

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSIONER ORDER NO. 24-06

Z.C. CASE NO. 24-06

District of Columbia and Fletcher-Johnson Community Partners
(Zoning Map Amendment @ Square 5344, Lot 802)

February 27, 2025

Pursuant to notice, at its public hearing on January 13, 2025, the Zoning Commission for the District of Columbia (the “Commission”) considered an application (the “Application”) by the District of Columbia and Fletcher-Johnson Community Partners (“FJCP”) (together, the “Applicant”) for approval of an amendment to the Zoning Map from the RA-1 zone (the “Existing Zone”) to the MU-8B zone (the “Map Amendment”) for Lot 802 in Square 5344 (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).

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”) 7E, 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.

NOTICE

3. On September 1, 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 7E, as required by Subtitle Z § 304.5 (Exhibit [“Ex.”] 3D).
4. On April 22, 2024, the Office of Zoning (“OZ”) sent copies of the Notice of Filing to:
 - *District of Columbia Register*;
 - Applicant;
 - ANC 7E;

- ANC Single Member Districts (“SMD”) 7E04, 7E05, and 7E07;
 - 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, 10).
5. On November 13, 2024, OZ sent notice of the January 13, 2025, virtual public hearing to:
 - *District of Columbia Register*;
 - Applicant;
 - ANC 7E;
 - ANC SMDs 7E04, 7E05, and 7E07;
 - 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;
 - Commission Lead Attorney; and
 - Property owners within 200 feet of the Property
 (Ex. 17, 18).
 6. OZ published notice of the public hearing in the November 22, 2024 *District of Columbia Register* (71 DCR 014211 *et seq.*), as well as on the calendar on OZ’s website (Ex. 16).
 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. 19, 23).

THE PROPERTY

8. The Property is located in the Marshall Heights neighborhood of Ward 7, and is bounded by Benning Road, S.E. to the west, C Street, S.E. to the north, St. Louis Street, S.E. to the east, and apartment buildings to the south. The Property contains approximately 15.26 acres (664,839 square feet) of land area (Ex. 3).
9. The Property is improved with the former Fletcher-Johnson public school campus and adjacent athletic field. The building has been vacant since 2011, and the District disposed of the Property through a competitive and public RFP process in 2019-2020. The District

awarded the redevelopment rights to Fletcher-Johnson Community Partners, one of the Applicant parties, in 2020 (Ex. 3).

10. The Property is located in a predominantly residential area developed primarily with low-rise apartment buildings. The Woodlawn Cemetery is located to the west across Benning Road. KIPP DC LEAP Academy is located to the southwest of the Property, and low-rise apartment buildings are located directly to the south (Ex. 3).
11. The surrounding Property area is mostly zoned residential with the property to the north, south, and west zoned RA-1 and the property to the east zoned R-3. A portion of the property located across Benning Road to the southwest is zoned MU-4 (Ex. 3).
12. The Property is located less than a half mile south of the Benning Road Metro Station and the V7, V8, and W4 Metrobus lines stop directly in front of the Property (Ex. 3).

CURRENT ZONING

13. The Property is currently zoned RA-1 (Ex. 3B).
14. 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).
15. 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).
16. The RA-1 zone does not permit most commercial uses (Subtitle U § 401.1).
17. 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 (Subtitle F § 205.1); and
 - A maximum lot occupancy of 40% for structures other than public centers, public libraries, and places of worship (Subtitle F § 210.1).

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

Equity and the Comprehensive Plan

18. 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.
19. 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.

20. 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).
21. 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 preparing and implementing 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

22. The CP's GPM designates the Property as a Neighborhood Commercial Center, which the Framework Element describes as:
 - *"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..., supermarkets, restaurants... and basic services. Office space for small businesses...also may be found in such locations. Many buildings have upper-story residential uses... Neighborhood Commercial Centers include both auto-oriented*

centers and pedestrian-oriented shopping areas... New development and redevelopment within Neighborhood Commercial Centers must be managed to conserve the economic viability of these areas while allowing additional development, including residential, that complements existing uses” (CP §§ 225.15-225.16).

Future Land Use Map (the “FLUM”)

23. The CP’s FLUM designates the Property as Mixed Use – Medium Density Residential/Medium 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);*
- Medium Density Commercial – *“This 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” (CP § 227.12);*
- 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 (CP § 227.22); and
- 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

24. 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, S.E. (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 Benning Road Metrorail station, 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 near Benning Road and Minnesota Avenue, N.E. 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).

