F.) New housing, including affordable housing, at the Property is a desired development given the Property's current commercial use and transit-oriented location. (H-1.1.3, H-1.1.5; Ex. 3.)

Environmental Protection Element

38. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Environmental Protection Element because the Map Amendment would facilitate the redevelopment of the Property with new development that is required to comply with applicable Building Code requirements and energy-efficient building systems and technologies, therefore furthering the District's energy efficiency goals and complying with the Green Building Act, the District's storm water management regulations, and the Sustainable DC Plan. (E-3.2.3, E-3.2.7; Ex. 3.)

Economic Development Element

39. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Economic Development Element because the Map Amendment has the potential to expand retail in a transit-accessible area, and because the Map Amendment has the potential to create significant non-residential space that will support residential needs in the area with a mix of services clustered near transit that will add vitality near the Brookland-CUA Metro station. (ED-2.2.3, ED-2.2.5, ED-2.2.9, ED-3.1.1; Ex. 3.)

Racial Equity

40. The Application noted that equity is conveyed throughout the CP where priorities of affordable housing, the prevention of displacement, and access to opportunity are discussed. In light of the guidance provided by relevant CP policies, the Applicant asserted that the Map Amendment would not be inconsistent with the CP when evaluated through a racial equity lens. In support of its assertion, the Applicant evaluated the Map Amendment's consistency with the CP through a racial equity lens by applying the Commission's Racial Equity Tool. (Ex. 3E.)

41. The Applicant provided an assessment of how the Map Amendment is not inconsistent with the CP when evaluated through a racial equity lens in its CP Evaluation, in subsequent filings, and through testimony at the public hearing. OP concurred with the Applicant and/or made similar findings in its reports. (Ex. 3E, Ex. 13, Ex. 15, Ex. 22.)

42. The Applicant provided the following information about the community and the Applicant's outreach:

- The Applicant identified the following as key historical attributes which helped shape and define the community impacted by the Map Amendment:
 - i. The Property is located within the Edgewood neighborhood, and is adjacent to the Brookland neighborhood;
 - ii. This area is defined by multiple institutional uses including Trinity and Catholic Universities, which result in a strong student presence to the area;
 - iii. This area of the District was severely impacted and shaped by racially restrictive covenants which specifically barred Jews and Blacks, and sometimes persons of Hispanic, American Indian, Persian, Syrian, or Armenian ancestry;
 - iv. These racially restrictive covenants sought to shape the character, or color, of the neighborhood;

- v. In 1948, the United States Supreme Court held that racially restrictive housing covenants cannot be enforced; and
 - vi. The Applicant asserted that the proposed Map Amendment would not perpetuate the discrimination of the past. (Ex. 3E.)
 - The Applicant made a concerted effort to understand the community’s priorities.
 - i. On February 26, 2024, the Applicant presented the Application to the Edgewood Civic Association and the civic association voted to support the Application noting that the “map amendment would positively impact the Edgewood neighborhood and surrounding community.” (Ex. 12.)
 - The Property is within the boundaries of ANC 5F.
 - i. On March 13, 2024, the Applicant presented the Application to ANC 5F’s Zoning and Development Committee;
 - ii. On April 15, 2024, the Applicant presented the Application to ANC 5F, and ANC 5F voted to support the Application. (Ex. 11.)
 - Applying the Tool’s racial equity themes, the Applicant asserted the Map Amendment would have the following impacts and/or outcomes:
 - i. Not result in negative outcomes with respect to direct displacement because of the following:
 - 1. No physical displacement of residential tenants; and
 - 2. Increase in residential density.
 - ii. Result in positive changes with respect to housing because the Map Amendment would:
 - 1. Increase the Property’s potential housing capabilities; and
 - 2. Increase the Property’s required IZ+ set-aside requirement because a higher IZ+ set-aside would apply to the Map Amendment.
 - iii. Result in positive changes to the physical environment because the development facilitated by the Map Amendment could potentially:
 - 1. Improve stormwater infrastructure; and
 - 2. Improve roadway circulation on the Property.
 - iv. Increase access to opportunity because the development facilitated by the Map Amendment could potentially:
 - 1. Provide access to transit accessibility, including access to Metrorail and Metrobus routes;
 - 2. Provide access to regional employment opportunities; and
 - 3. Provide access to recreation facilities, open space, and neighborhood-serving retail services.
43. Based on the foregoing, and based on the Applicant’s filings, the Applicant asserted, and OP concurred, that the proposed Map Amendment would result in positive outcomes for all existing and future District residents, and therefore, the Application is not inconsistent with the CP when evaluated through a racial equity lens.

