

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 24-07**

**Z.C. CASE NO. 24-07**

**Skyland Place, LLC**

**(Map Amendment @ Square 5734, Lots 4-8, 10-20, 811, 813, and 815;  
and Square 5735, Lots 1-4)**

**February 27, 2025**

Pursuant to notice, at its public hearing on December 9, 2024, the Zoning Commission for the District of Columbia (the “Commission”) considered an application (the “Application”) by Skyland Place, LLC (the “Applicant”) for an amendment to the Zoning Map from the RA-1 and R-3 zones to the RA-2 zone (the “Map Amendment”) for the property located at Square 5734, Lots 4-8, 10-20, 811, 813, and 815 and Square 5735, Lots 1-4 (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 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 parties to this case were: Advisory Neighborhood Commission (“ANC”) 8B and ANC 8A (Subtitle Z § 403.5). The Property is within the boundaries of ANCs 8B and 8A is an affected ANC because the Property is located on Marion Barry Avenue, S.E., which serves as a boundary line between ANCs 8B and 8A (Subtitle Z § 101.8).
2. The Commission did not receive requests for party status.

**NOTICE**

3. On March 1, 2024, the Applicant mailed a Notice of Intent to file the Application to all property owners within 200 feet of the Property as well as ANCs 8B and 8A, as required by Subtitle Z § 304.5 (Exhibit (“Ex.”) 3J).
4. On April 22, 2024, the Office of Zoning (“OZ”) sent notice of the Application’s filing to:
  - Applicant;
  - ANCs 8A and 8B;

- ANC Single Member Districts (“SMD”) 8A04, 8A07, 8B01, and 8B02;
  - Office of the ANCs;
  - Office of Planning (“OP”);
  - District Department of Transportation (“DDOT”);
  - At-Large Councilmembers and the Chairman of the Council;
  - Ward 8 Councilmember;
  - Department of Energy & Environment (“DOEE”);
  - Department of Buildings (“DOB”) General Counsel; and
  - OZ Legal Division (“OZLD”)
- (Ex. 5-10).
5. OZ published notice of the Application’s filing in the May 3, 2024 *District of Columbia Register* (71 DCR 5317 *et seq.*) (Ex. 10).
  6. On October 18, 2024, the OZ sent notice of the December 9, 2024 public hearing, to:
    - Applicant;
    - ANCs 8A and 8B;
    - ANC Single Member Districts (“SMD”) 8A04, 8A07, 8B01, and 8B02;
    - Office of the ANCs;
    - OP;
    - DDOT;
    - At-Large Councilmembers and the Chair of the Council;
    - The Ward 8 Councilmember;
    - DOEE;
    - DOB General Counsel;
    - OZLD; and
    - Property owners within 200 feet of the Property (Ex. 16, 17).
  7. OZ published notice of the public hearing in the October 18, 2024, *District of Columbia Register* (71 DCR 12608 *et seq.*) (Ex. 15A).
  8. The Applicant submitted evidence that it had posted notice of the public hearing on the Property as required by Subtitle Z § 402.3 and maintained said notice in accordance with Subtitle Z § 402.10 (Ex. 19, 24).

#### **THE PROPERTY**

9. The Property is located in the southeast quadrant of the District of Columbia and consists of approximately 380,280 square feet of land area (approximately 8.70 acres). The Property is presently improved with two-story garden apartments and townhomes, known as the Skyland Terrace Apartments. The Skyland Terrace Apartments is a multi-family apartment complex built in 1939, and consisting of approximately 224 units in 24 two-story garden style buildings (Ex. 3).

10. The Property is generally bounded by Marion Barry Avenue, S.E. to the north, Wagner Steet, S.E. to the south, 25<sup>th</sup> Street, S.E. to the east, and low- to mid-rise apartments to the west (Ex. 3).
11. The area surrounding the Property is comprised of a mix of low- to mid-rise residential uses and neighborhood serving retail and commercial uses. Specifically, the area north of the Property, and south of Marion Barry Avenue, S.E. consists of retail uses, whereas the area north of the Property, and north of Marion Barry Avenue, S.E. consists of mid-rise apartment buildings. The area south of the Property consists of single-family homes and the Capitol City Rehabilitation and Healthcare Center. The area to the east of the Property consists of retail, commercial, and educational uses such as the Stanton Elementary School, a McDonald's restaurant, and the Skyland Workforce Center. The area to the west of the Property consists of low- to mid-rise apartments and open space which is a part of Fort Stanton Park. Further, the Property is located in close proximity to the Skyland Town Center development (Ex. 3).
12. The Property is within 0.25 miles of several WMATA bus routes, specifically the W4, W8, V7, 92, and 32 route (Ex. 3).

#### **CURRENT ZONING**

13. The Property is in the RA-1 and the R-3 zones. The RA-1 zone is intended to provide for areas predominantly developed with low- to moderate-density development, including detached houses, row houses, and low-rise apartments (Subtitle F § 101.4). The R-3 zone is intended to allow for row houses, while including areas within which row houses are mingled with detached houses, semi-detached houses, and groups of three or more row houses (Subtitle D § 101.8).
14. As a matter of right, the RA-1 zone requires/permits:
  - Building Height: 40 feet and 3 stories (Subtitle F § 203.2);
  - Penthouse Height: 12 feet and 1 story (Subtitle F § 205.1);
  - Floor Area Ratio ("FAR"): 0.9 (1.08 w/ IZ) (Subtitle F §§ 201.1, 201.4);
  - Rear Yard: 20 feet (Subtitle F § 207.1);
  - Side Yard: Minimum of eight feet for detached or semi-detached buildings containing one or two dwelling units and one side yard is required unless the building contains more than three dwelling units, in which case two side yards are required and must be three inches per one foot of building height but no less than eight feet (Subtitle F §§ 208.2, 208.3(a));
  - Lot Occupancy: 40% (Subtitle F § 210.1); and
  - Green Area Ratio: 0.40 (Subtitle F § 211.1).
15. As a matter of right, the R-3 zone requires/permits:
  - Building Height: 40 feet and three stories (Subtitle D § 203.2);
  - Penthouse Height: 12 feet and one story for residential uses (Subtitle D § 205.3);
  - Density: one principal dwelling unit and one accessory apartment per record lot (Subtitle D § 201.1);

- Front Setback: For residential uses, within the range of existing front setbacks on the same side of the street (Subtitle D § 206.2);
- Rear Yard: 20 feet (Subtitle D § 207.1);
- Side Yard: None required for row buildings, one side yard, minimum of five feet, required for all semi-detached buildings, and two side yards, minimum of eight feet, required for all detached buildings (Subtitle D §§ 208.2, 208.4, 208.5);
- Lot Occupancy: 60% for single household row buildings (Subtitle D § 210.1); and
- Pervious Surface: Minimum 20% (Subtitle D § 211.1).

