

**BEFORE THE DISTRICT OF COLUMBIA  
ZONING COMMISSION**

**STATEMENT IN SUPPORT OF  
AN APPLICATION FOR A ZONING MAP AMENDMENT  
FROM THE PDR-1 ZONE DISTRICT TO THE  
MU-7A ZONE DISTRICT**

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**SQUARE 3832, LOT 0806  
3250 9th Street, NE**

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**ALT-G INVESTMENT, LLC**

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**February 3, 2023**

Respectfully submitted by:

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**List of Exhibits**

| <b>Exhibit</b> | <b>Description</b>   |
|----------------|--|
| A              | Plat of Subject Property from the D.C. Surveyor's Office   |
| B              | Relevant portion of the Comprehensive Plan Future Land Use Map   |
| C              | Relevant portion of the Comprehensive Plan Generalized Policy Map  |
| D              | Relevant portion of the 2016 Zoning Map showing existing zoning of the Subject Property                                      |
| E              | Names and mailing addresses of the owners of the property to be rezoned  |
| F              | Form 100 – Zoning Commission Application Signature Form  |
| G              | Letters of Authorization   |
| H              | Certificate of Proficiency   |
| I              | Certificate of Notice, Notice of Intent, and List of Addresses of Owners of Property within 200 feet of the Subject Property |
| J              | The name and addresses of the owners of all property located within two hundred feet of the Property.                        |

## I. INTRODUCTION

ALT-G Investment, LLC (the “Applicant”) submits this Statement in Support of an amendment to the Zoning Map of the District of Columbia (the “Zoning Map”) pursuant to 11-X DCMR § 501.1 and to 11-Z DCMR §§ 201.2(e), 304 of the 2016 Zoning Regulations of the District of Columbia (the “Zoning Regulations”). More specifically, the Applicant is seeking to rezone the property located at 3250 9th Street, NE—also known as Lot 806, in Square 3832 (the “Property”)—from the Production, Distribution, and Repair (“PDR”)-1 zone to the Mixed-Use (“MU”)-7A zone (the “Application”). A building plat showing the Property to be rezoned is attached as Exhibit A.

As required pursuant to 11-X DCMR § 500.3, the proposed Zoning Map amendment is not inconsistent with the Comprehensive Plan, including the Property’s designation on the Comprehensive Plan’s Future Land Use Map (“FLUM”) and Generalized Policy Map (“GPM”). Additionally, the proposed Zoning Map amendment advances the objectives and recommendations of the Upper Northeast Planning Area and the Brookland/CUA Metro Station Small Area Plan. The proposed map amendment is also consistent with the purposes of the Zoning Enabling Act of 1938 (the “Zoning Act”) in that it will create conditions that are favorable to public health, safety, welfare, and convenience.

As demonstrated below, the requested rezoning from the PDR-1 to the MU-7A zone will result in positive outcomes for the Property and the District at-large. The proposed rezoning will specifically achieve the following:

- Establish zoning on the Property that is not inconsistent with the Comprehensive Plan, as required under the Home Rule Charter;
- Establish zoning on the Property that will allow a moderate density mixed use development as supported by the Property’s FLUM designation of Mixed Use – Moderate Density Residential / Moderate Density Commercial;
- Permit an increase in allowable residential density at the Property and facilitate the future redevelopment of an underutilized site consistent with the Property’s GPM designation as a Neighborhood Conservation Area.
- Provide opportunities to redevelop the Property with new multifamily housing, where such housing is lacking and desired in the surrounding area;
- Contribute to the affordable housing supply of the Upper Northeast Planning Area, where mixed-income, diverse neighborhoods are desired and encouraged pursuant to the applicable Comprehensive Plan objectives;

- Facilitate progress towards achieving racial equity by advancing numerous Comprehensive Plan policies geared towards fostering an inclusive city, and by providing new housing opportunities and access to other desirable neighborhood amenities to households that may not otherwise be able to afford to live in the Brookland neighborhood.

## **II. DESCRIPTION OF THE SUBJECT PROPERTY AND THE SURROUNDING AREA**

The Property is a vacant and irregularly shaped, triangular lot that consists of approximately 6,901 square feet of land area. It is located north of Jackson Street, NE, south of Kearny Street, NE, east of the Washington Metropolitan Area Transit Authority (“WMATA”) Red Line railway, and west of 9th Street, NE.

The Property is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 5B-04. The area surrounding the Property, particularly to the north and to the east, is comprised of low- and moderate-residential uses and neighborhood commercial uses that are zoned R-2. Across the WMATA Red Line railway to the west is the site of the “Hanover 8<sup>th</sup> Street” planned unit development approved under Z.C. Order No. 18-21, as well as the site of the “Brookland Artspace Lofts” project approved under Z.C. Order No. 09-08. The Catholic University of America is located less than a quarter-mile northwest of the Property. Additionally, Saint Paul’s College, the Theological College, and the Dominican House of Studies are located within 2,000 feet of the Property. The Property is located less than a mile from the southwest corner portion of the Armed Forces Retirement Home.

The Brookland-CUA Metrorail station is located just under a quarter mile to the north of the Property, and the Property is also within 0.25 miles of several WMATA bus routes (e.g., G8, H8, H2, H4, 80). Thus, the Property is well-served by various public transit options.

As shown on the portion of the FLUM attached hereto as Exhibit B, the Property is designated as Mixed Use (Moderate Density Residential / Moderate Density Commercial). A detailed discussion of the Property’s FLUM designation is offered below. As shown on the portion of the GPM attached hereto as Exhibit C, the Property is designated as a Neighborhood Conservation Area. According to the Framework Element, 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 exist within these areas, and densities are guided by the FLUM and Comprehensive Plan policies, particularly the applicable Area Element. 10-A DCMR § 225.4. The Property’s GPM designation is discussed further below.

Furthermore, the Property is located within the boundary of the Brookland/CUA Metro Station Small Area Plan, a small area plan adopted by the D.C. Council on March 3, 2009. A discussion of how the proposed map amendment would advance the objectives of this small area plan is offered below.

### **III. EXISTING AND PROPOSED ZONING**

The Applicant proposes to rezone the Subject Property from PDR-1 to MU-7A. The MU zones are designed to provide facilities for housing, shopping, and business needs, including residential, office, service, and employment centers. 11-G DCMR § 100.2. The purposes of the MU zones are to, among other things: (i) provide for a varied mix of residential, employment, retail, service, and other related uses at appropriate densities and scale throughout the city; (ii) reflect a variety of building types, including shop-front buildings that may include a vertical mixture of residential and non-residential uses, or buildings containing all residential or non-residential uses; and (iii) ensure that infill development is compatible with the development pattern within the zone and surrounding areas. 11-G DCMR § 100.3.

The discussion below details the specific purposes and distinctions between the Property's existing and proposed zoning.

#### **A. Existing PDR-1 Zoning**

As shown in Exhibit D, the Property is zoned PDR-1, which is intended to permit moderate-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones. *See* 11-J DCMR § 200.1. The maximum permitted density in the PDR-1 zone is 2.0 FAR for restricted uses, and 3.5 FAR for unrestricted uses.<sup>1</sup> 11-J DCMR § 202.1. The maximum permitted height in the PDR-1 zone is 50 feet. 11-J DCMR § 203.1.