Potential Inconsistencies with the CP

44. The Applicant conducted a CP evaluation of the Application through a racial equity lens and determined that the Application is not inconsistent with the CP when read as a whole. In conducting its evaluation, the Applicant identified one CP policy that is potentially inconsistent with the Application; specifically, the Land Use Element policy LU-2.1.4: Rehabilitation Before Demolition. However, the Applicant concluded that while the policy may be viewed as inconsistent, this potential inconsistency is outweighed by the proposed Map Amendment’s overall consistency with the FLUM and other CP policies relating to land use, housing, transportation, environmental sustainability, economic development, and urban design. (Ex. 3E.)

Brookland SAP

45. The Applicant stated that the recommendations of the Brookland SAP were incorporated into the CP in 2011 pursuant to the Comprehensive Plan Amendment Act of 2010 (D.C. Act 18-0711) and the Comprehensive Plan Future Land Use Map and Generalized Policy Map Approval Resolution of 2012 (PR19-0611), which included amendments to policies within the Upper Northeast Area Element and to the FLUM that relate to the Property. The Applicant stated that given the Brookland SAP’s age (approved in 2009), its recommendations have since been superseded by amendments made to the CP, including the FLUM and GPM, pursuant to the Comprehensive Plan Amendment Act of 2017 (D.C. Act 23-0217), the Comprehensive Plan Amendment Act of 2020 (D.C. Law 24-0020), and the Comprehensive Plan Future Land Use Map and Generalized Policy Map Approval Resolution of 2021 (PR24-0380; Ex. 3.)

Public Hearing Testimony

46. At the public hearing on September 16, 2024, the Applicant presented its case, including testimony from:

- Ms. Brandice Elliott, Director of Planning Services, Holland & Knight, LLP, whom the Commission recognized as an expert in land planning and zoning. (Ex. 15A1, 15A2.)
- Chet Bennett, representative of the Applicant.

III. RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

47. OP submitted a report, dated June 3, 2024 (the “OP Setdown Report”), recommending the Commission set down for a public hearing the Applicant’s Map Amendment and concluded that the Map Amendment would be appropriate for IZ Plus and would not be inconsistent with the CP. The OP Setdown Report’s CP analysis concluded the following:

- **GPM** – The proposed Map Amendment would not be inconsistent with the CP guidance, and together with an IZ Plus designation, would not be inconsistent with CP guidance that redevelopment should have an emphasis on housing, especially in an area—such as Brookland—with access to amenities and transit options.