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

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

16. Pursuant to Subtitle X § 500.3, the Commission shall find that the Map Amendment is not inconsistent with the CP and is not inconsistent with other adopted public policies and active programs related to the Property.
17. 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.
18. The CP Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are and to create equitable opportunities, but that equity 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).
19. The CP Implementation Element provides guidance to help the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states “[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of different areas of the District” (CP § 2501.6). In addition, the CP Implementation Element suggests to prepare and implement tools to use as a part of the Commission’s evaluation process. Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity Tool in evaluating zoning actions through a racial equity lens; the Commission released a revised Tool on February 3, 2023. The Tool requires submissions from applicants and OP analyzing the zoning action’s consistency with the Citywide and Area Elements of the Comprehensive Plan, and Small Area Plans, if applicable (Part 1); a submission from applicants including information about their

community outreach and engagement efforts regarding the zoning action (Part 2); and a submission from OP including disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3). Part 3 of the Tool instructs OP that Planning Area disaggregated race and ethnicity data should be compiled from four sources only, including: OP Demographic Data Hub, US Census, Open Data DC Platform, and OP Upward Mobility Dashboard. Part 3 also requests data, by affected Planning Area and by race, on total population, median income and age, vulnerable populations, homeowners, and renters; and requests data on whether the affected Planning Area is on track to meet the Mayor's 2025 affordable housing goal as set by the Mayor's 2019 Housing Equity Report<sup>1</sup>. Finally, the Tool includes evaluation criteria (i.e., themes/questions) for the Commission's use along with the submissions provided in Parts 1-3 of the Tool, to evaluate the zoning action's consistency with the Comprehensive Plan through a racial equity lens (Part 4).

### **Generalized Policy Map (the "GPM")**

20. 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).
21. 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).
22. 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); and
  - *"The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and*

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<sup>1</sup> See the Commission's Racial Equity Analysis Tool, February 3, 2023, Part 3, <https://dcoz.dc.gov/release/zc-racialequity-analysis-tool-new>.

*character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map and Comprehensive Plan policies. Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated. Areas facing housing insecurity (see Section 206.4) and displacement should emphasize preserving affordable housing and enhancing neighborhood services, amenities, and access to opportunities” (CP § 225.5).*

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

23. 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).
24. The CP’s FLUM designates the Property Moderate Density Residential. The CP states: *“[The Moderate Density Residential] designation is used to define neighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings. In some neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). Density in Moderate Density Residential areas is typically calculated either as the number of dwelling units per minimum lot area, or as a FAR up to 1.8, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The R-3, RF, and RA-2 Zone Districts are consistent with the Moderate Density Residential category, and other zones may also apply (CP § 227.6).*

### **Far Southeast and Southwest Area Element**

25. The Property falls within the Far Southeast and Southwest Planning Area. The Far Southeast and Southwest Area Element states:
  - The Far Southeast and Southwest Planning Area is comprised of approximately 10.1 square miles (CP § 1800.1);
  - The Far Southeast and Southwest Planning Area is a diverse community that includes the 19th century row houses of Historic Anacostia and brand-new communities like Henson Ridge and Wheeler Creek (CP § 1800.2);
  - The Far Southeast and Southwest Planning Area contains a diverse housing supply, such as single-family homes in neighborhoods like Congress Heights, garden apartments in neighborhoods like Washington Highlands and Fort Stanton, and high-rise apartments such as the Vista at Wingate and Capitol Plaza II (CP § 1800.2);
  - The Far Southeast and Southwest Planning Area is home to seven designated historic landmarks and Districts that include the Frederick Douglass House at Cedar Hill, which was the residence of abolitionist champion Frederick Douglass, and the St. Elizabeths



- Hospital Campus, which is one of the country's most renowned institutions for its treatment of behavioral health issues for more than 150 years (CP § 1800.3); and
- The Far Southeast and Southwest Planning Area's commercial areas range from a shopping center at Camp Simms to more traditional neighborhood centers along Martin Luther King, Jr. Avenue, S.E., Marion Barry Avenue, S.E., and South Capitol Street, S.E. (CP § 1800.3).

## II. THE APPLICATION

### **PROPOSED ZONING**

26. The Application proposes to rezone the Property from the RA-1 and R-3 zones to the RA-2 zone (Ex. 1-3J). The Application asserts that the proposed Map Amendment would bring the Property into greater conformance with the Property's Moderate Density Residential FLUM designation because the RA-2 zone provides for areas developed with predominantly moderate-density residential uses and because the CP states that the RA-2 zone is representative of a zone contemplated by the Moderate Density Residential FLUM designation (Ex. 3, 3E).
27. The purpose of the RA-2 zone is to permit flexibility of design by permitting all types of urban residential development if it conforms to the height, density, and area requirements of the zone and to permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses that are excluded from the more restrictive residential zones (Subtitle F § 101.3(a)-(b)). More specifically, the RA-2 zone is intended to provide for areas developed with predominantly moderate-density residential uses (Subtitle F § 101.5).
28. As a matter of right, the RA-2 zone permits/requires:
- Building Height: 50 feet (Subtitle F § 203.2);
  - Penthouse Height: 12 feet and 1 story, except 15 feet and 2 stories permitted for penthouse mechanical space (Subtitle F § 205.1);
  - FAR: 1.8 (2.16 w/ IZ) (Subtitle F §§ 201.1, 201.4);
  - Rear Yard: 4 inches per 1 foot of height; 15 feet minimum (Subtitle F § 207.1);
  - Side Yard: None required, but if provided, minimum of 4 feet, however, minimum of 8 feet for all detached or semi-detached buildings containing 1 or 2 dwelling units (Subtitle F §§ 208.2, 208.3(b));
  - Lot Occupancy: 60% (Subtitle F § 210.1); and
  - Green Area Ratio: 0.40 (Subtitle F § 211.1)
29. The proposed Map Amendment would permit enhanced development standards that could facilitate the redevelopment of the Property with additional residential uses, as anticipated by the FLUM.