II. THE APPLICATION

PROPOSED ZONING

25. The Application proposes to rezone the Property from the RA-1 zone to the MU-8B zone (Ex. 3).
26. The MU-8 zones are specifically intended to (Subtitle G § 101.13):
- Permit medium density mixed-use development with a focus on employment and residential use;
 - Be located in uptown locations, where a large component of development will be office-retail and other non-residential uses; and
 - Be located in or near the Central Employment Area, on arterial streets, in uptown and regional centers, and at rapid transit stops.
27. As a matter of right, the MU-8B zone permits:
- A maximum density of 5.0 FAR and 6.0 FAR for IZ developments, of which up to 4.0 FAR can be devoted to non-residential uses (Subtitle G § 201.1);
 - A maximum building height of 70 feet with no limit on the number of stories (Subtitle G § 203.2);
 - A maximum penthouse height of 20 feet and one story with a second story permitted for penthouse mechanical space (Subtitle G § 205.1); and
 - No maximum lot occupancy (Subtitle G § 210.1).

APPLICANT'S JUSTIFICATION OF RELIEF

Not Inconsistent with the CP

28. 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. 29-45) (Ex. 3, 3I).
29. Overall, the Property is underutilized and currently improved with a vacant former school building and athletic field that does not allow for commercial uses. The Map Amendment would permit additional height, additional density, and commercial uses at the Property, thus enabling new mixed-use development with expanded opportunities for retail and residential uses. Moreover, the Map Amendment is not inconsistent with the District's racial equity objectives (Ex. 3, 3I).

GPM

30. The Map Amendment would not be inconsistent with the Property's GPM designation as a Neighborhood Commercial Center because (Ex. 3I):
 - The Map Amendment would facilitate redevelopment of the Property, which has been vacant for nearly a decade, potentially resulting in a new mixed-use neighborhood center containing new retail and service uses and new housing and affordable housing that meets or exceeds the District's affordable housing requirements for public land dispositions under D.C. Official Code § 10-801 (Ex. 3I); and
 - The Map Amendment presents opportunities for compatible infill development that could enhance the surrounding community and may include residential and commercial uses that meet the day-to-day needs of residents and workers in the adjacent neighborhoods, including uses such as convenience stores, supermarkets, branch banks, restaurants, and services such as dry cleaners, hair cutting, childcare, and office space for small businesses (Ex. 3I).

FLUM

31. The Map Amendment would not be inconsistent with the Property's FLUM designation of Mixed Use (Medium Density Residential/Medium Density Commercial/Local Public Facilities) because (Ex. 3, 3I):
 - 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 Medium Density Commercial category specifically cites the MU-8 zone as a consistent zone and contemplates a range in density between a FAR of 4.0 and 6.0, with greater density possible when complying with IZ (CP § 227.12);
 - The Local Public Facilities category includes land and facilities occupied and used by the District of Columbia government or other local government agencies, and non-governmental facilities may be co-located on site (CP § 227.17);
 - The MU-8B zone is specifically intended to permit mixed-use development with an emphasis on employment and residential development, and permits a maximum FAR

- of 5.0 (6.0 for an IZ development), of which up to 4.0 FAR can be devoted to non-residential use;
- The density permissions of the MU-8B zone fall within the density ranges contemplated by the Property's FLUM designations; 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

32. The Map Amendment furthers CP racial equity goals. Specifically, the proposed rezoning will facilitate the redevelopment of the Property with a significant amount of new housing (both for sale and rental), including a substantial amount of affordable housing that will meet or exceed the District's requirements for public land dispositions under D.C. Code § 10-801. In addition, the Map Amendment could help address food insecurity and known retail and service use deficiencies in neighborhoods located east of the Anacostia River, including the potential for a new full-service grocery store. Also, through First Source and CBE requirements that are tied to the District's disposition of the Property, the proposed Map Amendment could create numerous employment, training, and entrepreneurial opportunities for District residents.
33. Displacement - The Applicant stated that the Property does not contain any active tenants, residents, or users, so it avoids any direct displacement of residents or businesses (Ex. 3I).
34. Community Outreach and Engagement - The Applicant stated that it has conducted extensive engagement with the community regarding redevelopment of the site, including ANC 7E, the Marshall Heights Community Development Organization ("MHCDO"), and the Marshall Heights Civic Association ("MHCA"). Since 2014 when efforts to redevelop the Property began, the community has built a large coalition of ANC commissioners, civic associations, and interested stakeholders that have been instrumental in putting together an overall vision for a "community hub" at the Property. In 2018, all Ward 7 ANCs, 10 civic associations within proximity of the Property, and six other community organizations signed a declaration letter that was submitted to the Mayor, the Council of the District of Columbia, the Deputy Mayor for Planning and Economic Development, and the Deputy Mayor for Education. In 2019, the coalition of community members, ANCs, civic associations, and other community organizations formally created the Fletcher-Johnson Task Force ("FJTF"). The FJTF is led by 13 members, each of whom represents different neighborhoods within Ward 7. Since its inception, the FJTF has led the development of an overall common vision for the Property that reflects the input and needs of the community. The Applicant notes the following community outreach/engagement efforts:
 - Monthly ANC meetings and individual meetings with ANC Single Member District;
 - Presentations at MHCDO and MHCA meetings;
 - Coordination with the FJTF;
 - Community meetings to obtain neighborhood / resident input on future development of the Property; and
 - Posting of information to DMPED Fletcher-Johnson/Our RFP webpage (Ex. 3I).