The Comprehensive Plan Framework Element describes the PDR zone as the corresponding zone category for the PDR FLUM designation. *See* 10-A DCMR § 227.14.

#### **B. Proposed MU-7A Zoning**

Pursuant to 11-Z DCMR § 201.2(e), the Applicant requests a Zoning Map amendment to rezone the Property from the PDR-1 zone to the MU-7A zone. The MU-7 zone is specifically intended to permit medium-density mixed-use development and is intended to be located on arterial streets, in uptown and regional centers, and at rapid transit stops. 11-G DCMR § 400.6. The maximum permitted density in the MU-7A zone is 4.0 FAR, and 4.8 FAR w/ IZ, of which up to 1.0 FAR may be devoted to non-residential uses. 11-G DCMR § 402.1. The maximum permitted height in the MU-7A zone, not including the penthouse, is 65 feet. 11-G DCMR § 403.1.

The Comprehensive Plan Framework Element describes the MU-7 as being representative of a zone district consistent with the Moderate Density Commercial category. 10-A DCMR § 227.11.

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<sup>1</sup> *See* 11-J DCMR § 202.2 for a list of unrestricted uses.

**C. Comparison of Development Standards**

The table below compares the development standards of the existing and the proposed zoning for the Property:

|                           | <b>EXISTING ZONING: PDR-1</b>  | <b>PROPOSED ZONING: MU-7A</b>  |
|---------------------------|--|--|
|                           | <b>Allowed / Required as Matter-of-Right</b>   | <b>Allowed / Required as Matter-of-Right</b>   |
| <b>Height</b>             | 50 ft. (no limit on stories)   | 65 ft. (no limit on stories)   |
| <b>Penthouse Height</b>   | 12 ft. and 1 story; except 15 ft. and second story permitted for penthouse mechanical space  | 12 ft. and 1 story; except 18 ft., 6 in. and second story permitted for penthouse mechanical space |
| <b>Density (FAR)</b>      | 2.0 max. FAR restricted uses<br>3.5 max. FAR unrestricted uses   | 4.0 (4.8 w/ IZ), 1.0 max. for non-residential use  |
| <b>Lot Occupancy</b>      | N/A  | 75% for residential use;<br>80% for residential use w/ IZ  |
| <b>Rear Yard</b>          | 2.5 inches per 1 ft. of height;<br>12 feet min.  | 2.5 inches per 1 ft. of height;<br>12 feet min.  |
| <b>Side Yard</b>          | None required unless a side lot line abuts a residential zone, then one must be required pursuant to 11-J DCMR § 207.  | None required, but if provided:<br>2 in. per 1 ft. of building height, but no less than 5 ft.      |
| <b>Green Area Ratio</b>   | 0.30<br><br>Except that:<br><br>(a) A lot with a principal building that is one (1) story in height shall have a GAR of at least 0.1; and<br><br>(b) A lot with a principal building that is two (2) stories in height shall have a GAR of at least 0.2. | 0.25   |
| <b>Open Court (width)</b> | None required, if provided:  | None required, if provided:<br><br><u>Residential, more than 3 units</u>                           |

|                     |  |  |
|---------------------|--|--|
|                     | 2.5 in./ft. of height of court, 6 ft. min.   | 4 in./ft. of height of court; 10 ft. min.<br><br><u>Non-Residential and Lodging</u><br>2.5 in./ft. of height of court; 6 ft. min.  |
| <b>Closed Court</b> | <u>Width</u><br>2.5 in./ft. of height of court; 12 ft. min.<br><br><u>Area</u><br>2x the square of the required width of court dimension; 250 sq. ft. min. | None required, if provided:<br><br><u>Residential, more than 3 units</u><br>Width - 4 in./ft. of height of court; 15 ft. min.<br>Area - 2x the square of the req'd width of court dimension; 350 sq. ft. min.<br><br><u>Non-Residential and Lodging</u><br>Width - 2.5 in./ft. of height of court; 12 ft. min.<br>Area - 2x the square of the req'd width of court dimension; 250 sq. ft. min. |
| <b>Uses</b>         | See 11-J DCMR § 102; 11-U DCMR § 801, <i>et seq.</i>   | MU-Use Group F   |

**IV. STANDARDS APPLICABLE TO ZONING MAP AMENDMENT APPLICATION**

The requested Zoning Map amendment is submitted as a contested case pursuant to 11-Z DCMR § 202.1(e). Pursuant to the Zoning Act of 1938, approved June 20, 1938, as amended (52 Stat. 797; D.C. Official Code § 6-641.01 *et seq.* (2012 Repl.)) (the “Zoning Act”), there are a number of criteria that must be applied by the Zoning Commission in adopting and amending the Zoning Regulations and the Zoning Map. The Zoning Act states the Zoning Regulations are designed 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 . . . .” The Zoning Act further provides:

“[z]oning 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 in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and

their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.” D.C. Code § 6-641.02.

Furthermore, in all cases, the Commission shall find that the amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site. 11-X DCMR § 500.3.

**V. EVALUATION OF PROPOSED MAP AMENDMENT AND COMPLIANCE WITH STATUTORY STANDARDS**

**A. Comprehensive Plan**

As discussed below, the proposed Zoning Map amendment is not inconsistent with the Comprehensive Plan, as recently adopted by the D.C. Council pursuant to D.C. Law L23-0217 (Comprehensive Plan Amendment Act of 2017) and D.C. Law 24-0020 (Comprehensive Plan Amendment Act of 2020), including the FLUM and the GPM (D.C. Resolution R24-0292), collectively referred to herein as the.<sup>2</sup>

**1. Overview and Application**

The Comprehensive Plan guides the District's development, both broadly and in detail, through maps and policies that address the physical development of the District. 10-A DCMR § 103.2. The Comprehensive Plan also addresses social and economic issues that affect and are linked to the physical development of the District and the well-being of its citizens. The Comprehensive Plan provides the general overview of how change will be managed in the years ahead and, thus, is intended to be interpreted broadly. 10-A DCMR § 103.5.

Because the Comprehensive Plan is the one plan that guides the District's development, it carries special importance in that it provides an overall direction and shapes all other physical plans the District may adopt. 10-A DCMR § 103.2. The Comprehensive Plan includes detailed maps and policies for the physical development of the District, and addresses social and economic issues that affect the District and its citizens. The Comprehensive Plan allows the District to ensure its resources are used wisely and efficiently and that public investment is focused in areas where it is most needed. 10-A DCMR § 100.13. Subsection 228.1(d) of the Comprehensive Plan reads, in relevant part, the “zoning of any given area should be guided by the [FLUM] interpreted in conjunction with the text of the Comprehensive Plan, including Citywide Elements and the Area Elements, as well as approved Small Area Plans.”

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<sup>2</sup> D.C. Law 23-0217 took effect on August 27, 2020, and included amendments to the Comprehensive Plan Framework Element. D.C. Law 24-0020 took effect on August 21, 2021, and included amendments to the Comprehensive Plan general, citywide, area elements, and the Generalized Policy Map and Future Land Use Map. The Generalized Policy Map and Future Land Use Map were formally approved on November 16, 2021, pursuant to Resolution No. 24-0292.