## **APPLICANT'S JUSTIFICATION FOR REZONING**

### **Not Inconsistent with the CP**

30. The Applicant asserted that the Map Amendment is not inconsistent with the CP—including the Property's designations on the GPM and the FLUM—and advances the objectives and the recommendations of the Far Southeast and Southwest Area Element by furthering 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 (Ex. 3).

### ***GPM***

31. 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; and
  - The proposed RA-2 zone is not inconsistent with the Property's GPM designation because the RA-2 zone will allow for greater residential density on the Property which will permit development that could enhance the pedestrian environment and provide more housing opportunities that have the potential to help the District achieve its housing goals—especially affordable housing (Ex. 3; CP § 225.5).

### **FLUM**

32. The Applicant asserted that the Map Amendment is not inconsistent with the FLUM because:
- The Moderate Density Residential FLUM category expressly states that the RA-2 zone is consistent with the category; and
  - The RA-2 zone permits a maximum density of 1.8 FAR (2.16 FAR with IZ), which falls within the FAR contemplated by the Moderate Density Residential FLUM designation—which states that a density of 1.8, with greater density being possible when complying with IZ, is compatible with the Moderate Density Residential FLUM designation (Ex. 3).

### **Far Southeast and Southwest Area Element**

33. The Applicant asserted that the proposed Map Amendment will increase the Property's development potential, thereby enhancing both the residential character and the economic vitality of the surrounding area, particularly given the Property's proximity to Skyland Town Center (FSS-1.1.4, FSS-1.1.15). The Applicant stated that the proposed Map



Amendment will preserve Skyland's lower-density residential character while creating new housing opportunities for individuals of all income levels (FSS-1.1.3). Further, redevelopment of the Property would result in improved housing with more sustainable features, increasing overall resiliency of the site and decreasing operating costs for residents (FSS-1.1.14, FSS-1.1.15; Ex. 3).

### **Land Use Element**

34. 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. Specifically, the Applicant asserted that the Map Amendment will advance the Land Use Element by facilitating the redevelopment of the Property with improved residential units for a mix of incomes and will also introduce sustainable features within the residential units and on the Property that will improve overall resiliency in the neighborhood. Further, the Map Amendment would allow for infill development that would add residential density while respecting the surrounding low-density neighborhoods, supporting different neighborhood types, revitalizing the neighborhood, and would be located adjacent to public transportation. (LU-1.4.6, LU-1.5.1, LU-2.1.1, LU-2.1.2, LU-2.1.3, LU-2.1.8). Ultimately, according to the Applicant, the Map Amendment will support the beautification of the neighborhood with architectural and landscaping updates that can be implemented through the redevelopment of the Property (LU-2.2.4; Ex. 3).

### **Transportation Element**

35. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Transportation Element because the Map Amendment would facilitate the development of a new residential project that is likely to involve streetscape and public space improvements which will enhance access to the Property, the Skyland Town Center development situated east of the Property, and public transportation along Marion Barry Avenue (T-1.1.7). Further, the Applicant asserted that these streetscape and public space improvements will expand residents' access to employment opportunities and will bolster the pedestrian network and elevate pedestrian safety standards (T-1.3.1, T-2.4.1, T-2.4.2; Ex. 3).

### **Housing Element**

36. 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. The proposed Map Amendment 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). Further, new housing, including affordable housing, is desirable at this location given its underutilized status. (H-1.1.1, H-1.1.3, H-1.2.1). Additionally, any future redevelopment of the Property that consists of affordable housing will be designed and constructed according to the same high-quality architectural design standards used for market rate housing (H-1.1.5, H-1.3.2). Moreover, the inclusion of additional housing has the potential to diversify the neighborhood by introducing housing types such as family sized housing, senior housing, and for-sale housing (H-1.1.9,

H-1.3.1, H-1.2.9, H-1.2.1, H-1.4.2, H-4.3.2). These additions will complement the area's existing neighborhood services and employment opportunities. Furthermore, the Applicant states that it has developed a relocation plan for current residents which will ensure that the Map Amendment does not result in the direct displacement of current residents (H-2.1.4; Ex. 3).

### **Environmental Protection Element**

37. 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 energy efficient systems that will reduce energy use and potentially provide alternative energy sources that will contribute to the District's energy efficiency goals (E-3.2.3, E-3.2.7, E-4.2.1). Further, the redevelopment of the Property could also yield new landscaping and environmentally friendly enhancements to the abutting streetscape (E-1.1.2, E-2.1.2, E-2.1.3, E-4.1.1, E-4.1.2). Moreover, any future development will be required to comply with the Green Building Act and the District's storm water management regulations and will be consistent with the Sustainable DC Plan (E-4.1.2, E-4.2.1).

### **Racial Equity**

38. The Applicant 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).
39. 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 (Ex. 3E, 13).
40. The Applicant provided the following information about the community and the Applicant's community outreach and engagement efforts:
- The Applicant identified the following as key historical attributes which helped shape and define the community impacted by the Map Amendment:
    - The Property is located within the Skyland neighborhood, and the Skyland neighborhood is generally bounded by Marion Barry Avenue to the northeast, Alabama Avenue to the southeast, and Fort Stanton Park to the south and to the west;
    - At the start of the Civil War, the planning area began attracting people fleeing enslavement, which increased after 1862 when the District emancipated enslaved people;
    - Development in the planning area boomed after the start of World War II, which brought attendant churches, schools, and other social and cultural institutions, as well as businesses and places of leisure;