35. The Application included information regarding the Applicant's extensive engagement with ANC 7E, and with the broader community through the FJTF. Specifically, the Applicant first introduced the proposed redevelopment of the Property to the full ANC 7E at its duly noticed, regularly scheduled public meeting on March 9, 2021, and it attended a total of 14 ANC 7E public meetings. The Applicant specifically presented the Map Amendment application at ANC 7E's July 9, 2024 public meeting. The Applicant also presented the redevelopment plans, including the Map Amendment, to the FJTF at eight meetings starting on January 27, 2021. The Applicant also conducted outreach to the surrounding neighborhood and individuals continuously from February 2021 through December 2024. Additionally, the Applicant submitted logs detailing its outreach efforts, meeting dates, and participants. (Ex. 3I.)
36. The Applicant identified the following concerns raised by the community:
- Overabundance of deeply affordable housing and need for market-rate and workforce housing;
 - Lack of quality retail and service uses, including grocery stores;
 - Potential increased traffic and impacts on parking availability; and
 - Potential increased noise (Ex. 3I).
37. In response to those concerns, the Applicant took the following steps:
- As part of the District's RFP process to select the FJCP to redevelop the Property, the Deputy Mayor for Planning and Economic Development conducted extensive community engagement to solicit feedback from the community about what it would like included in the redevelopment;
 - Inclusion in the RFP of uses identified by the community that it would like to see in the redevelopment Property; and
 - The Applicant's commitment to ongoing ANC 7E and community engagement to refine the redevelopment plan for the Property (Ex. 3I).

Far Northeast / Southeast Area Element

38. The Map Amendment advances the goals of the Far Northeast/Southeast Area Element. Rezoning the Property to the MU-8B zone provides an opportunity to redevelop an underutilized site with new construction that can provide new, diverse housing options and commercial uses. The proposed Map Amendment to the MU-8B zone will support the redevelopment of an underutilized District disposition site near transit with new mixed-use development containing a significant amount of new for-sale and rental housing (market rate and affordable) to help meet the housing goals of the FNS Planning Area and the District overall (FNS-1.1.2, FNS-1.1.3, FNS-1.1.4). The rezoning also facilitates long sought after neighborhood-serving retail and service uses (FNS-1.1.4) (Ex. 3I).

Land Use Element

39. The Map Amendment is not inconsistent with the policies of the Land Use Element because the Map Amendment encourages mixed-use development at a large and vacant site along a large corridor with good Metrorail and Metrobus access, and may provide new market-

rate housing, affordable housing, and commercial uses as well recreational uses. The Application also asserted that the current RA-1 zoning of the Property does not allow for more than a moderate amount of residential density or for commercial uses. 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, mixed-uses, retail and service uses, and employment opportunities. Further, the height and density permitted under the proposed MU-8B zone appropriately balances the need to respect the character, scale, and integrity of the adjacent existing neighborhood (Ex. 3I; LU-1.4.1, LU-1.4.2, LU-1.4.4; LU-1.4.6; LU-2.1.1; LU-2.4.1; LU-2.4.2).

Transportation Element

40. 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 and retail/services uses, on a site that is located within ½ mile of the Benning Road Metrorail station 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. 3I; T-1.1.4; T-1.1.7; T-2.4.1).

Housing Element and OP Housing Equity Report

41. 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 varied housing types. The Property is located within the Far Northeast/Southeast Area Element, where the recommended number of affordable housing units is satisfied. 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 various housing opportunities facilitated by the Map Amendment and the District's disposition requirements include market-rate, affordable, for-sale, and rental housing, and could address citywide housing needs for a mixture of household income levels and tenure types (Ex. 3, 3I; H-1.1.1, H-1.1.3, H-1.1.4, H-1.1.9, H-1.2.1, H-1.2.3, H-1.2.4, H-1.2.11, H-1.3.1, H-1.3.2, H-2.1.6, H-3.1.1, H-4.3.2).

Environmental Protection Element

42. The Map Amendment is not inconsistent with the policies of the Environmental Protection Element because future development of the Property will lead to the removal of an inefficient building and a surface parking lot in exchange for 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 should not induce automobile dependency. Furthermore, the Map Amendment and any associated redevelopment of the Property will require compliance with the District's various "green," efficiency, and sustainability requirements, will involve community input, and could trigger new landscaping, and environmentally friendly

enhancements to the abutting streetscape (Ex. 3I; E-1.1.2, E-2.1.2, E-3.2.3, E-3.2.6, E-3.2.7, E-4.1.2, E-4.2.1, E-6.7.2).