- **FLUM** – The proposed Map Amendment would not be inconsistent with the FLUM. The MU-2 zone would permit primarily residential, medium density development with a maximum FAR of 6.0 and up to 7.2 with IZ, consistent with the property’s FLUM designations. The proposed zone would allow for a limited range of non-residential uses that could also serve the residents of the Property and the surrounding neighborhood.
- **Upper Northeast Area Element** – The proposed Map Amendment, together with the IZ Plus designation, would help fulfill the Upper Northeast Area Element policies that call for the creation of new mixed-use neighborhoods, including housing for a mix of incomes. The proposed zoning parameters would also help fulfill policies that seek to take advantage of underutilized property near metro and maximize the amount of housing within close distance to metro. Redevelopment of the site could also help to improve the streetscape around the site.
- **Brookland / CUA Metro Station Small Area Plan** – The proposed Map Amendment would not be inconsistent with the Brookland CUA Metro Station Small Area Plan (“SAP”). The SAP identifies the subject site as part of the “Monroe Street Sub-Area” of the plan. It states that new development can be of a higher density and could include a mix of retail, residential and cultural uses, and should enhance the urban design of this part of the neighborhood to increase connections and walkability (SAP, p. 46). In terms of equitable outcomes, a guiding principle of the SAP also seeks to bring additional residents close to multiple transportation options, while also being sensitive to existing residential development. The plan also sought to support existing small businesses with additional needed retail, services, and amenities to neighborhood residents. The design of new development should be in keeping with the greater street grid of the neighborhood to allow for ease of access and walkability, and should also achieve a high degree of sustainability, all of which would result in more equitable health outcomes for residents.
- **Land Use Element** – The proposed Map Amendment could enhance access to affordable housing, and provide access to transportation, and therefore enhanced access to employment, for residents of a new building on the site.
- **Housing Element** – A principal way in which the CP seeks to address equity is by supporting the development of additional housing on underutilized sites near transit. The CP states that without increased housing, the imbalance between supply and demand will drive up housing prices that creates challenges for many residents, particularly low-income residents. Housing at this location, which is currently underutilized, would not result in the displacement of any existing residents.
- **Environmental Protection Element** – The proposed Map Amendment does not involve a specific project, however, any project facilitated by the proposed Map Amendment would likely create housing in a location proximate to transit, which would minimize the need for automobile trips and reduce pollution from cars. A project would also be likely to improve the stormwater runoff performance of the

site, which currently has a surface parking lot. A healthier environment would benefit all residents of the District and further environmental equity.

- **Urban Design Element** – The proposed Map Amendment does not involve a specific project, however, a project that takes advantage of the zoning parameters of the proposed MU-2 zone could further Urban Design policies that call for improvements to the city’s major thoroughfares and neighborhood entry points, and new development at this location would likely improve the pedestrian environment including its streetscape near the metro station.

- **Racial Equity** – The OP Setdown Report provides a racial equity analysis but notes that it can only analyze the potential development and its potential impacts under the Map Amendment. It is anticipated that the MU-2 zone will generally lead 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 site has no residential uses, so the proposed zoning map amendment would not result in any direct displacement of residents;
 - Indirect Displacement – OP does not anticipate indirect displacement as a result of this zoning action. The provision of a large quantity of market rate and affordable housing should help to ease upward pressure on housing costs in the vicinity. Research shows that there is a positive relationship between the provision of more housing and the ability of residents to remain in a neighborhood.
 - Housing – The zoning action would result in the ability to provide more market rate housing on the site than under current zoning. The implementation of IZ Plus would result in a higher percentage of affordable units than would occur in a matter of right development, or under a rezoning with only regular IZ. In general, the provision of market rate and affordable housing should help to ease upward pressure on housing costs in the vicinity.
 - Physical – It is likely that a redevelopment of the site would result in an improved streetscape and pedestrian realm around the property. Redevelopment would improve the site’s environmental performance by complying with up-to-date green building regulations such as the Green Building Act.
 - Access to Opportunity – It is likely that a new development at the site would result in new residents in the neighborhood, who would support local shops, arts, and services. Residents at the site would have excellent access to transit and bicycle infrastructure, to provide access to employment centers.
 - Community – The Applicant met with the community through ANC 5F at ANC 5F’s regularly scheduled and duly noticed public meeting on April 15, 2024. The ANC voted unanimously to support the application. There is no indication of community requests for changes to the proposal. (Ex. 11.) The Edgewood Civic Association also included its

letter in support of the proposal as it envisions a mixed-use development in the future “consistent with the ECA’s goals to increase additional housing and retail opportunities.” (Ex. 12.)