According to the Home Rule Charter, zoning cannot be inconsistent with the Comprehensive Plan. D.C. Code § 6-641.02. As stated in the Framework Element, “[i]n its decision-making, the [Commission] must make a finding of not inconsistent with the [Comprehensive Plan]. To do so, the [Commission] must consider the many competing, and sometimes conflicting, policies of the [Comprehensive Plan], along with the various uses, development standards and requirements of the zone districts. It is the responsibility of the [Commission] to consider and balance those policies relevant and material to the individual case . . . and clearly explain its decision-making rationale.” 10-A DCMR § 224.8. Therefore, to approve the proposed Application, the Commission must consider and balance potential Comprehensive Plan consistencies and inconsistencies to make an overall determination as to whether the request is “not inconsistent” with the totality of the Comprehensive Plan. If the Application arguably “conflicts with one or more individual policies associated with the [Comp] Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.” *Durant v. District of Columbia Zoning Comm'n*, 65 A.3d 1161, 168 (D.C. 2013).

## 2. Racial Equity Lens

A primary focus of the Comprehensive Plan, as reflected throughout its various policies, is achieving racial equity. The Framework Element of the Comprehensive Plan defines racial equity as the moment when “race can no longer be used to predict life outcomes and outcomes for all groups are improved.” 10-A DCMR § 213.7. Indeed, the importance of equity to District residents was made abundantly clear when the DC Office of Planning (“OP”) conducted its DC Values survey in Spring 2019. In addition to equity, city residents also expressed concerns about rising costs and inequitable access to opportunities for housing, businesses, employment, and other necessities. Overall, livability, equity, and safety were considered the most critical values. 10-A DCMR §§ 107.17–107.22.

As stated in the Framework Element and as further discussed below, equity is both an outcome and a process. 10-A DCMR § 213.6. Equity exists where all people share equal rights, access, choice, opportunities, and outcomes, regardless of characteristics such as race, class, or gender. Equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities. An important factor to advancing racial equity is to acknowledge that equity is not the same as equality. *Id.* “As an outcome, the District achieves racial equity when race no longer determines one’s socioeconomic outcomes, when everyone has what they need to thrive, no matter where they live or their socioeconomic status; and when racial divides no longer exist between people of color and their white counterparts. As a process, we apply a racial equity lens when those most impacted by structural racism are meaningfully involved in the creation and implementation of the institutional policies and practices that impact their lives, particularly people of color.” 10-A DCMR § 213.9.

Equity is conveyed through the Comprehensive Plan, particularly in the context of zoning, where certain priorities stand out, including affordable housing, displacement, and access to opportunity. To help guide the Commission in applying a racial equity lens to its decision making, the Implementation Element reads, in relevant part, “[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 in the District.” 10-A DCMR § 2501.6.

As related to zoning actions, racial equity is not a separate consideration from the normal legal standard of review. Rather, the Commission properly considers equity as an integral part of its analysis as to whether a proposed zoning action is “not inconsistent” with the Comprehensive Plan. The scope of the racial equity review and the extent to which Comprehensive Plan policies apply depend upon the nature of the proposed zoning action. In this case, the Commission shall evaluate the requested Zoning Map amendment through a racial equity lens to make its determination as to whether the requested rezoning is not inconsistent with the Comprehensive Plan as a whole.

*Racial Equity as a Process*

The Framework Element states that racial equity is a process, and that as the District grows and changes, it must do so in a way that builds the capacity of vulnerable, marginalized, and low-income communities to fully and substantively participate in decision-making processes. 10-A DCMR § 213.7. The Applicant believes in inclusive, community engagement, and will work closely with the community and the affected Advisory Neighborhood Commission throughout the map amendment process.

*Racial Equity as an Outcome*

The Framework Element states that “equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities. Equity is not the same as equality.” 10-A DCMR § 213.6. As stated above, under the recently adopted Comprehensive Plan, the Commission shall carry out its Comprehensive Plan evaluation for the Application through a racial equity lens. The following table correlates the proposed map amendment with a number of equitable development indicators, in general terms. As the table shows, the map amendment has the potential to address a number of equity issues that residents in the Brookland neighborhood are experiencing.

| <b>Evaluation of Equitable Development Indicators</b> |                |  |
|---|----------------|--|
| <b>Indicator</b>                                      | <b>Measure</b> | <b>Outcome / Applicable Public Benefit</b> |
| <b>Displacement</b>                                   |                |  |

|   |   |   |
|---|---|---|
| Physical  | <ul style="list-style-type: none"> <li>Displacement due to redevelopment.</li> </ul>  | <ul style="list-style-type: none"> <li>No physical displacement of residents.</li> </ul>  |
| Economic  | <ul style="list-style-type: none"> <li>Displacement due to housing cost increases.</li> </ul>   | <ul style="list-style-type: none"> <li>Increase in permitted amount of non-residential density that can increase economic opportunity in the Planning Area.</li> <li>Increase in permitted amount of residential density that can increase the supply of housing units, therefore contributing to a decrease in the cost of housing overall.</li> </ul> |
| Cultural  | <ul style="list-style-type: none"> <li>Loss of sense of belonging or shared identity in neighborhood.</li> </ul>  | <ul style="list-style-type: none"> <li>Increased residential and commercial density provides an opportunity for residents to have a place to meet and gather.</li> </ul>  |
| <b>Housing</b>                                  | <ul style="list-style-type: none"> <li>Number of new market rate and dedicated affordable units (per 2019 Housing Equity Report).</li> </ul>                      | <ul style="list-style-type: none"> <li>Increase in amount of housing permitted on Property.</li> <li>Increased IZ set aside through applicability of IZ+.</li> </ul>  |
| Housing Burden                                  | <ul style="list-style-type: none"> <li>Households that pay more than 30% of income (burdened), or 50% of income (severely burdened) on housing.</li> </ul>        | <ul style="list-style-type: none"> <li>Increase in amount of housing that can be provided to households earning no more than 60% (rental) or 80% (ownership) MFI (50% MFI for any IZ set aside generated by penthouse habitable space).</li> </ul>  |
| Family-sized Units                              | <ul style="list-style-type: none"> <li>Dwelling units with 3 or more bedrooms.</li> </ul>   | <ul style="list-style-type: none"> <li>Increased potential for larger units due to gain in overall permitted density.</li> </ul>  |
| <b>Transportation</b>                           |   |   |
| Access to Transit                               | <ul style="list-style-type: none"> <li>0.5 miles to Metrorail.</li> <li>0.25 miles to priority bus corridors and other modes of public transportation.</li> </ul> | <ul style="list-style-type: none"> <li>.23 mile walk to Brookland-CUA metro station.</li> </ul>   |
| Transportation Improvements / Pedestrian Safety | <ul style="list-style-type: none"> <li>Gaps in pedestrian network.</li> <li>Lack of pedestrian facilities (crosswalks, lighting, seating, etc.).</li> </ul>       | <ul style="list-style-type: none"> <li>Improvement of pedestrian connectivity.</li> <li>Reduction of vacant lots; ultimately improving connectivity.</li> </ul>   |