- Urban Renewal activity in other parts of the city, combined with the systematic construction of moderate-cost housing east of the Anacostia River led thousands of low- to middle-income black households to relocate to the planning area in search of affordable housing;
- Ward 8, and the planning area, became the location of many government funded and subsidized housing developments. Some communities within the Ward, such as the previously cohesive 19<sup>th</sup> century Hillside, were divided and isolated by the construction of the Suitland Parkway and Interstate 295;
- As a result, Ward 8 became known as a lower-income, black community characterized by mid-20<sup>th</sup> century buildings and government facilities. This depiction ignored the Ward's thriving historic character; and
- 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.
  - The Applicant engaged with Skyland Terrace residents through in-person engagement events at the Property in Fall 2023 and conducted further virtual meetings in December 2023 and February 2024; and
  - Specifically, as indicated by the Applicant's filings, the Applicant engaged with the community and Skyland Terrace residents by hosting more than 15 community meetings (Ex. 3, 3E, 13B, 20-20B);
- The Property is within the boundaries of ANC 8B and ANC 8A is an affected ANC.
  - The Applicant first engaged with ANC 8B to discuss the specifics of the Application on November 21, 2023. The Applicant continued to engage with ANC 8B and ANC 8A and ultimately attended seven ANC meetings to discuss the Application (*Id.*); and
- Applying the Tool's racial equity themes, the Applicant asserted that the Map Amendment would have the following impacts and/or outcomes:
  - Not result in negative outcomes with respect to direct displacement because of the following:
    - The Applicant has developed a relocation plan that will prevent the displacement of residents that are currently residing on the Property (Ex. 20-20B);
  - Result in positive changes with respect to housing because the Map Amendment would:
    - Increase the Property's potential housing capabilities; and
    - Allow a mix of unit types and sizes;
  - Result in positive changes to the physical environment because the development facilitated by the Map Amendment could potentially:
    - Improve stormwater infrastructure;
    - Improve public space infrastructure; and
    - Improve roadway circulation on the Property; and
  - Increase access to opportunity because the development facilitated by the Map Amendment could potentially:
    - Support local shopping areas and provide residents with access to jobs, retail, and services through mass transit options; and

- Provide access to recreation facilities, open space, and neighborhood-serving retail services (Ex. 3E).
41. Based on the foregoing, and based on the Applicant's filings, the Applicant asserted 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 (*Id.*).

#### **Potential Inconsistencies with the CP**

42. 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 three CP policies that are potentially inconsistent with the Application; specifically, the Land Use Element policy LU-2.1.4: Rehabilitation Before Demolition; the Environmental Protection policy E-3.2.2: Net-Zero Buildings; and the Environmental Protection policy E-3.2.3: Renewable Energy. However, the Applicant concluded that while these policies may be viewed as inconsistent, their potential inconsistency is outweighed by the Map Amendment's overall consistency with the FLUM, GPM, and other CP policies relating to land use, housing, transportation, and environmental sustainability (Ex. 3E).

#### **Neighborhood Investment Fund: Anacostia Investment Plan**

43. The Neighborhood Investment Fund for Anacostia ("NIF") was approved by the DC Council on June 20, 2006 (Resolution Number R16-0685). The NIF provides a short-term financial plan for prioritized investments in the neighborhoods of Historic Anacostia, Hillside, Fort Stanton, Garfield Heights, and Woodland. The purpose of the NIF was to raise the profile and importance of investing in these neighborhoods. Investment goals and corresponding strategies were developed to direct resources over a five-year period through two community meetings that include the goals of: i) preserving historic housing and develop additional affordable housing units; and ii) enhancing Anacostia commercial areas to attract and retain neighborhood serving retail and service businesses. Although the NIF had a short horizon of five years, these goals continue to be relevant in the Planning Area, as they are repeated in the CP. The Map Amendment will allow for redevelopment that furthers the goals that were stated in the NIF by creating more housing and affordable housing, and by providing additional density near Skyland Town Center that will attract more businesses and customers, thereby increasing economic activity and potentially leading to more revenue for the neighborhood (Ex. 3E).

#### **Public Hearing Testimony**

44. At the public hearing on December 9, 2024<sup>2</sup>, the Applicant presented its case, including testimony from:
- Mr. Kyrus Freeman, Holland & Knight LLP; and

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<sup>2</sup> After the hearing was underway on December 9, 2024, ANC 8B filed a request (Ex. 27) to postpone the hearing citing the need for the Applicant to engage further with constituents regarding the future project planned for the Property; the Commission denied the request as the hearing was already underway when the request was filed to the record.

- Shelynda Brown and LaToya Thomas, representatives of the Applicant.
45. At the conclusion of the December 9, 2024 public hearing, the Commission requested the following information:
- A post-hearing report from ANC 8B which details the outcome of ANC 8B’s meeting regarding the Applicant’s relocation plan; and
  - A response from the Applicant to ANC 8B’s post-hearing report.

### III. RESPONSES TO THE APPLICATION

#### OP REPORTS AND TESTIMONY

46. OP submitted a report, dated August 30, 2024 (the “OP Setdown Report”) (Ex. 11), recommending the Commission set down the Map Amendment for a public hearing. The OP Setdown Report concluded that the Map Amendment would not be inconsistent with the CP, including the CP maps and when viewed through a racial equity lens; and would advance CP policies of the Citywide Elements and the Far Southeast and Southwest Area Element and objectives of the Anacostia Neighborhood Investment Fund. The OP Setdown Report’s CP analysis stated the following:
- **GPM** – The proposed redevelopment of the subject property would be in keeping with the intent of Neighborhood Conservation Areas as it would retain residential use on the site, and would allow for the replacement of the current units with more modern units and amenities. The rezoning would allow for a development that would be at a scale that is compatible with the surrounding row and low scale apartments and higher density mixed use development at Skyland Town Center to the northeast. As is the intent of the Neighborhood Conservation Area, the proposal would assist in addressing the City’s housing needs and in this case would allow for homeownership and senior housing opportunities which are needed in this area;
  - **FLUM** – The proposed RA-2 zone is representative of the moderate density residential designation and is appropriate for the site. The properties surrounding the site are also recommended for moderate density residential except for those to the northeast which are recommended for moderate density commercial uses. Therefore, the RA-2 zone would be compatible with the development pattern envisioned for the area and would not be inconsistent with the FLUM;
  - **Far Southeast and Southwest Area Element** – The proposed Map Amendment, would help fulfill the Far Southeast and Southwest Area Element policies because the RA-2 zone would allow for existing residents to remain on site, through a phased redevelopment, and would allow for additional height and density at a moderate range over what is currently allowed. This would allow for additional development with a variety of unit sizes, incomes, and home ownership opportunities. The location of the property allows for easy access to transportation which is a key element for affordably moving people around to jobs and amenities in an environmentally friendly way;
  - **Land Use Element** – The map amendment for the site is appropriate as it would allow for the redevelopment of the property to replace units that are outdated and in need of modernization. A moderate density development allowing for a mix of unit types, including multifamily, senior and for-sale row dwellings, would be consistent with the



proposed zone, and could create opportunities for neighborhood revitalization and beautification. This would address the needs of the current residents and accommodate population growth in a new development consistent with the planning intent, and in advancement of affordability and racial equity goals. Further, it would allow transportation improvements and other outdoor neighborhood amenities that would help to improve the character of the existing neighborhood;