Economic Development Element

43. The Map Amendment is not inconsistent with the policies of the Economic Development Element. The proposed MU-8B zone supports new, local retail and service uses, and builds physical capacity for such new business to open where none currently exists. The proposed MU-8B zone also creates opportunities for nearby residents to own, operate, and work in businesses in their neighborhood. Furthermore, the District disposition and public review process for any redevelopment on the Property will ensure that any new commerce at the Property will be commensurate with the community's needs and wants. In addition to new commercial uses, the proposed rezoning allows development of new housing near Metrorail and Metrobus corridors (Ex. 3I; ED-1.1.4, ED-1.1.5, ED-2.2.3, ED-2.2.4, ED-2.2.5, ED-3.2.8, ED-4.2.1, ED-4.2.3, ED-4.2.6, ED-4.2.12).

Urban Design Element

44. The Map Amendment is not inconsistent with the policies and actions of the Urban Design Element. The proposed Map Amendment allows for the redevelopment of the Property with new mixed-use development on a large, unused site in an established neighborhood that can bring needed neighborhood-serving amenities and housing to the community in a well-planned and designed redevelopment. Future development on the Property will likely involve reconstruction of adjacent public space to DDOT standards (Ex. 3I; UD-2.2.7, UD-3.2.3).

Community Services and Facilities Element

45. The Map Amendment is not inconsistent with the policies and actions of the Community Services and Facilities Element. The proposed MU-8B zone will allow for a multitude of community-serving uses that are not allowed under the current zone and/or cannot be accommodated at the Property in its current condition. The proposed MU-8B zone will facilitate the construction of new buildings that will contain uses commensurate with the District's disposition and public engagement processes. Such potential uses include recreation centers, medical offices, and hospitals (Ex. 3I; CSF-1.1.1, CSF-1.1.2, CSF-1.1.4, CSF-1.1.5, CSF-2.1.B, CSF-2.3.1, CSF-2.3.10).

Potential Inconsistencies with the CP

46. The Applicant acknowledged that the Map Amendment may be viewed as being inconsistent with certain CP policies. The Applicant cited to Policy LU-2.1.12 (titled, "Reuse of Public Buildings") as one potential inconsistency, given that a future redevelopment will involve the removal of the existing Fletcher-Johnson school building. The Applicant also identified Policy LU-2.4.1 (titled, "Conservation of Steep Slopes") as another potential inconsistency given the large grade change and slopes on the Property from Benning Road that a redevelopment may alter or impact. However, the Applicant asserted that the proposed 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, including

when viewed through a racial equity lens. Moreover, the Applicant provided a detailed analysis for each of the foregoing policy objectives explaining how each objective is outweighed when the numerous CP policy goals and objectives that would be advanced by the Map Amendment are considered, as discussed immediately above (Ex. 3I; *see also* Transcript [“Tr.”] from January 13, 2025 hearing at pp. 15-16).

Public Hearing Testimony

47. At the January 13, 2025 public hearing, the Applicant presented its case, including testimony from:
- Oussama Souadi, 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 January 13, 2025 hearing at pp. 9-17).

III. RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

48. OP submitted a report dated June 3, 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 Commercial Center. The proposed MU-8B zoning would permit enough nonresidential density to allow a mix of uses on the site, including retail, restaurant, office, and services uses as well as open space to serve and support the future residents of the site and the surrounding neighborhood. Thus, the proposed map amendment would not be inconsistent with the GPM’s Neighborhood Commercial Center designation;
 - **FLUM** – In the most recent Comprehensive Plan update, the FLUM designation for the Property was changed to Mixed Use Medium Density Residential, Medium Density Commercial, and Local Public Facilities. The proposed MU-8B zone allows for medium density mixed use development and therefore would not be inconsistent with the FLUM designation for the Property;
 - **Land Use Element** – The proposed Map amendment would be not inconsistent with the Land Use Element. The site is an underutilized property and approval of a map amendment would facilitate redevelopment of the site with a mix of new housing, including affordable and market rate housing, commercial and service uses as well as community-serving facilities. Specifically, the proposed Map Amendment furthers the following policies and actions of the Land Use Element: LU-1.4.6, LU-1.4.9, LU-1.4.10, LU-1.4.B, LU-1.5.1, LU-2.1.1, LU-2.1.2, LU-2.1.3, LU-2.1.10, LU-2.3.5, LU-2.4.1, LU-2.4.2, LU-2.4.6;
 - **Transportation Element** – The proposed MU-8B zone would not be inconsistent with the policies of the Transportation Element. The proposed zone would allow mixed use, transit-oriented development within 0.4 miles of the Benning Road Metrorail station on the Blue and Silver Lines, and several bus routes. Two bus routes travel along the

