



GOVERNMENT OF THE DISTRICT OF COLUMBIA

## Office of the Attorney General

ATTORNEY GENERAL

**Brian L. Schwalb**

September 5, 2025

Zoning Commission of the District of Columbia  
441 4th Street, NW - Suite 210  
Washington, DC 20001

### **VIA IZIS**

**Re: OAG Comments in Support of the Map Amendment of Ward Memorial AME Church (Z.C. Case No. 25-01)**

The Office of the Attorney General (“OAG”) recommends that the Zoning Commission approve the map amendment requested by the Ward Memorial AME Church (the “Church”) to double the permitted density on the site by rezoning it from RA-1 to RA-2 to enable the Church to achieve its stated goal of an all-affordable housing development to serve the community.<sup>1</sup> The proposed map amendment is consistent with the Comprehensive Plan’s (“CP”) land use maps’ guidance and will advance numerous CP and planning policies supporting increased density for housing and affordable housing near transit.<sup>2</sup>

OAG encourages the Zoning Commission to apply Inclusionary Zoning Plus (“IZ+”) to the proposed map amendment, as the Church anticipated,<sup>3</sup> to ensure that the increased density provides the higher minimum level of permanently affordable housing called for by the Zoning Regulations (double the base IZ requirement). OAG believes that applying IZ+ will mitigate any displacement impacts of future development along the Benning Road NE and Minnesota Avenue NE corridors and the planned redevelopment of the RFK Stadium site. Regardless, OAG supports the map amendment.

### **I. The CP and District Planning Policies Prioritize Affordable Housing and Anti-Displacement Measures on the Map Amendment Site.**

#### ***A. The CP and District Planning Policies Prioritize Added Density for Housing and Affordable Housing.***

The Zoning Act requires the Zoning Commission to promote the general welfare as guided by the CP. The CP establishes the District’s land use and planning goals through a public process culminating in approval by the Council and the Mayor.<sup>4</sup> The CP is therefore law. Under that law,

<sup>1</sup> Applicant’s Statement in Support, Z.C. Case No. 25-01, Exhibit 3 at p. 3 (the map amendment’s increased residential density would support “the proposed development of all-affordable housing”).

<sup>2</sup> D.C. Mun. Regs. tit. 11-X (Zoning Regulations of 2016), § 500.3 (2021).

<sup>3</sup> Applicant’s Statement in Support, Z.C. Case No. 25-01, Exhibit 3 at p. 3. (The Applicant’s table of existing and proposed development standards presumed that IZ+ would apply to the map amendment).

<sup>4</sup> D.C. Code §§ 6-641.01–6-641.02 (2001); *Wisconsin-Newark Neighborhood Coal. v. Dist. of Columbia Zoning Comm’n*, 33 A.3d 382, 389–90 (D.C. 2011); District of Columbia Comprehensive Plan Act of 1984 (D.C. Law 5-

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the District’s elected representatives have determined that “it is the availability of safe, decent, affordable housing across all neighborhoods that will determine whether the District’s vision for an inclusive District will be realized.”<sup>5</sup> To achieve this goal of an inclusive and diverse city, the CP prioritizes affordable housing to serve a variety of household types and income levels.<sup>6</sup> In particular, the CP encourages increased density for housing and especially affordable housing near transit to maximize affordability benefits.

*Addressing the District’s Affordable Housing Crisis.* The CP identifies rising housing costs as one of “the most pressing and critical issues facing the District.”<sup>7</sup> Rising housing demand, driven by an increase in higher-income households, has increased housing costs across the District and resulted in a “crisis of affordability.”<sup>8</sup> To address this crisis, the CP calls for the creation of 12,000 new affordable units equitably distributed across the District by 2025, to put the District on track to make 15% of all housing units in each District planning area affordable by 2050.<sup>9</sup> The CP identifies increased density as critical to supporting its housing and affordable policies and the CP recommends using zoning processes and incentives to raise height and density limits in certain locations.<sup>10</sup> This increased density can then be used to support greater affordable housing set-asides.<sup>11</sup>

*Addressing the Need for More Housing Along Transit Corridors.* The CP specifically calls for increased density along the District’s transit corridors to support new affordable and market-rate housing.<sup>12</sup> Encouraging housing in these areas increases overall affordability by reducing transportation costs, including the need for a car, and freeing up more disposable income for other needs.<sup>13</sup> Locating increased density along and near these corridors also supports and enhances neighborhood-serving retail with increased pedestrian traffic while increasing the efficiency of the District’s transportation network.<sup>14</sup> The CP also recognizes that faith-based organizations can play a significant role in addressing the affordable housing crisis by leveraging their properties, which are often located near transit corridors, to support community-serving, residential development that aligns with their charitable missions.<sup>15</sup>

*Future Land Use Map (“FLUM”).* The FLUM designation for the map amendment site calls

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76), as amended by the Comprehensive Plan Framework Amendment Act of 2019, D.C. Law 23-127 (2020), the Comprehensive Plan Amendment Act of 2021, D.C. Law 24-20 (2021); and the Comprehensive Plan Future Land Use Map and Generalized Policy Map Approval Resolution of 2021, D.C. Resolution R24-0292 (2021).