- **Transportation Element** – The proposed amendment would allow for an appropriately scaled redevelopment along the Marion Barry Avenue corridor which connects to Metrorail stations. The closest Metro Station, Congress Heights Metro Station (Green Line) is approximately 1.9 miles to the south of the property and is served by Metro Bus route #92. Other Metro bus routes, 32, A3, W2, W3, and W8, which serve the property connect the property to other areas of the City. These bus connections could help reduce the necessity for auto use and ownership in support of a related reduction in household expenses for future residents. The redevelopment of the property would also accommodate improvements to the bicycle and pedestrian ways within and around the property and could enable a pedestrian-oriented environment and a transit-oriented development. Taken together these connections would give residents easy connections to employment, entertainment, and recreation options. The proposed map amendment would therefore support redevelopment of the site to meet the expectations of equity in transportation accessibility;
- **Housing Element** – The redevelopment of the properties would both accommodate existing residents, and an increase in the number of residential units to assist in addressing the City’s housing needs along a corridor where housing is envisioned. Redevelopment of the subject property would support the provision of both market rate and affordable housing within the Far Southeast/Southwest Planning Area, as the application of inclusionary zoning would ensure units for persons of moderate incomes. The Far Southeast/Southwest Planning Area already significantly exceeds its 2025 affordable housing production; this proposal could help to address the need for housing for families, seniors, and for moderate income persons and homeownership. To minimize the potential for displacement of existing residents, the Applicant indicates that they would implement a phased development process, allowing temporary on-site relocation and return of existing residents;
- **Environmental Protection Element** – While this is a zoning map amendment request and specific new construction is not a part of this application; future development of the property would be reviewed by DOEE requirements to implement District policies 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. As such, any redevelopment would be held to higher environmental standards than the existing development;
- **Economic Development** – Consistent with the Comp Plan, the zoning would not permit new commercial development. However, the zoning would allow additional residential units, the residents of which would support existing and new retail and service options in the neighborhood, increasing their viability;
- **Urban Design Element** – The proposed zone would provide for the redevelopment of the site with new housing consisting of a mix of multifamily, row dwellings and a



senior building at a height and scale consistent with the Comprehensive Plan and the character of the area. Any development on the site would be integrated into the rolling topography of the site and would be required to meet current streetscape and environmental standards for new buildings; and

- **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 RA-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 Applicant states that their plans to minimize displacement would include a phased redevelopment of this very large site, allowing for relocation of existing residents to vacant on-site units and then the right to return to new, modernized units;
  - Indirect Displacement – OP does not anticipate any indirect residential displacement as the development would create new opportunities for market rate and affordable housing on the site for the neighborhood;
  - Housing – The proposed RA-2 zone would permit construction of new replacement housing in excess of what can be constructed under existing zoning and in excess of what currently exist on the site. Additionally, it would allow a mix of unit types and sizes, and would include new market rate and affordable housing in accordance with IZ requirements;
  - Physical – Any redevelopment of the property would result in changes to the physical environment. The redevelopment would include public space and streetscape improvements along Marion Barry Avenue and other internal streets. Other improvements would include public realm improvements to accommodate pedestrians, bicyclists and drivers and more pervious spaces on the property. Improvements could also include new and improved public utilities, such as water, sewer and light, and recreational/gathering spaces for residents;
  - Access to Opportunity – Skyland Workforce Center is located just outside of the property and is a facility that provides job search, job training, and placement. The development is near the Skyland Town Center and the Good Hope Marketplace to the east of the site which has a variety of retail and service uses including two supermarkets. There are also other retail and service uses along Marion Barry Avenue. Although none of these facilities would be provided on-site, consistent with the Comp Plan designation, residents would have easy access to these existing facilities, and new residents on the site would support local businesses;
  - Community – The Applicant provides details of its ongoing outreach efforts at Ex. 3E, page 25. The Applicant indicates that several types of outreach actions were taken such as door knocking, flyers, one-on-one meetings, and zoom meetings. These interactions resulted in a list of resident concerns and desires. The Applicant commits to continue working with the residents if the proposal is set down, and to address concerns through the project development process; and
  - Disaggregated Race and Ethnicity Data – The OP racial equity analysis provides disaggregated race and ethnicity data for the Far Southeast and Southwest 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:

- The Far Southeast and Southwest Planning Area had a majority minority population with 87.7% of its residents being Black in the 2018 to 2022 period. Though in the majority, the Black population decreased from 91% of the population to 87.7% from the 2012 to 2016 period to the 2018 to 2022 period, which is similar to the District-wide trend during this period. Over the same time period, most of the other groups saw a slight increase or retained their percentage of population. The data seems to indicate that the population in the Planning Area is becoming more diverse;
- The Far Southeast and Southwest's median age decreased from 38.2 years to 31 years from the 2012 to 2016 period to the 2018 to 2022 period;
- The Far Southeast and Southwest Planning Area had a median income which was significantly lower than the District median in both the 2012-2016 and the 2018-2022 period. While the Planning Area saw an approximately \$13,000 increase, this was significantly lower than the approximately \$29,000 increase Districtwide;
- The Far Southeast and Southwest Planning Area had a significantly higher percentage of its population as elderly, nearly 50%, in both the 2012-2016 and 2018 to 2022 period; and
- Less than a quarter of the residents in the Far Southeast and Southwest Planning Area owned their own home in both five-year periods (2012-2016 and 2018-2022), but over the time periods the percentage of residents in the Planning Area who owned their homes increased from 18.8% to 22.34%. Still, the Planning Area lags behind the District as whole, which had a homeownership rate of 41.5% for the 2018-2022 period.

(Ex. 11).