Benning Road frontage and would allow persons to live and work in close proximity to transit to assist in providing equity in transportation. Currently, there are sidewalks along the streets adjacent to the Property. Specifically, the proposed Map Amendment would further the following policies and actions of the Transportation Element: T-1.1.2, T-1.1.4, T-1.1.5, T-1.1.7, T-1.1.8, T-1.4.1, T-2.4.1, T-2.4.2;

- **Housing Element** – The proposed MU-8B zone would be not inconsistent with the policies and actions of the Housing Element, which encourages more density for mixed use development and in particular the provision of new housing and affordable housing, near Metrorail stations. The proposed map amendment would encourage housing at the higher density that is called for on this site in the FLUM. The proposed zone would allow for a variety of housing types, sizes and affordability complemented by service and retail uses to serve the new residents as well as the surrounding residential community. As a disposition property, the site's redevelopment would be subject to a higher requirement for affordable housing. While policies particularly encourage the provision of affordable housing close to Metrorail stations, OP notes the disproportionate share of affordable housing already in this planning area, and has recommended that IZ Plus not apply, although regular IZ would apply, as would the affordability requirements of the RFP. Specifically, the proposed amendment would particularly further the following policies and actions of the Housing Element: H-1.1.1, H-1.1.2, H-1.1.3, H-1.1.4, H-1.1.9, H-1.2.1, H-1.2.2, H-1.2.3, H-1.2.4, H-1.2.5, H-1.2.9, H-1.2.11, H-1.3.1, H-1.3.2, H-1.4.6, H-2.1.6, H-3.1.1, H-4.3.2, H-4.3.3;
- **Environmental Protection Element** – The proposed MU-8B zone would not be inconsistent with the policies of the Environmental Element. Future development of the property would be reviewed by DOEE to implement District policies implied and encouraged under the Sustainable DC Plan and Code requirements which protect the health and well-being of residents across all incomes and the District as a whole. The proposed Map Amendment could further the following policies and actions of the Environmental Protection Element: E-1.1.2, E-2.1.2, E-2.1.3, E-3.2.3, E-3.3.2, E-3.2.8, E-4.2.1;
- **Economic Development Element** – The proposed Map Amendment would not be inconsistent with the Economic Development Element. In a mixed-use zone, the Property could provide neighborhood serving retail and services alongside new residential uses. Neighborhood-serving retail, services, and public facilities on the site would enhance the Benning Road corridor, 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 and users who could support the businesses that serve the neighborhood for which there is a critical need in the neighborhood. Although the Property is proximate to the Benning Road/Minnesota Avenue retail area, the subject property should not pull businesses or retailers from that area. Specifically, the proposed Map Amendment would further the following policies and actions of the Economic Development Element: ED-1.1.4, ED-1.1.5, ED-2.2.1, ED-2.2.3, ED-2.2.4, ED-2.2.5, ED-3.1.1, ED-3.2.8;
- **Urban Design Element** – The proposed MU-8B zone would not be inconsistent with the policies and actions of the Urban Design Element. This Element encourages

streetscape enhancements that improve walkability and the overall experience at the human scale. The MU-8B zone would encourage retail and community space to encourage walking and the use of public spaces. Specifically, the proposed Map Amendment would further the following policies and actions of the Urban Design Element: UD-2.1.1, UD-2.2.3, UD-2.2.7, UD-3.3.1;

- **Community Services and Facilities Element** – The proposed MU-8B zone would not be inconsistent with the policies and actions of the Community Services and Facilities Element (“CSF”). The CSF Element encourages the siting of community facilities in locations that optimize efficient delivery of public services. Although there is no specific recommendation for a specific community services facility(s), the proposed MU-8B zone would allow for such a facility(s) on the site to serve the residents as well as the wider community and would facilitate the siting of Local Public Facilities on the site as recommended by the FLUM. The proposed Map Amendment would further the following policies and actions of the CSF Element: CSF-1.1.2, CSF-1.1.4, CSF-1.1.5, CSF-1.1.8, CSF-1.1.9, CSF-2.1.B;
- **Far Northeast/Southeast Area Element** – The proposed MU-8B zone would not be inconsistent with the policies and actions of the Far Northeast and Southeast Area Element. As part of the Update to the Comp Plan, the community noted that “...More density is appropriate on land within one-quarter mile of the Metro Stations at...Benning Road...” The Comprehensive Plan encourages the redevelopment of the Fletcher-Johnson property, and the proposed MU-8B zone could help to achieve this goal. The proposed zone would be proximate to the Benning Road Metrorail Station (0.4 mile walk), and Benning Road is a street appropriate for more mixed-use and residential density. The proposed Map Amendment could attract more new housing development to this location and help to protect the surrounding residential community by focusing mixed use development to this location. Specifically, the proposed amendment would further the following policies of the Far Northeast and Southeast Area Element: FNS-1.1.2, FNS-1.1.3, FNS-1.1.14, FNS-2.2.5;
- **Racial Equity** – The OP Setdown Report provides a racial equity analysis, anticipating that the MU-8B 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 Map Amendment would not result in direct displacement of any residents or businesses because the Property is currently vacant;
 - Indirect Displacement – OP does not anticipate the Map Amendment resulting in indirect displacement because the development it would facilitate would create new opportunities for a mix of housing types and affordability levels in the neighborhood;
 - Physical - It is not likely that the proposed rezoning would result in negative impacts on the physical environment. Redevelopment would result in public space, streetscape, and stormwater infrastructure improvements. The Property will be required to comply with the most current standards and codes;
 - Employment Opportunity – Within the Marshall Heights area, there are several public and private opportunities for job training. Any development of commercial space could provide job and small business opportunities on the Property site.