<sup>5</sup> D.C. Mun. Regs. tit. 10-A, §§ 500.6a, 503.1 (2021).

<sup>6</sup> See *id.* §§ 206.1, 310.10, 500.6a, 504.17 (2021).

<sup>7</sup> *Id.* § 206.1 (2020).

<sup>8</sup> *Id.* § 500.19 (2021); see also D.C. Mun. Regs. tit. 10-A, §§ 500.4, 500.15, 500.18 (2021).

<sup>9</sup> D.C. Mun. Regs. tit. 10-A, §§ 310.10, 501.1, 504.17 (2021); DHCD & DCOP, HOUSING EQUITY REPORT (October 2019), [https://housing.dc.gov/sites/default/files/dc/sites/housingdc/page\\_content/attachments/Housing%20Equity%20Report%2010-15-19.pdf](https://housing.dc.gov/sites/default/files/dc/sites/housingdc/page_content/attachments/Housing%20Equity%20Report%2010-15-19.pdf).

<sup>10</sup> See, D.C. Mun. Regs. tit. 10-A, § 307.20, 307.2, 310.15, 503.4, 504.15(2021).

<sup>11</sup> *Id.* §§ 503.4, 504.26 (2021).

<sup>12</sup> *Id.* §§ 307.3, 307.14, 307.20, 503.4 (2021).

<sup>13</sup> See *id.* §§ 307.3, 307.11, 307.21, 403.13, 503.11, 508.4 (2021).

<sup>14</sup> See *id.* §§ 307.3, 307.9 (2021).

<sup>15</sup> *Id.* § 504.14 (2021).

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for moderate density residential uses and specifically identifies the proposed RA-2 zone as consistent with this designation.<sup>16</sup>

*Generalized Policy Map (“GPM”).* The GPM designates the northern two thirds of the site as a Neighborhood Enhancement Area with the southern third of the site designated as a Neighborhood Conservation Area. Both GPM categories support new housing and affordable housing that encourages inclusivity, access to amenities, and reduces displacement risk to current residents.<sup>17</sup>

*Housing Equity Report.* The Housing Equity Report, issued in 2019, established interim housing production goals for 2025 to implement the CP’s equitable housing goal that 15% of housing in each planning area be affordable by 2050. The Far Northeast/Southeast Planning Area was assigned an interim goal of 490 units.<sup>18</sup> As of December 2024, the planning area had produced 1,267 new affordable units.<sup>19</sup> While the Far Northeast/Southeast area is currently exceeding its target, significant new development is anticipated in the planning area as evidenced by recent amendments to the FLUM and GPM that have increased the anticipated density along the planning areas key corridors and Metro stations. The planning area will also be impacted by the new development anticipated for the RFK Stadium campus. This new development will impact the balance of affordable housing in the area and may impact the area’s ability to meet its 2050 goals.

***B. The CP and Public Planning Policies Call for Anti-Displacement Measures to Mitigate the Impact of New Development.***

The CP identifies displacement as one of the greatest, and most multifaceted, challenges to its goal of equitable and inclusive development.<sup>20</sup> Existing residents are at risk of economic displacement when increased housing demand is not balanced by adequate housing supply at a variety of income levels.<sup>21</sup> Rising housing costs overburden residents’ income and can necessitate leaving their communities or the District entirely in search of more affordable housing.<sup>22</sup> The District’s lower-income residents are most immediately impacted by rising housing costs with communities of color facing a disproportionate risk of displacement due to racial disparities in income.<sup>23</sup> The CP recognizes that addressing displacement goes beyond any single development and instead requires broader, long-term policies.<sup>24</sup> This includes measures that result in long-term or permanent affordability, and that apply to both high- and low-income areas.<sup>25</sup>

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<sup>16</sup> *Id.* § 227.6 (2021).

<sup>17</sup> *See id.* §§ 225.5, 225.6, 225.7, 225.8 (2021).