|                                      |   |  |
|--------------------------------------|---|--|
|                                      |   |  |
| <b>Employment</b>                    |   |  |
| New Jobs                             |   | <ul style="list-style-type: none"> <li>Increased commercial density can result in an increased number of jobs.</li> </ul>  |
| Access to Jobs                       |   | <ul style="list-style-type: none"> <li>Property is in close proximity to transit centers.</li> <li>Property is in close proximity to residential uses.</li> </ul>  |
| <b>Education / Health / Wellness</b> | <ul style="list-style-type: none"> <li>Access to quality public services.</li> <li>Access to safe, clean public gathering spaces, open spaces, and recreation.</li> <li>Healthy natural environment.</li> </ul> | <ul style="list-style-type: none"> <li>Proximity to Fort Bunker Hill</li> <li>Proximity to the Basilica of the National Shrine of the Immaculate Conception</li> <li>Proximity to the Brookland Community Resources Center</li> <li>Proximity to the Dwight Mosely Playground and Taft Field</li> </ul>  |
| <b>Environmental</b>                 | <ul style="list-style-type: none"> <li>LEED rating.</li> <li>Use of renewable energy sources.</li> <li>Storm water management.</li> <li>Placement of unwanted / high-impact land uses</li> </ul>                | <ul style="list-style-type: none"> <li>Improved storm water infrastructure.</li> <li>Potential development will adhere to applicable Building Code requirements and energy-efficient building systems and technologies.</li> </ul>   |
| <b>Access to Amenities</b>           | <ul style="list-style-type: none"> <li>Availability of building amenities.</li> <li>Proximity/availability of uses that meet day-to-day needs (grocery, retail, service, eating and drinking).</li> </ul>       | <ul style="list-style-type: none"> <li>Map amendment will permit the development of increased commercial uses, therefore granting residents more access to day-to-day needs.</li> <li>Proximity to nearby retail, service, and neighborhood-servicing uses.</li> <li>Proximity to parks, open space, recreation.</li> <li>Proximity to Fort Bunker Hill</li> <li>Proximity to the Basilica of the National Shrine of the Immaculate Conception</li> <li>Proximity to the Brookland Community Resources Center</li> <li>Proximity to the Dwight Mosely Playground and Taft Field</li> </ul> |

### 3. Future Land Use Map

The FLUM shows the general character and distribution of recommended and planned uses across the city, and, along with the GPM, is intended to provide generalized guidance on whether areas are designated for conservation, enhancement, or change. 10-A DCMR §§ 200.5 and 224.4. The land use category descriptions on the FLUM describe the general character of development in each area, citing typical Floor Area Ratios as appropriate. However, the granting of density bonuses may result in densities that exceed those typical ranges stated in the land use category descriptions. 10-A DCMR § 228.1(c).

The Comprehensive Plan does not require each block “strictly correspond” with the general description of the associated land use designation on the FLUM. *See* Z.C. Order No. 08-15, Finding of Fact No. 74(a). Further, the “Future Land Use Map is not a zoning map. Whereas zoning maps are parcel-specific, and establish detailed requirements for setbacks, height, use, parking, and other attributes, the Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. By definition, the FLUM is to be interpreted broadly and the land use categories identify desired objectives.” 10-A DCMR § 228.1(a). Decisions on requests for rezoning shall be guided by the FLUM read in conjunction with the text of the Comprehensive Plan (Citywide and Area Elements) as well as Small Area Plans pertaining to the area proposed for rezoning. 10-A DCMR § 2504.5.

As shown in Exhibit B, the FLUM designates the Property as Mixed Use – Moderate Density Residential / Moderate Density Commercial. According to the Framework Element, 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. 10-A DCMR § 227.6. The R-3, RF, and RA-2 Zone Districts are consistent with the Moderate Density Residential category, and other zones may apply. 10-A DCMR §227.6.

The Moderate Density Commercial FLUM category is used to define shopping and service areas that are somewhat greater in scale and intensity than the Low-Density Commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in Low Density Commercial areas. Density typically ranges between a 2.5 FAR and 4.0

FAR, with greater density possible when complying with IZ. The Framework Element describes the MU-5 and MU-7 zones as being consistent with the Moderate Density Commercial FLUM designation. 10-A DCMR § 227.11. As stated above, the proposed MU-7A zone permits a maximum overall density of 4.0 FAR (4.8 FAR w/ IZ). *Supra* Section III.C.

The preceding discussion focuses on the individual land use categories that comprise the Property's Mixed Use FLUM designation. However, a “Mixed Use” designation on the FLUM is not intended to be interpreted according to its separate land use categories. Rather, “Mixed Use” on the FLUM is a specific land use category, and is primarily intended for larger areas where no single use predominates, or areas where a diverse mix of uses are envisioned. The Mixed Use designation indicates where the mixing of two or more land uses is especially encouraged, but should not be confused with the Mixed-Use (MU) zoning district, although they frequently apply to the same area or parcel of land. The Mixed Use Category generally applies in the following circumstances: (i) established, pedestrian-oriented commercial areas that also include substantial amounts of housing, typically on the upper stories of buildings with ground floor retail or office uses; (ii) commercial corridors or districts which may not contain substantial amounts of housing today, but where more housing is desired in the future. The pattern envisioned for such areas is typically one of pedestrian-oriented streets, with ground floor retail or office uses and upper story housing; (iii) large sites (generally greater than 10 acres in size), where opportunities for multiple uses exist, but a plan depicting the precise location of these uses has yet to be prepared; and (iv) development that includes residential uses, particularly affordable housing, and residentially compatible industrial uses, typically achieved . . . in a zone district that allows such a mix of uses. 10-A DCMR § 227.20.

The Property is consistent with the locational characteristics of areas typically assigned a Mixed Use designation. It is located near public transit along the 9<sup>th</sup> Street corridor where more housing is desired in the future. This concept is also supported by the Comprehensive Plan's analysis of the Upper Northeast Planning Area, which notes that there is general agreement that the Brookland/CUA Metrorail station is a “logical” location for future development, and “may provide opportunities for apartments, condominiums, townhomes, and other types of moderate and medium-density housing.” 10-A DCMR § 2407.3. Thus, the proposed MU-7A zone is more appropriate given the Property's location and, given these objectives, will bring the Property into greater conformance with the Comprehensive Plan.

A variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities. 10-A DCMR § 227.23. The Framework Element states that the general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other, the FLUM may note the dominant use by showing it at a slightly higher density than the other use in the mix. 10-A DCMR § 227.21. In this case, the FLUM itself does not indicate a preference between residential or non-residential uses at the Property, as moderate densities are

envisioned for both. However, based on the following considerations, the Applicant believes a reasonable assumption can be made that the Comprehensive Plan generally favors some sort of mix of uses at the Property that prioritizes a residential component:

- The recent amendment to the FLUM for the Property changed the designation from Low Density Residential to Mixed Use (Moderate Density Residential / Moderate Density Commercial);
- Upper Northeast Area Element policies, particularly those for the Brookland Metro Station Focus Area, that “encourage mixed-use development on vacant and underused property in the vicinity of the Brookland-CUA Metro station.” 10-A DCMR § 2416.3.
- Brookland/CUA Metro Station Small Area Plan proposal for new moderate density mixed-use development, particularly south of Kearny Street which should consist of low to moderate density residential and limited commercial or cultural facilities.

In light of the foregoing, the Property’s current zoning is inconsistent with the Comprehensive Plan, because the PDR-1 zone is intended to permit moderate-density commercial and PDR activities employing a large workforce and requiring some heavy machinery. 11-J DCMR § 200.1. The PDR-1 zone does not permit a mix of residential and non-residential uses that are suggested by the Property’s FLUM designation and are encouraged by relevant Comprehensive Plan policies. Therefore, the proposed MU-7A zone is more appropriate, as it would enable a broader range of uses that are not industrially-focused, and at the appropriate densities.