Further, new development could result in jobs related to construction, building maintenance, property management, retail and service uses; and

- 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:
 - In the 2018-2022 period, the Far Northeast/Far Southeast Planning Area had a population of 84,778 or about 12.6% 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 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 2018-2022 period, Blacks continued to make up the largest portion of the population but the percentage fell slightly to 90.6%, although the number of Black residents increased by a little more than 1,700;
 - The median income of the Far Northeast/Far Southeast Planning Area was below that of the District in both the 2012-2016 and 2018-2022 time periods. Black or African American residents had the lowest median income of all segments of the population in both time periods, (\$36,490 and \$41,254). Whites, Asians, and "Some Other Race" had higher median incomes, and larger increases between the two time periods;
 - Between 2012-2016 and 2018-2022, the percentage of owner occupancy in the District rose only slightly, from 40.7% to 41.4%. The percentage of owner occupancy in the Far Northeast/ Southeast Planning Area rose at a higher rate, from 35% to 40.9%, to a level similar to that of the District as a whole. Although their total populations are relatively small in the Far Northeast/Southeast Planning Area, White and Asian households had the highest percentage of owner-occupied housing at 80.1% and 63.3% respectively in the 2018-2022 time period. The percentage of Blacks and African Americans homeowners grew between the two time periods by 4.5%, but for the 2018-2022 time period remained at 39.2% slightly below the District wide average of 41.4%;
 - The Far Northeast/ Southeast Planning Area had a higher percentage of both children and older adults in the 2012-2016 time period when compared to the District as a whole. Between the two time periods, the percentage of seniors and children rose;
 - In the 2012-2016 time period, 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 the 2018-2022 time period, the Planning Area's unemployment rate remained over twice that of the District's at 15.3%; and
 - The Far Northeast/ Southeast Planning Area is on target to exceed the Mayor's 2025 affordable housing goal for the Planning Area and projected to achieve 224.7% of the affordable housing target (i.e. 1,101 units of the 490-unit target). The proposed Map Amendment to the MU-8B zone would permit a greater

variety of housing options and styles than the existing RA-1 zoning and these options could result in continued diversification of the population and could influence housing tenure in the area (Ex. 11); and

- **Potential CP Inconsistencies** – The OP Setdown Report acknowledges that the Map Amendment is potentially inconsistent with Land Use Element actions and policies that encourage the reuse of existing and public buildings. Specifically, Land Use Element action LU-1.2.F and policy LU-2.1.12. However, OP concludes that repurposing the existing school building would not be economically feasible and demolition of the building to enable development of housing, affordable housing, retail and institutional or community and open space uses would advance and support various CP policy goals and objectives as well as the Benning Road Corridor Redevelopment Framework Plan (Ex. 11).

49. The OP Setdown Report also stated that IZ Plus, pursuant to Subtitle X § 502.1(b), is not appropriate for the Map Amendment, due to the following mitigating circumstances:
- A disproportionate amount of existing affordable housing already in existence in both the immediate Far Northeast/Southeast Planning Area and ANC 7E. The Far Northeast/Southeast Planning Area has the second largest (19%) of all the District’s affordable housing units and with 1,101 affordable units in the pipeline, the Planning Area is on track to significantly exceed the Mayor’s 2025 affordable housing target of 490 units; and
 - The Property is a District disposition thus development of the Property will be subject to the affordability requirements of District Law 10-801, which exceed IZ Plus requirements. District Law 10-801 requires that proposals which include multi-family residential units reserve 30% of the units as affordable in perpetuity.

OP notes that the Property would remain subject to regular IZ requirements (Ex. 11).

50. The OP Setdown Report also noted that the Map Amendment would advance the objectives and recommendations of the Benning Road Corridor Redevelopment Framework Plan (“Benning Road CRFP”), which was approved by the D.C. Council on July 15, 2008, through Resolution 17-0879. The Benning Road CRFP provides no specific recommendations for the Property but calls for the increase in neighborhood livability and creating a new environment that stimulates private investment and neighborhood revitalization. The MU-8B zone would not be inconsistent with the development types envisaged in the Benning Road CRFP, which includes new residential development, community serving retail, and public services (Ex. 11).
51. OP submitted a hearing report dated January 3, 2025, (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. The OP Hearing Report noted that according to the Deputy Mayor for Planning and Economic Development 36,000 by 2025 Dashboard data, as of November 2024, the Far

Northeast/Southeast Planning Area has exceeded the Mayor's 2025 affordable housing target by providing 1,234 affordable units, or 251.8% of the target amount (Ex. 21).