<sup>18</sup> DHCD & DCOP, HOUSING EQUITY REPORT (October 2019), [https://housing.dc.gov/sites/default/files/dc/sites/housingdc/page\\_content/attachments/Housing%20Equity%20Report%2010-15-19.pdf](https://housing.dc.gov/sites/default/files/dc/sites/housingdc/page_content/attachments/Housing%20Equity%20Report%2010-15-19.pdf).

<sup>19</sup> DMPED 36,000 by 2025 Dashboard, <https://open.dc.gov/36000by2025/> (last updated Dec. 2024).

<sup>20</sup> D.C. Mun. Regs. tit. 10-A, §510.3e (2021); *see also id.* § 510.3a (identifying three types of displacement: physical, economic, and cultural).

<sup>21</sup> *See id.* §§ 205.7, 206.4, 206.8, 206.11, 219.2, 510.3a (2021).

<sup>22</sup> *See id.* §§ 206.4, 510.3a, 510.3e (2021).

<sup>23</sup> *See id.* § 206.4, 505.6 (2021).

<sup>24</sup> *Id.* § 510.3e (2021).

<sup>25</sup> *See id.* § 504.19, 510.1 (2021).

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The CP recognizes that displacement of existing communities can occur even in areas with relatively large amounts of affordable housing, including the Far Northeast/Southeast planning area.<sup>26</sup> Ward 7, which largely aligns with the planning area, has a rental vacancy rate of 4.8, the second lowest in the District, and the rental vacancy rate in the map amendment's Census tract is even lower at 3.4, indicating strong demand for rental units.<sup>27</sup> Further, more than half of renters at both the Ward and Census tract levels are considered rent-burdened (paying more than 30% of their income on rent).<sup>28</sup> The CP prioritizes protecting these current vulnerable residents and helping moderate-income families to return to the area noting that increased growth and prosperity in the area should not come at the expense of current, long-time residents.<sup>29</sup>

## **II. The IZ+ Program Leverages Additional Density Gained through a Map Amendment to Increase Affordable Housing.**

The IZ+ program, adopted in 2021, implements the CP's call to expand the IZ program to increase affordable housing production, particularly when zoning approvals authorize additional buildable density.<sup>30</sup> IZ+ requires higher IZ set-asides than the by-right requirements for map amendments, proportional to the additional density gained through the map amendment.<sup>31</sup> Similar to public benefits provided through planned unit developments, these higher IZ set-asides were intended to provide a commensurate benefit to the District in exchange for the additional density gained by the property owner.<sup>32</sup> IZ+ reflected a desire to distribute affordable housing more equitably but also recognized that production rates at the time were insufficient to meet either current or *future* demand.<sup>33</sup> While the original IZ+ text amendment did not directly address displacement, it signaled a forward-looking approach that is meant to be responsive to the District's affordable housing needs, including those of current residents who may face displacement pressures.<sup>34</sup> The permanent, higher set-aside requirements would better keep pace with increased housing demand resulting from development facilitated by map amendments and thereby help to mitigate displacement impacts.

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<sup>26</sup> *Id.* § 506.3 (2021).

<sup>27</sup> Housing Characteristics of Wards 2019-2023 5-Year American Community Survey (“ACS”), <https://opendatahub.dc.gov/apps/6d33b4b96f94053b4c43dabaa8c63b6/explore> (last updated March 3, 2025); 2019-2023 5-Year ACS Selected Housing Characteristics – DP04 for Census Tract 78.03 District of Columbia, [https://data.census.gov/table/ACSDP5Y2010.DP04?t=Renter+Costs&g=040XX00US11\\_1400000US11001007803](https://data.census.gov/table/ACSDP5Y2010.DP04?t=Renter+Costs&g=040XX00US11_1400000US11001007803) (last visited Aug. 28, 2025).

<sup>28</sup> Housing Characteristics of Wards 2019-2023 5-Year American Community Survey (“ACS”), <https://opendatahub.dc.gov/apps/6d33b4b96f94053b4c43dabaa8c63b6/explore> (last updated March 3, 2025)(in Ward 7, 10,512 units or 54% are considered rent burdened) ; 2019-2023 5-Year ACS Selected Housing Characteristics – DP04 for Census Tract 78.03 District of Columbia, [https://data.census.gov/table/ACSDP5Y2010.DP04?t=Renter+Costs&g=040XX00US11\\_1400000US11001007803](https://data.census.gov/table/ACSDP5Y2010.DP04?t=Renter+Costs&g=040XX00US11_1400000US11001007803) (last visited Aug. 28, 2025)(In the census tract, 740 units or 57% are considered rent burdened).

<sup>29</sup> D.C. Mun. Regs. tit. 10-A, § 1700.5 (2021).