#### **4. Generalized Policy Map**

The purpose of the GPM is to categorize how different parts of the District may change between 2005 and 2025. It highlights areas where more detailed policies are necessary, both within the Comprehensive Plan and in follow-up plans, to manage this change. 10-A DCMR § 225.1. The GPM is intended to “guide land use decision-making in conjunction with the Comprehensive Plan text, the FLUM, and other Comprehensive Plan maps. Boundaries on the map are to be interpreted in concert with these other sources as well as the context of each location.” 10-A DCMR § 225.2.

As shown in Exhibit C, the GPM designates the Property within a Neighborhood Conservation Area, which encompasses substantial portions of the Upper Northeast Planning Area including, but not limited to, low density residential areas, industrial areas, and mixed use areas near Metrorail. According to the Framework Element, areas within a Neighborhood Conservation Area designation “have little vacant or underutilized land and are generally residential in character.” 10-A DCMR § 225.4. The Framework Element further provides that “[m]ajor changes in density over current (2017) conditions are not expected [within a Neighborhood Conservation Area] 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 [FLUM]. 10-A DCMR § 225.4.

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 . . . . Densities in Neighborhood Conservation Areas are guided by the FLUM and Comprehensive Plan policies. 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 character of each area. Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. 10-A DCMR § 225.5. Furthermore, new development in Neighborhood Conservation Areas should support neighborhood and city-wide housing needs, reduce crime and blight, and attract complementary new uses and services that better serve the needs of existing and future residents. 10-A DCMR § 225.8.

The proposed map amendment is not inconsistent with the Property’s designation as a Neighborhood Conservation Area. As the Framework Element implies, this designation is not intended to stifle development opportunities. Conversely, new development is welcome so long as it supports the existing neighborhood character and addresses city-wide priorities. The existing PDR-1 zoning constrains potential uses and development opportunities at the Property, whereas the proposed MU-7A zone will support future projects that will strengthen the neighborhood. For example, the proposed MU-7A zone would permit the construction of a new mixed-use building, inclusive of affordable housing in accordance with the set aside requirements of IZ+, which will address critical city-wide housing needs. The proposed rezoning also has the potential to attract “complementary new uses and services that better serve the needs of existing and future residents” along and near this segment of the 9<sup>th</sup> Street corridor. As recommended for Neighborhood Conservation Areas, the Property, which is currently vacant, presents an excellent opportunity for a change that will be moderate in scale and consist of housing, especially affordable housing; thus enabling the type of housing diversity encouraged by the District, and most recently by the Mayor’s housing initiative. In light of the foregoing, the proposed amendment to MU-7A is not inconsistent with the GPM.

## **5. Upper Northeast Area Element**

The Property is located within the Upper Northeast Area Element of the Comprehensive Plan. *See* 10-A DCMR § 2400.1. The Upper Northeast Planning Area is comprised of approximately 8.7 square miles and includes roughly two-thirds of the District’s northeast quadrant. *Id.* The Upper Northeast is principally known as a residential community with a spattering of row house neighborhoods and higher-density housing communities. *See* 10-A DCMR § 2400.2. The Comprehensive Plan states, the greatest future challenge for the Upper Northeast

Area will be to respond to change in a way that keeps the Upper Northeast a socially, culturally, and economically diverse community. 10-A DCMR § 2400.9.

### *Area Element Evaluation*

The proposed map amendment advances a number of major planning objectives of the Upper Northeast Area Element. The proposed rezoning to MU-7A, which permits a residential density of up to 4.0 FAR (4.8 FAR with IZ) and a non-residential density of 1.0, will provide for increased development potential, enhancing both the residential character and economic vitality of the surrounding area (UNE-1.1 and UNE-1.1.6). The rezoning will also accommodate the compatible residential infill development of a presently vacant, industrially-zoned property, which would address housing needs for renters and owners of diverse socioeconomic backgrounds (UNE-1.1.2.). Given that the Property is situated between the CSX railroad and Metro lines and a low- to moderate density residential neighborhood to the east, new construction on the Property could also advance the buffering objectives of the Area Element (UNE-1.1.11). Moreover, future redevelopment of the Property has the potential to establish new connections, particularly pedestrian connections, that will facilitate access to public transit and will promote and improve linkages between residents and jobs within the Upper Northeast Planning Area. (UNE-1.2.4 and UNE-1.2.5). Therefore, the proposed map amendment has the capability to serve the residential priorities and economic objectives of the Upper Northeast Area.

In light of the foregoing discussion, the proposed map amendment advances the specific policies listed within the Upper Northeast Area Element discussed below:

#### UNE-1.1 Guiding Growth and Neighborhood Conservation

- UNE-1.1.1: Neighborhood Conservation
- UNE-1.1.2: Compatible Infill
- UNE-1.1.6: Neighborhood Shopping
- UNE-1.1.11: Buffering

#### UNE-1.2 Conserving and Enhancing Community Resources

- UNE-1.2.4: Linking Residents to Jobs
- UNE-1.2.5: Increasing Economic Opportunity

## **6. Land Use Element**

The Land Use Element is the cornerstone of the Comprehensive Plan. It establishes the basic policies guiding the physical form of the District, and provides direction on a range of development, preservation, and land use computability issues. The element describes the range of considerations involved in accommodating an array of land uses within Washington, D.C. 10-A DCMR § 300.1. Through its policies and actions, the Land Use Element addresses the numerous, challenging land use issues that are present in the District, including, among others:

- Providing adequate housing, particularly affordable housing;
- Enhancing neighborhood commercial districts and centers;
- Balancing competing demands for finite land resources;
- Directing growth and new development to achieve economic vitality and creating jobs while minimizing adverse impacts on residential areas and open spaces;
- Promoting transit-accessible, sustainable development; and
- Siting challenging land uses.

[10-A DCMR § 300.2]

More than any other part of the Comprehensive Plan, the Land Use Element lays out the policies through which growth and change occur. The Land Use Element integrates and balances competing policies of all the other District Elements. 10-A DCMR § 300.3. The Implementation Element further recognizes the “overlapping nature” of the Comprehensive Plan elements, stating that “an element may be tempered by one or more of the other elements,” and further states, “because the Land Use Element integrates the policies of all other District Elements, it should be given greater weight than the other elements.” 10-A DCMR § 2504.6.

The policies and actions of the Land Use Element all aim to utilize land resources efficiently to achieve the following goals:

- Protect the health, safety, and welfare of District residents, institutions, and businesses;
- Address past and current inequalities disproportionately impacting communities of color;
- Provide for additional . . . employment opportunities; and
- Effectively balance the competing demands for land.