52. At the January 13, 2025, public hearing, OP reiterated its support for the Application as detailed in its reports (Tr. from January 13, 2025 hearing at pp. 45-47).

DDOT REPORT

53. DDOT submitted a January 3, 2025, report (the "DDOT Report"), stating that it had no objection to the Application because the proposed rezoning would support nearby transit and generate additional foot traffic to support nearby businesses. This is consistent with DDOT's approach to infill sites which should be dense, compact, transit-oriented, and improve the public realm (Ex. 22.)
54. At the January 13, 2025 public hearing, DDOT did not provide testimony.

ANC REPORTS AND TESTIMONY

55. On January 2, 2025, ANC 7E submitted a resolution ("ANC Resolution") indicating that at a regularly scheduled properly noticed public meeting on October 8, 2024, with a quorum present, the ANC voted 3-0-0 in support of the Map Amendment as part of its support of a larger community benefits agreement between ANC 7E and FJCP (Ex. 15A).
56. At the January 13, 2025 public hearing, ANC 7E did not provide testimony.

NATIONAL CAPITAL PLANNING COMMISSION ("NCPC")

57. The Commission referred the Application to NCPC on January 27, 2025, 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. 26).
58. On February 25, 2025, NCPC staff filed a letter stating that the Map Amendment proposal falls under an exception listed in NCPC's submission guidelines and is exempt from NCPC review (Ex. 28).

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 Zoning Map Amendment from the existing RA-1 zone to the MU-8B zone is not inconsistent with the CP, including its maps and written elements and when viewed through a racial equity lens, and advances numerous CP policy goals and objectives.
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 the reuse of existing and public buildings and the conservation of steep slopes, are outweighed by the CP policy goals and objectives that would be advanced by the Map Amendment. The Map Amendment is not inconsistent with the CP Maps and would advance policies of the Citywide Elements and the Far Northeast/Southeast Area Element, which support, among other things, increasing density to permit more mixed-use and housing, retail, and service use development on large and vacant property that is in proximity to transit (FF 22-24-45, 47, 50).

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 32-36, 47, 50). 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 to facilitate new mixed-use

development, including housing, retail, service, and institutional uses, 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, which has been vacant since 2011. The Commission also acknowledges that the Map Amendment is unlikely to result in any indirect displacement because it is a unique site that was previously a public school (FF 32 47, 50);
- 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 7E, the FJTF, community organizations, and neighbors. The Commission finds the Applicant’s evidence of community outreach and engagement sufficient (FF 33-36). The Commission notes that much of the community input provided concerned the specific redevelopment plans for the Property and is not relevant to the Commission’s evaluation of this Application (*Id.*). The Commission’s evaluation of this Application only pertains to a Map Amendment to the MU-8B zone, that is whether the matter-of-right development standards of the MU-8B zone are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property site. Notwithstanding, the Commission encourages the Applicant to continue its community outreach and engagement efforts during the redevelopment process (*Id.*); 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 has a 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 median household income. The Planning Area data shows significant 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. Owner occupancy rates in the Planning Area are slightly below those District-wide for nearly all races but 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 (FF 47, 50). The Commission is encouraged that the provision of increased density on this long vacant and underutilized Property site will facilitate development opportunities resulting in increased housing, including affordable housing, service, institutional, and/or community and open space uses. The Commission notes the community input citing a desire for more market rate housing in the immediate Property area. The Commission is hopeful that the future development facilitated by the Map Amendment and the provision of varied housing types in proximity to transit will attract a more diversified population, both along racial and economic lines, to the immediate Property area.

GPM

7. The Commission concludes that the Map Amendment is not inconsistent with the GPM's designation of the Property as a Neighborhood Commercial Center because the Map Amendment permits redevelopment of a currently vacant infill site with medium density mixed-use development 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 22, 30, 47, 50).

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, Medium Density Commercial, and Local Public Facilities. The Map Amendment to the MU-8B zone provides for increased density on a site that is vacant and underutilized and would facilitate development with housing, commercial, service, and public recreation uses. The recent 2021 update to the Comprehensive Plan modified the Property's FLUM designation to Mixed-Use (Medium Density Residential, Medium Density Commercial, and Local Public Facilities), thus contemplating greater density and commercial uses for the Property than allowed under the existing RA-1 zone. Consistent with the FLUM's preferred mix and intensity of uses, the MU-8B zone balances the density of residential and non-residential uses. The Commission finds the MU-8B zone appropriate for the Property as it allows for medium density development with a mix of residential and non-residential uses on the Property, as contemplated by the FLUM (FF 23, 31, 47, 50).