- Disaggregated Race and Ethnicity Data – The OP racial equity analysis provides disaggregated race and ethnicity data for the Upper Northeast Area 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:
 - Upper Northeast planning area has a majority minority population with 63% of its residents being Black and 11.3% of its residents being Hispanic in the 2018 to 2022 period. Though in the majority, the Black population decreased from 71.4% of the population to 63% from 2012 to 2022, which is similar to the District-wide trend during this period. The White population increased from 18.4% to 22%.
 - Upper Northeast’s median age is consistent with the Districtwide median during both the 2018 to 2022 period. Upper Northeast’s median age is 35.2, whereas the District’s median age is 35.5. When race is considered the data shows that the Black, Indian, and Alaska Native residents in Upper Northeast were on average older than most other groups within the planning area.
 - Upper Northeast planning area had a slightly higher percentage of disabled residents than the District in general.
 - The Upper Northeast planning area had a median income which was lower than the District median in the 2018-2022 period.
 - Less than half of the residents in Upper Northeast owned their own home in both five-year periods (2012-2016 and 2018-2022), which was consistent with the District as a whole. The area also had a higher cost burden percentage than the District as a whole. This indicates that Upper Northeast has been, relatively speaking, a more unaffordable neighborhood in the District to purchase a home.

The OP Setdown Report concluded that the Map Amendment would be appropriate for IZ+, pursuant to Subtitle X § 502 because:

- The map amendment would rezone the property to MU-2, which allows a higher maximum permitted FAR than the existing MU-3A zone;
- The 2019 Housing Equity Report, prepared by the Office of Planning and the Department of Housing and Community Development, set a goal for the Upper Northeast Planning Area to produce 1,350 affordable housing units by 2025; and
- According to DC’s Comeback Plan (January 2023), the Upper Northeast Planning Area has only achieved 53.4 percent of its 2025 affordable housing production goal.

48. OP submitted a hearing report, dated August 22, 2024 (the “OP Hearing Report”), that largely reiterated the OP Setdown Report’s conclusions, and recommended approval of the Map Amendment. (Ex. 22.)
49. At the public hearing, OP reiterated its support for the Application as detailed in its reports.

DDOT REPORT

50. DDOT submitted a report dated August 26, 2024, (the “DDOT Report”) stating that “DDOT has no objection to the approval of the requested Map Amendment.” (Ex. 23.)
51. DDOT did not provide testimony at the public hearing.

ANC REPORTS AND TESTIMONY

52. ANC 5F submitted a Resolution in Support of the Application, dated April 22, 2024, (the “ANC 5F Report”), stating at its properly noticed public meeting of April 15, 2024, at which a quorum was present, the ANC voted (4-0-0) to support the Application.

PERSONS AND ORGANIZATIONS IN SUPPORT

53. The Edgewood Civic Association (“ECA”) submitted a letter in support (“Edgewood Letter”) stating, that on Monday, February 26, 2024, the ECA Board and community agreed that the proposed Map Amendment would positively impact the Edgewood neighborhood and the surrounding community, and therefore voted to support the Application. (Ex. 12.)

NATIONAL CAPITAL PLANNING COMMISSION (“NCPC”)

54. The Commission referred the Application to the National Capital Planning Commission (“NCPC”) on [REDACTED], 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 6-641.05)). (Ex. __.)
55. On [REDACTED], 2024, NCPC filed a report stating that the Map Amendment was not inconsistent with the federal elements of the Comprehensive Plan and would not adversely impact any 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; 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:

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Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital and zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection or property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

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

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

5. Pursuant to Subtitle X § 500.3, the Commission shall find that the Map Amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property.
6. The Commission concludes, based on the filings and testimony of the Applicant and OP, that the Map Amendment from the MU-3A zone to the MU-2 zone is not inconsistent with the CP in its entirety, including all CP maps and elements, and will advance a number of CP Elements as discussed below.
7. Even if the Map Amendment conflicts with one or more individual policies associated with the CP, this does not, in and of itself, preclude the Commission from concluding that the Map Amendment would be consistent with the CP as a whole. (*See Durant v. D.C. Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013).)