47. The OP Setdown Report concluded that IZ Plus would not be appropriate for the Map Amendment due to the considerable number of dedicated affordable units now in the Far Southeast and Southwest Planning Area and because the Planning Area far exceeds the Mayor's 2025 provision of affordable housing set by the Mayor's 2019 Housing Equity Report, having provided 2,518 affordable units, or 224.8% of the target amount as of July 2024 according to the Deputy Mayor for Planning and Economic Development (DMPED) 36,000 by 2025 Dashboard (Ex. 11).
48. OP submitted a hearing report, dated November 29, 2024 (the "OP Hearing Report"), that largely reiterated the OP Setdown Report's conclusions, and recommended approval of the Map Amendment without applying IZ Plus (Ex. 23). The OP Hearing Report noted that the Planning Area has further exceeded the Mayor's 2025 affordable housing target having provided 2,631 units, or 234.9% of the target amount as of October 2024 according to the DMPED 36,000 by 2025 Dashboard (*Id.*).
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 November 26, 2024 (the “DDOT Report”), stating that “DDOT has no objection to the approval of the requested Map Amendment” (Ex. 22).
51. DDOT did not provide testimony at the public hearing.

### **ANC REPORTS AND TESTIMONY**

52. ANC 8A did not submit a report regarding the Application.
53. At the public hearing, Commissioner Johnson, SMD Representative, ANC 8B05, testified regarding the Applicant’s proposed relocation plan and community questions related to the relocation plan. Commissioner Johnson testified that residents do not have confidence in the relocation plan, that the Applicant does not have the best reputation in terms of relocating, and that residents have concerns that the redevelopment of the Property will increase housing costs. Commissioner Johnson also noted that attendance at the Applicant’s presentations regarding the Application has been low, and that there is concern about how seniors, in particular, will be impacted.

### **PERSONS AND ORGANIZATIONS IN SUPPORT**

54. Larry M. Scott, Executive Vice President, Rappaport Companies, submitted a letter in support of the Application stating that the “proposed map amendment . . . would contribute to the overall economic development of the surrounding area” (Ex. 20C).
55. The Skyland Action Team, which represents the individuals and the families living in the Skyland Apartments, submitted a letter in support of the Application (Ex. 25).

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

56. The Commission referred the Application to the National Capital Planning Commission (“NCPC”) on December 10, 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. 29).
57. On December 31, 2024, NCPC filed a report stating that the Map Amendment satisfied a NCPC review exception and that the Map Amendment was made available for public comment and no comments were received. Accordingly, NCPC staff determined that the Map Amendment is exempt from NCPC review (Ex. 30).

### **POST HEARING SUBMISSIONS**

58. On January 8, 2025, the Applicant submitted findings of fact and conclusions of law in accordance with Subtitle Z § 601.1 (Ex. 31, 31A).
59. As previously noted in Finding of Fact (“FF”) 45 above, at the conclusion of the December 9, 2024, public the hearing, the Commission requested that ANC 8B file a post-hearing submission on the outcome of a December 17, 2024, ANC meeting at which the Applicant agreed to present the Application and answer questions on its relocation and right of return

plan. The Commission also requested that the Applicant file a response to ANC 8B's submission.

60. On January 21, 2025, ANC 8B submitted a report stating that at its regularly scheduled public meeting on December 17, 2024, the ANC voted 5-0 in opposition to the Application. The ANC report requested that the Commission postpone final action on the case to allow time for the newly sworn in ANC Commissioner Betty Scippio to familiarize herself with the Application and cited the following main concerns:
  - Concern that the future development allowed by the Application would displace existing residents, particularly those who are vulnerable low-income and seniors, due to eviction and rent increases;
  - Concern that the Skyland Tenant Association is not a legitimate body under law because its membership is too low to ensure fair representation; and
  - Concern that the Applicant has broken promises made to the community in initial discussions resulting in mistrust (Ex. 32).
61. On January 22, 2025, the Applicant filed a response to ANC 8B's opposition letter stating that most of the concerns raised are about potential impacts of future development on the Property site and are outside of the Commission's evaluation standard for a map amendment under Subtitle X § 500.3. (i.e., whether the matter-of-right development standards of the proposed zone are not inconsistent with the CP and other adopted public policies and active programs related to the site) (Ex. 33). Nonetheless, the Applicant responded to each main issue and concern raised in the ANC letter noting its outreach and citing to its relocation plan and supporting materials at Exhibit 20A-20B and Exhibit 26 in the case record. The Applicant also stated that on December 12, 2024, the Applicant met with ANC 8B Commissioner Johnson, Commissioner White, and then Commissioner-elect Betty Scippio to discuss their outstanding questions regarding the relocation plan, and emailed the ANC Commissioners a written response on December 13, 2024 addressing each question identified at the December 12<sup>th</sup> meeting (*See Applicant's written response to ANC Commissioners, Ex. 33B*).
62. The Commission started final deliberations on the case at its January 30, 2025, public meeting, and expressed continuing concerns about the Applicant's relocation plan and its potential to displace existing residents. Specifically, whether the relocation plan had adequate capacity to house all existing residents in on-site temporary relocation housing during future development of the Property site. The Commission therefore requested that the Applicant further supplement the record to provide additional details on its relocation plan; and that the ANCs be given an opportunity to respond.
63. On February 13, 2025, the Applicant filed a submission in response to the Commission's request explaining that its relocation plan follows the Uniform Relocation Act, will occur in three phases, and noting that the plan prioritizes on-site relocation of residents who will require temporary relocation, minimizes the impact on residents who may require temporary location off-site, and ensures the right of return for each tenant (Ex. 34). The Applicant highlighted the following aspects of the relocation plan:

- Out of the total 224 existing units, only 68 units will need to be temporarily relocated to accommodate construction of phase 1; therefore, only 68 units (30%) will have to be temporarily relocated on-site or off-site as the other 156 units (70%) will stay on-site and move directly from their existing unit to a brand new, on-site unit<sup>3</sup>;
- Priority for on-site relocation will be given to seniors, residents with disabilities or special needs, and families with school-aged children. However, as necessary, any remaining residents will be temporarily relocated off-site to one of more than 1,500 units<sup>4</sup>, not including the subject Skyland property, owned by the Applicant in Ward 8; and
- The Applicant is working with third-party relocation specialists to manage the relocation process.