[10-A DCMR § 302.1]

### *Land Use Element Evaluation*

The proposed Application will help achieve the above-described goals through its consistency with several Land Use Element policies. The proposed rezoning to MU-7A will facilitate the redevelopment of a vacant parcel with a mix of uses at a site that is well-positioned to enhance the surrounding neighborhood and the vitality of the 9<sup>th</sup> Street corridor between the Rhode Island Avenue and Brookland/CUA Metrorail stations. Perhaps the most compelling aspect of the proposed MU-7A zone is that it will help the District meet long-term neighborhood and citywide demands for additional housing and affordable housing. (LU-2.1.2 and LU-2.1.3). The Property’s existing PDR-1 zoning does not permit new multifamily development, and thus precludes opportunities to significantly contribute to the District's affordable housing supply. In contrast, and in greater consistency with the FLUM, the proposed MU-7A zone permits a residential density of up to 4.8 FAR w/ IZ. The Comprehensive Plan, and particularly the Land

Use Element, contain numerous policies that advocate for the cultivation of mixed-income neighborhoods and increasing the housing supply, and particularly affordable housing. The proposed map amendment to MU-7A advances these important goals, but balances parallel District goals to protect neighborhood character and ensure compatibility of residential use. (LU-2.1.3, LU-2.1.7, and LU-2.1.8).

As discussed above, when read as a whole, the Comprehensive Plan policies applicable to the Property further the notion that the priority for any future mixed use development of the Property should prioritize the residential component. *Supra* Section IV.A.3 at p. 12. Thus, while the proposed rezoning does not provide for an increase in non-residential density, the proposed map amendment remains consistent with several Land Use Element policies. Importantly, the proposed MU-7A zoning actually permits a wider array of non-residential uses that are not intended by the Property's existing zoning. If the Property is rezoned to MU-7A, the Property could be redeveloped with a new mixed-use building that contains neighborhood-serving retail that would be accessible for existing and future residents of the surrounding neighborhood.

Furthermore, given the Property's proximity to the Brookland/CUA Metrorail station (less than 0.25 miles away) the proposed map amendment will facilitate a transit-oriented development that advance several Land Use Element policies. Consistent with the FLUM, the proposed MU-7A zone will facilitate the construction of new, multifamily housing, including affordable housing, in a high opportunity area next to transit (LU-1.4.B, LU-1.4.C, LU-2.1.1). Thus, the proposed rezoning is particularly desirable given the District's racial equity objectives that are rooted in increasing housing opportunities and access to citywide services for all District residents.

Upon evaluation of the Land Use Element policies and actions, the Applicant finds that the proposed rezoning to MU-7A will not be inconsistent with the Land Use Element overall, and specifically with the policies listed below.

#### LU-1.4: Transit-Oriented and Corridor Development

- LU-1.4.1: Station Areas as Neighborhood Centers
- LU-1.4.2: Development Around Metrorail Stations
- LU-1.4.3: Housing Around Metrorail Stations
- LU-1.4.6: Development Along Corridors
- LU-1.4.B: Zoning Around Transit
- LU-1.4.C: Metro Station and Inclusionary Zoning

#### LU-1.5: Neighborhood Infill Development

- LU-1.5.1: Infill Development
- LU-1.5.2: Long-Term Vacant Sites

#### LU-2.1: A District of Neighborhoods

- LU-2.1.1: Variety of Neighborhood Types

- LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods
- LU-2.1.8: Explore Approach to Additional Density in Low- and Moderate-Density Neighborhoods

LU-2.2 Maintaining Community Standards

- LU 2.2.2: Appearance of Vacant Lots and Structures
- LU-2.2.4: Neighborhood Beautification

LU-2.3 Residential Land Use Compatibility

- LU-2.3.3: Transitional and Buffer Zone Districts

LU-2.4 Neighborhood Commercial Districts and Centers

- LU-2.4.5: Encouraging Nodal Development

LU 3.2 Taking a Hard Look at the District's Industrial Lands

- LU-3.2.6: Rezoning of Industrial Areas

**7. Housing Element**

The Housing Element describes the importance of housing to neighborhood quality in the District, and the importance of providing housing opportunities for all segments of the population throughout the District. 10-A DCMR § 500.1. The District continues to face significant demand for more housing, and—in particular—affordable housing across a range of income levels. Other critical housing issues that the District is facing include furthering fair housing opportunities, especially in high-cost areas; fostering housing production to improve affordability; promoting more housing near transit; maintaining healthy homes for residents; and providing housing integrated with supportive services for older adults, vulnerable populations, and residents with disabilities. 10-A DCMR § 500.2.

The overarching goal of the Housing Element is to develop and maintain new residential units to achieve a total of 36,000 new units by 2025, 12,000 of which are dedicated affordable, that provide a safe, decent, accessible, and affordable supply of housing for all current and future residents of the District. 10-A DCMR § 501.1. A multi-pronged strategy is needed to facilitate production, address regulatory and administrative constraints, and deliver a substantial number of the new units that are affordable to District residents, particularly to moderate and lower income residents. 10-A DCMR § 502.5.

*Housing Element Evaluation*

The proposed Application will help meet the housing needs of present and future District residents at a location that is consistent with District land use and housing policies and objectives. The map amendment will provide for a substantial increase in permitted density for residential use, thereby expanding the District's housing and affordable housing supply. This is entirely consistent

with the District’s housing and affordable housing goals set forth in the 2019 Housing Equity Report, which sets an affordable housing goal of 1,350 units in the Upper Northeast Planning Area. In addition, the proposed rezoning will facilitate progress toward reaching the Housing Element goal of achieving a minimum of 15% affordable units within each Planning Area by 2050 (H-1.2.9, H-1.2.F). New housing, including affordable housing, and mixed-use development at the Property is also desirable given its current vacant status and transit-oriented location (H-1.3.3, H-1.4.4.).

Moreover, 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. (H-1.1.5). In addition, future multifamily housing at the Property could be devoted to seniors or other underserved populations, thus providing more housing choices for disadvantaged persons, and creating more opportunities for District residents to remain in their preferred neighborhood and maintain their connections to the city. (H-4.3.2, H-4.3.3, H-4.3.4).

Accordingly, the proposed map amendment serves a multitude of the District's housing goals and advances several policies of the Housing Element, particularly those enumerated below:

#### H-1.1 Expanding Housing Supply

- Policy H-1.1.1: Private Sector Support
- Policy H-1.1.3: Balanced Growth
- Policy H-1.4.4: Mixed-Use Development
- Policy H-1.1.5: Housing Quality
- Policy H-1.1.9: Housing for Families

#### H-1.2 Ensuring Housing Affordability

- Policy H-1.2.1: Low- and Moderate-Income Housing Production as a Civic Priority
- Policy H-1.2.2: Production Targets
- Policy H-1.2.3: Affordable and Mixed-Income Housing
- Policy H-1.2.5: Moderate-Income Housing
- Policy H-1.2.9: Advancing Diversity and Equity of Planning Areas
- Policy H-1.2.1:: Inclusive Mixed-Income Neighborhoods

#### H-1.3 Diversity of Housing Types

- Policy H-1.3.1: Housing for Larger Households

#### H-1.4 Meeting the Needs of Specific Groups

- Policy H-4.3.2: Housing Choice for Older Adults
- Policy H-4.3.3: Neighborhood-Based Housing for Older Adults
- Policy H-4.3.4: Housing for Persons with Disabilities

## 8. Transportation Element

The Transportation Element provides policies and actions that are devoted to maintaining and improving the District’s transportation system and enhancing the travel choices available to District residents, visitors, and workers. These transportation-related policies are integrally related to other Comprehensive Plan policies that address land use, urban design, and environmental protection. The close interplay between these policy areas is necessary to improving safety, mobility, and accessibility in the District. 10-A DCMR § 400.1.