Racial Equity

8. The Commission concludes that the Map Amendment is not inconsistent with the CP when evaluated through a racial equity lens. The Commission reached this conclusion based on the case record and the racial equity analyses provided by the Applicant, inclusive of community outreach and engagement information, and the OP Reports, and inclusive of disaggregated race and ethnicity data for the Upper Northeast Planning Area. (FF. 40–43, 47–49.) The Commission finds that the racial equity analysis provided address the components of the Commission’s Racial Equity Tool and that the Map Amendment will further CP racial equity goals, primarily because of its potential for new housing and affordable housing development, as discussed in more detail below: (*Id.*)

- Displacement – The Map Amendment will not result in the direct displacement of residents because there are no existing residential uses on the Property. (FF. 47.)
- Community Outreach and Engagement – The Applicant’s racial equity analysis included evidence that the Applicant conducted outreach with various community stakeholders as detailed in the record, including civic associations and ANC 5F. Further, the Commission acknowledges the multiple letters of support and the Applicant’s thorough efforts to engage with the community and therefore concludes that the Applicant’s community engagement was more than satisfactory.
- Disaggregated Race and Ethnicity Data – OP’s racial equity analysis included disaggregated race and ethnicity data for the Upper Northeast Planning Area which showed that the Black population within the Planning Area has decreased from 71.4% to 63% from 2012 to 2022, which mirrors the District-wide trend during that period, and that the White population increased from 18.4% to 22%. Further, OP’s disaggregated race and ethnicity data indicated that the Upper Northeast Planning Area has a majority minority population with 63% of its residents being Black and 11.3% of its residents being Hispanic. OP’s disaggregated race and ethnicity data also demonstrates that the median age within the Planning Area is consistent with the District-wide median. Moreover, OP’s disaggregated race and ethnicity data establishes that less than half of the residents in the Upper Northeast Planning Area own their residence. Accordingly, the Commission concluded that allowing increased density on the Property would positively impact the Upper Northeast Planning Area, specifically because the Map Amendment is subject to IZ Plus which will result in increased housing opportunities for low-income households. Therefore, the Commission finds that the Map Amendment will result in positive outcomes with respect to housing and the physical environment, and will increase access to opportunities for all District residents, regardless of background and socioeconomic status. Furthermore, the Commission concludes that increasing overall housing opportunities in the Planning Area could relieve some of the housing costs pressures impacting lower income households.

GPM

9. The Commission concludes that the Map Amendment is not inconsistent with the GPM’s designation of the Property as a Neighborhood Conservation Area because the Neighborhood Conservation Area designation is intended to conserve and enhance established neighborhoods, but not preclude development, which particularly addresses

citywide housing needs and the Framework Element of the CP recognizes that limited redevelopment opportunities exist within Neighborhood Conservation Areas, and that redevelopment should be compatible with the existing scale, natural features, and character of the area. (FF. 29.) Further, the Commission concludes that the proposed MU-2 zone is not inconsistent with the Property’s GPM designation because the MU-2 zone will enhance the pedestrian environment, address city-wide priorities, and will enhance the surrounding corridor by enabling a new mix of uses on the Property that has the potential to help the District achieve its housing goals—especially affordable housing. (FF. 29.)

FLUM

10. The Commission concludes that the Map Amendment is not inconsistent with the Property’s FLUM designation as Mixed Use Medium Density Residential / Medium Density Commercial as the Map Amendment would provide the potential of increased density on a site that would facilitate the development of housing, including affordable housing. Further, the MU-2 zone permits a maximum density of 6.0 FAR (7.2 FAR with IZ), which falls within the FAR contemplated by the Medium Density Commercial FLUM category, which specifically calls for a density ranging between 4.0 FAR and 6.0 FAR, with greater density being possible when complying with IZ or when approved through a Planned Unit Development. (FF 30.) Therefore, the Commission finds that the MU-2 zone is appropriate for the Property as it will allow for higher density development on the Property, as contemplated by the FLUM, and which is ideal for the Property given its proximity to transit.

Upper Northeast Planning Area

11. The Commission concludes that the Map Amendment furthers the policies of the Upper Northeast Planning Area because the Map Amendment will provide for increased development potential, enhancing both the residential character and economic vitality of the surrounding area and by leading to new housing opportunities for a range of incomes and households sizes. Further, the proposed Map Amendment will facilitate higher-density housing near the Brookland-CUA Metro station, which will potentially reduce the impact of cars and traffic that would arise if residents lived farther from high-capacity transit. (FF. 31.)