Moreover, the Applicant's submission stated that its relocation plan is not inconsistent with the Comprehensive Plan primarily because:

- The Comprehensive Plan notes that redevelopment or substantial rehabilitation of affordable housing developments that are aged past their functional lives is necessary to provide decent, safe housing and prevent displacement from lack of habitability (*See* 10-A DCMR §510.4(a));
  - The Comprehensive Plan does not say short term tenant relocation cannot occur but rather that redevelopment of affordable housing should minimize displacement, maximize the return of tenants to their community, and retain affordable housing utilizing specific strategies (*Id.*); and
  - The relocation plan furthers the following Housing Element policies:
    - Policy H-2.1.1: *Redeveloping Existing Income-restricted Affordable Housing*;
    - Policy H-2.1.4: *Avoiding Displacement*; and
    - Policy H-2.1.9: *Redevelopment of Affordable Housing*.
- (Ex. 34, pp. 4-6).

64. Neither ANC 8A nor ANC 8B filed a response to the Applicant's February 13, 2025, submission.

### **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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<sup>3</sup> The Applicant provided a detailed narrative explaining how relocation will work in phases 1-3 of construction at Ex. 34, pp. 2-3; and the Applicant's relocation plan is at Ex. 20A in the case record.

<sup>4</sup> The Applicant provided a map showing the properties it owns at Ex. 34A.



*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.”

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

4. The Commission concludes, based on the filings and testimony of the Applicant and OP, that the Map Amendment from the existing RA-1 and R-3 zones to the RA-2 zone is not inconsistent with the CP in its entirety, including its maps and elements and when viewed through a racial equity lens, and will advance a number of CP Elements as discussed below (FF 22, 24, 31-42, 46, 48).
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 (*See Durant v. D.C. Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013)). In this case, the Applicant identified three potentially inconsistent CP policies, including the Land Use Element policy LU-2.1.4: Rehabilitation Before Demolition; the Environmental Protection policy E-3.2.2: Net-Zero Buildings; and the Environmental Protection policy E-3.2.3: Renewable Energy. The Commission concludes that any potential inconsistencies with these and other CP policies are outweighed by the CP policy goals and objectives that would be advanced by the Map Amendment, including policies of the Citywide Elements and the Far Southeast and Southwest Area Element discussed below that encourage the provision of additional residential density to allow for development of more housing, including affordable housing (FF 31-42, 46, 48). Further, the redevelopment facilitated by the Map Amendment will allow an affordable housing development that is past its functional life to be redeveloped and modernized with retention of affordable housing (*Id.*).



## 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 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 Far Southeast and Southwest Planning Area (FF. 40, 46, 48). The Commission finds that the racial equity analyses provided address the components of the Commission's Racial Equity Tool and that the Map Amendment 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 should not result in the direct displacement of any existing residents because the Applicant has developed a relocation plan that is designed to prevent the displacement of residents that are currently residing on the Property. However, the Commission acknowledges that there could be direct displacement impacts associated with the future redevelopment of the Property despite efforts to minimize and mitigate such impacts (FF 40; *see* discussion in Conclusions of Law (“COL”) 21-22 below);
- 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 the surrounding community, existing tenants, ANC 8B, and ANC 8A (FF 40). The Applicant's outreach efforts included door knocking, and in-person and virtual meetings from the Fall of 2023 through February 2024 (*Id.*). The Commission finds that the case record demonstrates the Applicant's numerous outreach efforts both to existing residents and the surrounding community. The Commission acknowledges Commissioner Johnson's assertion at the public hearing that attendance was low at many of the outreach events held (FF 53). Nonetheless, the Commission finds the Applicant's community outreach and engagement efforts adequate and notes that the Applicant had no control over attendance at the outreach events held. The Commission strongly encourages the Applicant to continue community outreach and engagement efforts with existing residents and the surrounding community during any future redevelopment of the Property; and
- Disaggregated Race and Ethnicity Data – OP's racial equity analysis included disaggregated race and ethnicity data for the Far Southeast and Southwest Planning Area for the 2012-2016 and 2018-2022 time periods (FF 46, 48). The data showed that the Black population within the Planning Area has decreased from 91% to 87.7% from 2012 to 2022, which mirrors the District-wide trend during that period. The data indicated that the Planning Area had a majority minority population with 87.7% of its residents being Black for the 2018-2022 period. The data showed that the median age within the Planning Area decreased from 38.2 years to 31 years from the 2012-2016 to the 2018-2022 period. Moreover, less than a quarter of the residents in the Planning Area owned their home in both five-year periods (2012-2016 and 2018-2022). The Commission finds that allowing increased residential density on the Property could positively impact the Planning Area because the redevelopment facilitated by the Map Amendment will result in increased housing opportunities, including affordable housing. The Commission is encouraged that future development of the Property will

result in positive outcomes to the surrounding physical environment. Furthermore, the Commission is hopeful that increasing overall housing opportunities in the Planning Area could relieve some of the housing costs pressures impacting lower income households (FF 46-49).

#### **GPM**

7. 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 designation is intended to conserve and enhance established neighborhoods, but not preclude development, particularly development addressing citywide housing needs; and the CP Framework Element recognizes that limited redevelopment opportunities exist within Neighborhood Conservation Areas (FF 22, 31). Further, the Commission concludes that the proposed RA-2 zone is not inconsistent with the Property's GPM designation because the RA-2 zone will permit development on the Property that could enhance the pedestrian environment and provide more housing opportunities that have the potential to help the District achieve its housing goals—especially affordable housing (*Id.*).

#### **FLUM**

8. The Commission concludes that the Map Amendment is not inconsistent with the Property's FLUM designation because the Moderate Density Residential FLUM category states that the RA-2 zone is consistent with the category and because the RA-2 zone permits a maximum density of 1.8 FAR (2.16 FAR with IZ), which falls within the FAR contemplated by the Moderate Density Residential FLUM designation—which states that a density of up to 1.8 FAR, with greater density being possible when complying with IZ, is compatible with the designation (FF 24, 32).

#### **Far Southeast and Southwest Area Element**

9. The Commission concludes that the Map Amendment furthers the policies of the Far Southeast and Southwest Area Element because the redevelopment the Map Amendment will allow will enhance the residential character and the economic vitality of the surrounding area and preserve Skyland's lower-density residential character while creating new housing opportunities for individuals of all income levels (FF 33).