The overarching goal for transportation in the District is to “[c]reate a safe, sustainable, equitable, efficient, and multimodal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors; supports local and regional economic prosperity; and enhance the quality of life for District residents.” 10-A DCMR § 401.1.

### *Transportation Element Evaluation*

The proposed map amendment advances the overarching goal of the Transportation Element by enabling a new mixed-use development that is likely to involve streetscape improvements. As such, given the Property’s proximity to various forms of public transit, any future redevelopment would provide increased access to neighborhood-serving commercial uses and institutional uses within the surrounding area and throughout the city (T-2.6.1). Furthermore, any enhancements to the walkability of the surrounding area would discourage auto-orientated uses and strengthen the residential character of the immediate neighborhood (T-1.2.3).

Accordingly, the map amendment is not inconsistent with the Transportation Element and advances the specific policies listed below:

#### T-1.1 Land Use: Transportation Coordination

- Policy T-1.1.3: Transit-Oriented Development
- Policy T-1.1.7: Equitable Transportation Access

#### T-1.2 Transforming Corridors

- Policy T-1.2.1: Major Thoroughfare Improvements
- Policy T-1.2.3: Discouraging Auto-Oriented Uses

#### T-2.4 Pedestrian Access, Facilities, and Safety

- Policy T-2.4.1: Pedestrian Network
- Policy T-2.4.2: Pedestrian safety

#### T-2.6 Addressing Accessibility for All Residents

- T-2.6.1: Transportation Access
- T-2.6.2: Transit Needs

## 9. Environmental Protection Element

The Environmental Protection Element addresses the protection, conservation, and management of Washington, DC's land, air, water, energy, and biological resources. This Element provides policies and actions for addressing important issues such as climate change, drinking water safety, the restoration of the tree canopy, energy conservation, air quality, watershed protection, pollution prevention, waste management, the remediation of contaminated sites, and environmental justice. The biological, chemical, and hydrologic integrity of the environment are key indicators of the quality of life in the District. Furthermore, environmental sustainability is linked to resilience, population health, and community prosperity. Good environmental management and pollution prevention are essential to sustain all living things and to safeguard the welfare of future generations. 10-A DCMR § 600.1.

The overarching goal for the Environmental Protection Element is to protect, restore, and enhance the natural and human-made environment in Washington, DC, taking steps to improve environmental quality and resilience, adapt to and mitigate climate change, prevent and reduce pollution, improve human health, increase access to clean and renewable energy, conserve the value and functions of the District's natural resources and ecosystem, and educate the public on ways to secure a sustainable future. 10-A DCMR § 601.1.

In accordance with the overarching goal for the Environmental Protection Element, future redevelopment of the Property, enabled by the Application, will incorporate energy efficient systems to reduce energy use and potentially provide alternative energy sources to contribute to the District's energy efficiency goals. Redevelopment of the Property also could yield new landscaping and environmentally friendly enhancements to the abutting streetscape. 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.

Accordingly, the proposed Zoning Map amendment is not inconsistent with the Environmental Protection Element and advances the specific policies listed below:

### E-1.1 Preparing for and Responding to Natural Hazards

- Policy E-1.1.2: Urban Heat Island Mitigation

### E-2 Conserving Natural and Green Areas

- Policy E-2.1.2: Tree Requirements in New Development
- Policy E-2.1.3: Sustainable Landscaping Practices

### E-3 Conserving Natural Resources

- Policy E-3.2.3: Renewable Energy
- Policy E-3.2.7: Energy-Efficiency Building and Site Planning

#### E-4 Promoting Environmental Sustainability

- Policy E-4.1.1: Maximizing Permeable Surfaces
- Policy E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff
- Policy E-4.2.1: Support for Green Building

#### **B. Analysis of Potential Inconsistencies with the Comprehensive Plan**

Notwithstanding the numerous policies across the Comprehensive Plan’s various elements that the proposed Zoning Map amendment would advance, an analysis of potential inconsistencies with the Comprehensive Plan is also necessary to demonstrate that the MU-7A Zone “is not inconsistent with the Comprehensive Plan[.]” 11-X DCMR § 500.3. As established by DCCA, it is not sufficient to simply identify the policies that would be advanced when evaluating a proposal for consistency with the Comprehensive Plan. Rather, because of the overlap within and between the elements the evaluation must also recognize where there may be potential inconsistencies.<sup>3</sup>

In the event there are inconsistencies, an explanation must be provided as to why said inconsistencies are outweighed by the advancement of other policies and considerations. A “roadmap” of sorts for evaluating a proposal’s consistency with the Comprehensive Plan can be found in the Court’s initial review of the McMillan PUD:

The Comprehensive Plan is a “broad framework intended to guide the future land use planning decisions for the District.” *Wisconsin-Newark Neighborhood Coal. v. District of Columbia Zoning Comm’n*, 33 A.3d 382, 394 (D.C. 2011) (internal quotation marks omitted). “[E]ven if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.” *Durant v. District of Columbia Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013). The Comprehensive Plan reflects numerous “occasionally competing policies and goals,” and, “[e]xcept where specifically provided, the Plan is not binding.” *Id.* at 1167, 1168 (internal quotation marks omitted). Thus “the Commission may balance competing priorities in determining whether a PUD is consistent with the Comprehensive Plan as a whole.” *D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm’n*, 73 A.3d 107, 126 (D.C. 2013). “[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission must recognize these policies and explain [why] they are outweighed by other,

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<sup>3</sup> Since first being adopted by the D.C. Council, the Comprehensive Plan has always recognized that there is intentional overlap between its individual components (elements), and that it is intended to be a policy framework that is to be interpreted broadly and provide guidance to all executive and legislative decision making. Indeed, the first Comprehensive Plan adopted in 1984 stated “[t]he primary dynamic of the District elements of the Plan are the overlapping of its elements’ goals. This overlapping is intentional.” (Section 102, District of Columbia Comprehensive Plan Act of 1984). The current Implementation Element reflects the same language: “[r]ecognize the overlapping nature of the Comprehensive Plan elements as they are interpreted and applied. An element may be tempered by one or more of the other elements.” 10A DCMR § 2504.6.

competing considerations.” *Friends of McMillan Park v. District of Columbia Zoning Comm’n*, 149 A.3d 1027, 1035 (D.C. 2016) (brackets and internal quotation marks omitted).

As discussed above, the FLUM designates the Property as Mixed Use – Moderate Density Residential / Moderate Density Commercial; and the GPM designates the Property as a Neighborhood Conservation Area. The Applicant has specifically analyzed the proposed zoning for potential inconsistencies with the Comprehensive Plan. After a full review of the elements, the Applicant has found only a few areas of potential inconsistency. Those policies are addressed below:

- Policy LU-3.2.1: Retain Areas for Industrial Uses

### **1. LU-3.2.1: Retain Areas for Industrial Uses**

Policy LU-3.2.1 seeks to retain an adequate, appropriate supply of industrial land designated for the range of Production, Distribution, and Repair (“PDR”) uses to meet the District’s current and future PDR activities and economic needs. These needs include public works functions, retail warehousing, transportation storage and maintenance, construction staging, such as concrete manufacturing, and back-office service needs. This policy recognizes that these services are a benefit to the entire District, yet impacts are disproportionately borne by those residents living in close proximity to industrial uses; therefore, opportunities to reduce or eliminate environmental impacts, abate nuisances, and ensure residents have neighborhood services and amenities shall be considered. 10-A DCMR § 316.2.