<sup>30</sup> *See id.* § 504.26 (2021).

<sup>31</sup> OP September 4, 2020, Setdown Report (Z.C. Case No. 20-02, Exhibit 6, at p.4).

<sup>32</sup> *Id.* at p.2.

<sup>33</sup> OP September 4, 2020, Setdown Report (Z.C. Case No. 20-02, Exhibit 6, at p.3).

<sup>34</sup> Though OP's filings in the IZ+ text amendment case did not specifically address displacement, the issue was raised by some members of the public in their public comments, *see e.g.* Statement from Coy McKinney, SW DC Action (Z.C. Case No. 20-02, Exhibit 30).

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**III. Approval of the Proposed Map Amendment with IZ+ Will Advance the CP’s Affordable Housing and Anti-Displacement Goals.**

***A. The Map Amendment is Consistent with the CP’s Guidance in Support of Added Housing and Affordable Housing.***

The proposed map amendment will advance the CP’s housing and affordable housing policies by increasing the permitted residential density near a key transit corridor. The proposed RA-2 zone will double the site’s maximum density and provide greater flexibility in height, lot occupancy, and yard standards, in a manner consistent with the guidance of the FLUM and GPM and compatible with the surrounding area. The new zone will provide a flexible means for the Church to achieve its stated goal of constructing an all-affordable housing building on the site as part of its commitment to long-term, community-serving development.<sup>35</sup> The map amendment’s added density is particularly important given the site’s location adjacent to the WMATA High Frequency Bus Route on Benning Road NE, and within half a mile of both the Benning Road and Minnesota Avenue Metrorail stations.<sup>36</sup> The proposed map amendment will facilitate residential development near these transit nodes, and will also provide a transition between the higher-density areas along Benning Road and 42nd Street NE to the lower-density areas to the east.

***B. IZ+ Should Apply to the Map Amendment to Ensure Permanent Affordability and Reduce Displacement Risk.***

IZ+ should apply to the map amendment to ensure that the site provides a higher minimum level of permanently affordable housing than required by basic IZ. Applying IZ+ would help address the ongoing affordable housing needs of the community. Almost 60% of the households living in the site’s Census tract are rent-burdened and the availability of residential rentals in that Census tract is 50% lower than in the District overall.<sup>37</sup> The Church’s plan to build an all-affordable housing development on the site indicates the community’s need for additional affordable housing, even though the site’s Planning Area has already exceeded the 2025 affordable housing goals.

Application of IZ+ would also serve as long-term insurance against future displacement risk. The development anticipated along Benning Road NE between the Benning Road and Minnesota Avenue Metrorail stations (enabled by the increased density authorized by the 2021 FLUM amendments to the nodes around those stations) may increase potential displacement in the neighborhood. The potential development along the Nannie Helen Burroughs NE corridor and the RFK Stadium site, while farther away, may further increase demand for housing in the area over time and lead to higher housing costs and greater risk of displacement to current residents. IZ+ would also ensure that the site will provide significant and permanent affordable housing in the event the Church’s plans change, for example, if the Church is unable to obtain the financing

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<sup>35</sup> Applicant’s Statement in Support, Z.C. Case No. 25-01, Exhibit 3 at p.3 (the map amendment’s increased residential density would support “the proposed development of all-affordable housing”).

<sup>36</sup> WMATA C21 Route Profile (June 2025), <https://www.wmata.com/initiatives/plans/Better-Bus/route-profile.cfm?route=C21> (last visited Aug. 19, 2025); Applicant’s Statement in Support, Z.C. Case No. 25-01, Exhibit 3.

<sup>37</sup> Notes 26-27.

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necessary for its stated goal of making all units affordable or should have to sell the re-zoned land to another entity for other reasons. This long-term commitment to affordability is consistent with the Church’s community-focused mission, the CP’s position that addressing displacement requires a holistic and long-term approach, and the intent of the IZ+ program to equitably distribute affordable housing to respond to both current and future demand.<sup>38</sup>

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OAG recommends that the Zoning Commission approve the proposed map amendment and encourages the Zoning Commission to apply IZ+. Doing so will meaningfully advance the CP’s vision for a more equitable and inclusive city, and reinforce the Church’s commitment to the community, by ensuring that the map amendment site provides a permanently high level of affordable housing that will mitigate any displacement impacts of future development.

Respectfully submitted,

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<sup>38</sup> Applicant’s Statement in Support, Z.C. Case No. 25-01, Exhibit 3 at p. 3.

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 5, 2025, a copy of the foregoing petition was served on the following by email.

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