#### **Land Use Element**

10. The Commission concludes that the Map Amendment furthers the Land Use Element because the Map Amendment will provide for new development and enhanced connectivity at the Property, will facilitate the redevelopment of the Property with improved residential units that will improve the overall resiliency of the neighborhood, will allow for infill development that will add residential density, and will support the beautification of the neighborhood with updates that will be implemented through the redevelopment of the Property, including building architecture and landscaping (FF 34).

#### **Transportation Element**

11. The Commission concludes that the Map Amendment furthers the Transportation Element as it will facilitate the development of a new residential project that is likely to involve streetscape improvements which will enhance access to the Property, the Skyland Town

Center development situated east of the Property, and public transportation along Marion Barry Avenue. Further, these streetscape improvements will expand residents' access to employment opportunities and will bolster the pedestrian network and elevate pedestrian safety standards (FF 35).

### **Housing Element**

12. The Commission concludes that the Map Amendment furthers 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, and because any future redevelopment of the Property that consists of affordable housing will be designed and constructed according to the same high-quality architectural design standards used for market rate units (FF 36).

### **Environmental Protection Element**

13. 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 37).

### **Neighborhood Investment Fund: Anacostia Investment Plan**

14. The Commission concludes that the Map Amendment will further policy objectives of the NIF because the Map Amendment will allow for redevelopment that furthers the goals that were stated in the NIF by creating more housing and affordable housing, and by providing additional density near Skyland Town Center that will attract more businesses and customers, thereby increasing economic activity and potentially leading to more revenue for the neighborhood (FF 43).

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

15. 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)).
16. 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 Far Southeast and Southwest Area Element, and, as discussed above, would advance the CP racial equity goals when evaluated through a racial equity lens (FF. 46-49). The Commission also agrees with OP that the Map Amendment is not appropriate for IZ Plus due to the substantial amount of existing affordable housing in the Planning Area and the fact that the Planning Area far exceeds the Mayor's 2025 affordable housing target as set by the Mayor's 2019 Housing Equity Report (FF 47, 48).

**“GREAT WEIGHT” TO THE ANC REPORT AND TESTIMONY**

17. 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)).
18. ANC 8A did not submit a report regarding the Application (FF. 52, 64).
19. ANC 8B filed a report in opposition to the Application (FF 60). The ANC report stated concerns that future redevelopment of the Property site would result in displacement of existing residents, particularly low-income and senior residents; and also raised concerns that the Skyland Tenant Association is not a legitimate body under law, and that the Applicant has broken promises to the community resulting in mistrust (*Id.*). The Commission acknowledges ANC 8B’s opposition and concerns. The Commission notes that its evaluation standard in a map amendment is limited to whether the proposed zoning, in this case the RA-2 zone, is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject property (Subtitle X § 500.3). Accordingly, any opposition issues raised that are specific to a future redevelopment project on the Property site are not relevant to the Commission’s evaluation standard in this case and were not considered by the Commission in its evaluation of this Application. However, preventing displacement is a goal cited in many policies throughout the Comprehensive Plan and is relevant to the evaluation standard in this case. Accordingly, the Commission questioned the Applicant regarding its relocation and right of return plans during the public hearing. At the conclusion of the public hearing, the Commission requested that ANC 8B supplement the record post hearing to provide an update on a December 17, 2024, meeting where the Applicant agreed to present the Application and answer questions regarding the relocation plan (FF 45, 59). And the Commission requested that the Applicant supplement the record two times post-hearing, first to provide a response to ANC 8B’s update on the December 17, 2024, meeting, and second to provide further details about its relocation plan (FF 59, 62). Specifically, during its initial deliberations on the case, the Commission was concerned about whether the relocation plan had capacity to house all existing residents in on-site temporary relocation housing during construction of the future project. The Applicant filed submissions in response to the Commission’s requests; first, the Applicant responded to each of the opposition concerns raised in ANC 8B’s report, and second, the Applicant explained that its relocation plan prioritizes on-site temporary relocation for the 68 units that will not move directly into a new unit, and that its relocation plan is not inconsistent with and furthers specific policies of the CP Housing Element (FF 61, 63). The Applicant’s submission acknowledged that, as necessary, some existing residents will be temporarily

relocated off-site to one of more than 1,500 units owned by the Applicant in Ward 8 (FF 63). The Commission understands ANC 8B's concerns about potential displacement of existing residents, and finds the Applicant's relocation plan (Ex. 20A), and the Applicant's related post-hearing submissions inclusive of responses to ANC 8B's concerns and details regarding the phased relocation plan, adequate to both prevent displacement and mitigate potential displacement impacts during the future redevelopment project (FF 60, 61, 63). The Commission also finds the Applicant's relocation plan not inconsistent with the Comprehensive Plan, particularly with the objectives of the Housing Element cited by the Applicant (FF 63). With respect to the ANC concerns regarding the legitimacy of Skyland Tenant Association and broken promises resulting in mistrust of the Applicant, the Commission does not find these concerns persuasive or relevant to the evaluation standard in this case.

20. At the public hearing, Commission Johnson, SMD Representative, ANC 8B05 testified that the community had outstanding concerns and questions regarding the Applicant's relocation plan and that future redevelopment will result in increased housing costs and displacement of seniors (FF 53). The Commission acknowledges Commissioner Johnson's concerns. In response, the Commission finds that the Applicant has provided a relocation plan and details regarding the relocation plan which sufficiently explains how phased resident relocation will occur during future redevelopment (FF 63, see also Ex. 20A). For this reason and the reasons stated immediately above in Conclusion of Law 21, the Commission finds the Applicant's relocation plan adequate to address the concerns raised by Commissioner Johnson.

### **DECISION**

In consideration of the record for Z.C. Case No. 24-07 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
5734 5735	4-8, 10-20, 811, 813 & 815 1-4	RA-1 and R-3 to RA-2

#### **Proposed Action**

**Vote (December 9, 2024): 4-0-1**

(Robert E. Miller, Tammy M. Stidham, Gwen Wright, and Anthony J. Hood to approve; Joseph Imamura, having not participated, not voting.)


#### **Final Action**

**Vote (February 27, 2025): 4-0-1**

(Robert E. Miller, Tammy M. Stidham, Gwen Wright, and Anthony J. Hood to approve; Joseph Imamura, having not participated, not voting.)



In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 24-07 shall become final and effective upon publication in the *District of Columbia Register*, that is on July 25, 2025.

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

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

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS THE D.C. HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (THE “ACT”). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE ACT, THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.