The proposed map amendment is not inconsistent with Policy LU-3.2.1 because the Property is not designated PDR on the FLUM. The policy more closely pertains to the reclassification of PDR designated property on the FLUM and therefore is not applicable to the proposed Application. Accordingly, on balance, the proposed Application is not inconsistent with Policy LU-3.2.1.

### **C. Brookland/CUA Metro Station Small Area Plan**

The purpose of the Brookland/CUA Metro Station Small Area Plan (the “Brookland Metro SAP”) is to guide future development in a manner that respects the low density scale of the nearby residential area, mitigates parking and traffic impacts, and improves connections to nearby institutions and shopping areas. District of Columbia Office of Planning, *Brookland CUA Metro Station Small Area Plan Main Page*, <https://planning.dc.gov/publication/brookland-cua-metro-station-small-area-plan-main-page> (last visited June 21, 2022). The Brookland Metro SAP, approved on March 3, 2009, incorporates the goals stated for the neighborhood in the Comprehensive Plan as well as the goals derived through the community and stakeholder-driven planning process. District of Columbia Office of Planning, *Brookland/CUA Metro Station Small Area Plan*, [https://planning.dc.gov/sites/default/files/dc/sites/op/publication/attachments/brookland\\_one\\_page.pdf](https://planning.dc.gov/sites/default/files/dc/sites/op/publication/attachments/brookland_one_page.pdf) (last visited June 21, 2022).

The Brookland Metro SAP contains Guiding Principles designed with the neighborhood and surrounding area in mind. *Id.* These Guiding Principles are grouped into four categories: Land Use and Neighborhood Character; Economic Development and Neighborhood Amenities; Transportation, Walkability, and Connectivity; and Open Space and Environmental. District of Columbia Office of Planning, *Brookland/CUA Metro Station Small Area Plan*, [https://planning.dc.gov/sites/default/files/dc/sites/op/publication/attachments/Final%20Plan%20with%20Council%20notes%204-09-09\\_Part1.pdf](https://planning.dc.gov/sites/default/files/dc/sites/op/publication/attachments/Final%20Plan%20with%20Council%20notes%204-09-09_Part1.pdf) (last visited June 21, 2022). The Application is consistent with a number of the aforementioned Guiding Principles and is not inconsistent with the Brookland Metro SAP.

#### *Land Use and Neighborhood Character*

One element of the Brookland Metro SAP's Land Use and Neighborhood Character Guiding Principle is the creation of an active pedestrian neighborhood with mixed-use development and a variety of housing types for all incomes. *Id.* The proposed Application adheres to the intent of this element by allowing the Property to be redeveloped with mixed commercial and residential uses. Additionally, the proposed Application will allow the Property to be developed with residential uses, therefore increasing the housing supply and housing types in the surrounding area. This increase has the ability to offer different housing types for all incomes in the surrounding area. Therefore, the proposed Application is not inconsistent with the Land Use and Neighborhood Character element of the Brookland Metro SAP.

#### *Economic Development and Neighborhood Amenities*

The Brookland Metro SAP's Economic Development and Neighborhood Amenities Guiding Principle seeks to add new retail and businesses to compliment 12th Street and provided needed services. *Id.* The Property is located less than 1,000 feet from the 12th Street mixed use corridor. The proposed Application would allow the Property to be developed with new commercial uses. The potential commercial uses would have the ability to add new retail and commercial uses to the area that would complement the 12th Street mixed use corridor and provided additional services. Therefore, the proposed Application is not inconsistent with the Economic Development and Neighborhood Amenities element of the Brookland Metro SAP.

#### *Transportation, Walkability, and Connectivity*

A goal of the Brookland Metro SAP is to enhance the public realm through improved streetscape, way finding, lighting, landscaping, and the burying of utilities. *Id.* The Property is an unimproved, vacant lot. Vacant properties do not improve the streetscape and do not encourage pedestrian connectivity. The proposed Application would allow the Property to be developed with mixed commercial and residential uses. Commercial and residential uses will enhance the streetscape by connecting the Property to the already existing pedestrian connectivity walkways in the surrounding area. Therefore, the proposed Application is not inconsistent with the Transportation, Walkability, and Connectivity element of the Brookland Metro SAP.

In short, the proposed Application is not inconsistent with the Brookland Metro SAP because the proposed Application is directly consistent with three of the four Brookland Metro SAP Guiding Principles.

**D. Health, Safety, and General Welfare**

The proposed Zoning Map amendment will further the public health, safety, and general welfare of the District of Columbia. The requested rezoning to the MU-7A zone will allow an existing vacant site to be put to more productive use, thus contributing to the ongoing revitalization of the Upper Northeast Planning Area, and the neighborhoods located near the Property. The map amendment will protect the health and safety of District residents by allowing for future redevelopment of the Property with a height and density that is not inconsistent with the Comprehensive Plan, including the FLUM and GPM.

**E. No Adverse Consequences**

The proposed Zoning Map amendment will not result in adverse consequences. Conversely, the requested rezoning will contribute to several positive and important benefits as it will facilitate the redevelopment of a significantly underutilized site located within a high redevelopment portion of the District. Redevelopment will improve the Property's current condition, thereby enhancing the quality of the entire community and increasing revenue for the District. Further, the map amendment will not generate any negative external effects, but will instead promote the efficient use of high value land in a manner that will enhance the District's image. Moreover, the map amendment will facilitate progress towards achieving racial equity in the District, as it does not lend to predictable outcomes based on one's socioeconomic status.

**F. Proposed MU-7A Zone Would Create Favorable Conditions**

As described above, the proposed Zoning Map amendment will bring the zoning of the Property into greater conformance with the Mixed Use (Moderate Density Residential / Moderate Density Commercial) FLUM designation of the Property. The proposed Zoning Map amendment will positively impact the surrounding Planning Area by supporting additional development, including neighborhood serving uses within a designated neighborhood commercial area. The Property is a transit-oriented location and is also well-positioned as a potential buffer site between the CSX railroad and Metrorail tracks and the lower-scale residential uses to the north and to the east. As detailed above, the requested rezoning also will advance a number of policies embodied in the various elements of the Comprehensive Plan, and is not inconsistent with the Comprehensive Plan when read as a whole. *Supra* Section IV.A and IV.B. Overall, approval of the proposed Application will promote the efficient use of high value land in a manner that will, among other things, increase the District's housing supply, including affordable housing, and access to neighborhood-serving retail.

**Community Outreach and ANC Coordination**

The Property lies within the boundaries of Advisory Neighborhood Commission ("ANC") 5B and lies specifically within the jurisdiction of ANC 5B04. The Applicant had a preliminary meeting with Commissioner Ra Amin, the single member district ("SMD") representative for ANC

5B04, and will present the application to the full ANC. The Applicant will continue to work closely with the SMD and the full ANC throughout the processing of this map amendment application.

**CONCLUSION**

For all of the reasons stated herein, the Applicant submits that the proposed rezoning of the Subject Property from PDR-1 to MU-7A is not inconsistent with the Comprehensive Plan and will further the objectives set forth in the Zoning Act. Accordingly, the Applicant respectfully requests that the Commission schedule a public hearing on this application and grant the requested Zoning Map amendment.

Respectfully submitted,

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