Far Northeast / Southeast Planning Area

9. The Commission concludes that the Map Amendment furthers policies of the Far Northeast/ Southeast Area Element based on the findings stated above (FF 24, 37, 47, 50).

Land Use Element

10. The Commission concludes that the Map Amendment furthers policies of the Land Use Element based on the findings stated above (FF 38, 47, 50).

Transportation Element

11. The Commission concludes that the Map Amendment furthers policies of the Transportation Element based on the findings stated above (FF 39, 47, 50).

Housing Element and OP Housing Equity Report

12. The Commission concludes that the Map Amendment furthers policies of the Housing Element based on the findings stated above (FF 40, 47, 50).
13. The Commission concludes that the Map Amendment furthers the OP Housing Equity Report and Mayor's 2025 affordable housing goals as future development on the Property site will be subject to the affordable housing requirements of District dispositions under District Law 10-801 as well as regular IZ requirements (FF 32, 47, 48, 50.)

Environmental Protection Element

14. The Commission concludes that the Map Amendment furthers policies of the Environmental Protection Element based on the findings stated above (FF 41, 47, 50).

Economic Development Element

15. The Commission concludes that the Map Amendment further policies of the Economic Development Element based on the findings stated above (FF 42, 47, 50).

Urban Design Element

16. The Commission concludes that the Map Amendment furthers policies of the Urban Design Element based on the findings stated above (FF 43, 47, 50).

Community Services and Facilities Element

17. The Commission concludes that the Map Amendment furthers policies of the Community Services and Facilities Element based on the findings stated above (FF 44, 47, 50).

Benning Road CRFP

18. The Commission concludes that the Map Amendment furthers the objectives and recommendations of Benning Road CRFP based on the findings stated above (FF 47, 49, 50).

Potential Inconsistencies with the CP

19. The Commission acknowledges that the Map Amendment is potentially inconsistent with Land Use Element actions and policies that encourage the reuse of existing and public buildings; and Land Use Element policies encouraging the conservation of steep slopes. Specifically, Land Use Element action LU-1.2.F and policy LU-2.1.12; and Land Use Element policy LU-2.4.1 (FF 45, 47, 50). The Commission agrees with the analysis in the OP Setdown Report concluding that repurposing the existing school building would not be economically feasible and demolition of the building to enable development of housing, affordable housing, retail and institutional or community and open space uses would advance and support various CP policy goals and objectives as well as the Benning Road Corridor Redevelopment Framework Plan (FF 47, 50). The Commission finds any potential CP inconsistencies with the Map Amendment to be outweighed by the numerous CP policies that would be advanced by the Map Amendment, which encourage increased density on large, underutilized sites to allow for mixed-use development opportunity inclusive of housing and service uses in proximity to transit (FF 22-24-45, 47, 50).

GREAT WEIGHT TO THE RECOMMENDATIONS OF OP

20. The Commission must give “great weight” to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.9 (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

21. 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 (FF 47, 50). The Commission also concurs with OP that IZ Plus is not appropriate for the proposed Map Amendment due to the mitigating circumstances of a high level of existing affordable housing both within the Far Northeast/Southeast Planning Area and ANC 7E; and the fact that the affordable housing requirements of the District's public land dispositions, which apply to the Property, exceed IZ Plus requirements (FF 47, 48, 50).

GREAT WEIGHT TO THE ANC REPORT

22. 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)).
23. The Commission acknowledges the recommendation of ANC 7E in support of the Map Amendment and concurs in that judgment (FF 54). The Commission notes that ANC 7E's recommendation in support of the Map Amendment was tied to its support of a community benefits agreement with FJCP that ANC 7E submitted to the record (*Id.*). However, that agreement is a private agreement between those parties and does not pertain to the Commission's evaluation of this Application. The Commission's evaluation of this Application is limited to whether the proposed MU-8B zone is not inconsistent with the CP and with other adopted public policies and active programs related to the Property site (*See* Subtitle X § 500.3). Accordingly, the elements of the private community benefits agreement shall not be conditions of approval for this Application and were not considered by the Commission in its evaluation of this Application.

DECISION

In consideration of the record for Z.C. Case No. 24-06 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
5344	802	RA-1 to MU-8B

Proposed Action

Vote (January 13, 2025): 5-0-0

(Joseph S. Imamura, Tammy Stidham, Anthony J. Hood, Robert E. Miller, and Gwen Wright to approve).

Final Action

Vote (February 27, 2025): 5-0-0

(Anthony J. Hood, Joseph S. Imamura, Robert E. Miller, Gwen Wright, and Tammy Stidham to approve).

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 24-06 shall become final and effective upon publication in the *District of Columbia Register*, that is on July 25, 2025.

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.