Land Use Element

12. The Commission concludes that the Map Amendment furthers the Land Use Element because the Map Amendment will facilitate the redevelopment of the Property with a mix of uses that are well-positioned to enhance the Brookland and Edgewood neighborhoods and the vitality of the Brookland-CUA Metro station area, and because the Map Amendment will help the District meet its long-term neighborhood and citywide demands for additional housing and affordable housing. (FF. 32–35.)

Transportation Element

13. The Commission concludes that the Map Amendment furthers the Transportation Element as it will facilitate a new mixed-use development at the Property that is likely to involve streetscape improvements, and given the Property’s location near the

Brookland-CUA Metro station, any future redevelopment would provide increased access to neighborhood-serving commercial uses and to the District in general. The Map Amendment will also enhance the walkability of the surrounding area by discouraging auto-oriented uses which would strengthen the residential character of the immediate neighborhood. (FF. 36.)

Housing Element

14. The Commission concludes that the Map Amendment furthers the Housing Element because it will require IZ Plus for any future residential development, which would help the District towards its goals of ensuring that one-third of the new housing built from 2018 to 2030 is affordable. (FF. 37.)

Environmental Protection Element

15. The Commission concludes that the Map Amendment is not inconsistent with the policies of the Environmental Protection Element because the Map Amendment will facilitate the redevelopment of the Property with new development that is required to comply with applicable Building Code requirements and energy-efficient building systems and technologies, therefore furthering the District's energy efficiency goals and complying with the Green Building Act. (FF. 38.)

Economic Development Element

16. The Commission concludes that the Map Amendment is not inconsistent with the policies of the Economic Development Element because the Map Amendment has the potential to expand the existing retail offerings in a transit-accessible area, and because the Map Amendment has the potential to create significant non-residential space that will support residential needs in the area with a mix of services clustered near transit that will add vitality near the Brookland-CUA Metro station. (FF 39.)

Brookland SAP

17. The Commission concludes that the Map Amendment will further policy objectives of the Brookland SAP; however, the Commission acknowledges the Applicant's assertion that prior updates and the 2021 Comprehensive Plan update supersede the Brookland SAP. (FF. 45.)

GREAT WEIGHT TO THE RECOMMENDATIONS OF OP

18. 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)).
19. The Commission concludes that OP's reports, which provided an in-depth analysis of the Map Amendment, are persuasive and the Commission concurs with OP's recommendation that the Property's rezoning would not be inconsistent with the CP Maps, the Citywide Elements and Upper Northeast Area Element, and, as discussed above, would advance the CP racial equity goals when evaluated through a racial equity lens. The Commission also

concurs with OP that the proposed Map Amendment is appropriate for an IZ Plus set-aside requirement. (FF. 43–45.)

“GREAT WEIGHT” TO THE ANC REPORT

- 20. The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)). The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted)).
- 21. The ANC 5F Report expressed the ANC’s recommendation of support for the Map Amendment. The Commission concurs with ANC 5F’s recommendation. (FF. 48.)

DECISION

In consideration of the record for Z.C. Case No. 24-05 and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and, therefore, **APPROVES** the Application to amend the Zoning Map as follows:

SQUARE	LOT(S)	MAP AMENDMENT
3657	827 and 831	MU-3A to MU-2

Proposed Action

Vote (_____, 2024): _ _ _ (Robert E. Miller, Joseph Imamura, Tammy M. Stidham, Anthony J. Hood to **APPROVE**; 3rd Mayoral Appointee seat vacant.)

Final Action

Vote (_____, 2024): _ _ _ (Robert E. Miller, Joseph Imamura, Tammy M. Stidham, Anthony J. Hood to **APPROVE**; 3rd Mayoral Appointee seat vacant.)

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 24-05 shall become final and effective upon publication in the *D.C. Register*, that is on _____, 2024.

ANTHONY J. HOOD
CHAIRMAN

SARA A. BARDIN
DIRECTOR

ZONING COMMISSION

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.

DRAFT