

## EVALUATION OF COMPREHENSIVE PLAN CONSISTENCY

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### INTRODUCTION AND OVERALL CONCLUSION

As set forth below, the proposed Zoning Map amendment is not inconsistent with the Comprehensive Plan (the “**Comp Plan**”).<sup>1</sup> The Comp 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 Comp Plan also addresses social and economic issues that affect and are linked to the physical development of the city and the well-being of its citizens.

As part of its review, the Zoning Commission (“**Commission**”) must find the proposed Zoning Map amendment to be not inconsistent with the Comp Plan. *See* 11-X DCMR § 500.3. As stated in the Framework Element, in making decisions as to Comp Plan consistency, “the [Commission] must consider the many competing, and sometimes conflicting, policies of the [Comp 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. To approve the proposed Zoning Map amendment, the Commission must consider and balance potential Comp Plan consistencies and inconsistencies to make an overall determination as to whether the map amendment is “not inconsistent” with the Comp Plan when read as a whole. As part of its Comp Plan evaluation, the Commission must also consider the recommendations of any adopted plans and active programs that are applicable to the subject site, including adopted Small Area Plans (“**SAPs**”), which are approved by resolution by the D.C. Council and provide more detailed planning guidance for a defined geographic area. Unless a SAP has been made binding on the Commission through its enactment as part of a Comp Plan amendment, a SAP provides only supplemental guidance to the Commission, but only to the extent that it does not conflict with the Comp Plan. 10-A DCMR § 224.5. In this case, the Property is located within the DUKE Development Framework Plan (“**DUKE Plan**”) and the Convention Center Area Strategic Development Plan (“**Convention Center Plan**”).

The following sections of this exhibit contain the Applicant’s thorough evaluation of the proposed Zoning Map amendment’s overall consistency with the Comp Plan. In conducting its Comp Plan evaluation, the Applicant has considered the goals and policies of the Comp Plan elements that are applicable to the proposal. In addition, the Applicant’s evaluation includes a specific assessment of potential Comp Plan inconsistencies. As detailed below, overall, the Applicant concludes that the proposal to rezone the Property from RA-2 to MU-10 is not inconsistent with the Comp Plan when read as a whole through a racial equity lens. In particular, the Applicant finds that the proposed rezoning will advance several policies within the Near Northwest, Land Use, and Housing Elements related to the production of affordable housing to achieve District goals, and the preservation of affordable housing in accordance with anti-displacement strategies. The Applicant has identified a few Land Use (LU-1.5.1: Infill Development) and Urban Design Element (UD-2.2.4: Transitions in Building Intensity, UD-2.2.5: Infill Development) policies with which the proposed rezoning

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<sup>1</sup>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 Generalized Policy Map (“**GPM**”) and Future Land Use Map (“**FLUM**”) (D.C. Resolution R24-0292).

could be considered inconsistent. Although, as discussed in the evaluation of potential inconsistencies section below, a basic evaluation of how development is likely to be situated on the Property under MU-10 development parameters given the surrounding context demonstrates that the proposed rezoning is not necessarily inconsistent with these policies. Notwithstanding, even if the Commission were to find the proposed MU-10 zone to be inconsistent with these specific policies, such inconsistencies would be outweighed by other competing Comp Plan policies and considerations such that overall, the proposed rezoning would remain not inconsistent with the Comp Plan when read as a whole.

## GENERALIZED POLICY MAP EVALUATION

As shown in **Figure 1**, the Property is located within a “Neighborhood Enhancement Area” designation on the GPM. According to the Framework Element, Neighborhood Enhancement Areas have substantial amounts of vacant or underutilized land that present opportunities for compatible infill development. 10-A DCMR § 225.6. Land uses that reflect the historical mixture and diversity of each community and promote inclusivity are encouraged. The guiding philosophy in Neighborhood Enhancement Areas is to ensure new development responds to the character, natural features, and existing/planned infrastructure capacity. New housing is encouraged to improve the neighborhood and must be consistent with the land use designation on the FLUM. *Id.*

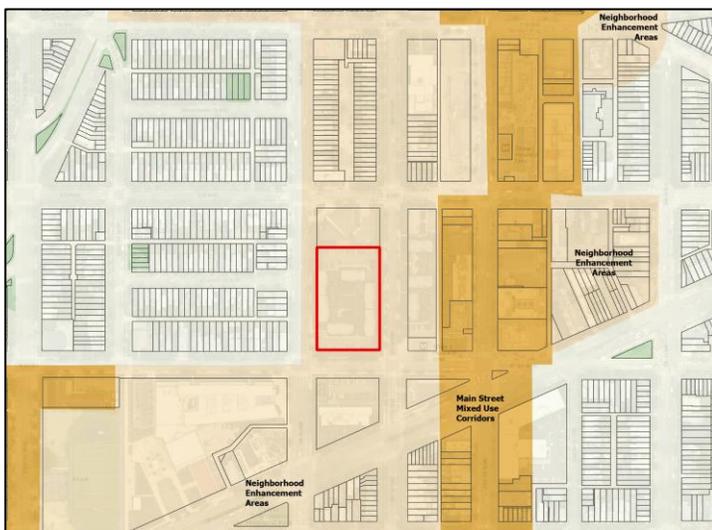


Figure 1: Excerpt of GPM showing Property within a designated Neighborhood Enhancement Area.

The proposed Zoning Map amendment is not inconsistent with the GPM. Future redevelopment of the Property in accordance with MU-10 development parameters will enhance an underutilized site in central urban area next to a Metrorail station with the potential for greater multifamily residential and mixed use density that will promote inclusivity by preserving and creating new affordable housing, access to retail and services, and proximity to transit, and which is compatible with the mixture of uses in the surrounding area (multifamily apartment buildings, single family dwellings,

flats, retail and service, institutional, and religious). The density permitted in the proposed MU-10 zone is consistent with the guidance provided by the GPM to respond to character and existing infrastructure capacity. Furthermore, to ensure compatibility, future development on the Property will be adequately separated from nearby lower-scale residential uses by the church to the north, 8<sup>th</sup> Street to the east (100 feet wide), and 9<sup>th</sup> Street to the west (85 feet wide).

## FUTURE LAND USE MAP EVALUATION



Figure 2: Excerpt of FLUM showing Property designated Mixed Use (Medium Density Commercial / Medium Density Residential)

The FLUM shows the general character and distribution of recommended and planned uses across the city. 10-A DCMR § 200.5. As shown in **Figure 2**, the Property is located within an area designated as Mixed Use Medium Density Commercial / Medium Density Residential on the FLUM. A “Mixed Use” designation is a specific land use category and is assigned to areas where the mixing of two or more land uses is encouraged, but not mandatory. It is intended primarily for larger areas where no single use predominates today, or areas where multiple uses are encouraged in the future. 10-A DCMR § 227.22.

The combination of uses and the general density of development in any given Mixed Use area is informed by the stripe patterns on the FLUM. If the desired outcome is to emphasize one use over another, the FLUM may note the dominant use by assigning it a higher density. 10-A DCMR § 227.1. The Area Elements and applicable small area plans, if any, may also provide detail on the mix of uses envisioned for an area. In this case, the Mixed Use area within which the Property is located does not express a preference for a particular use. However, policy guidance in the Near Northwest Area Element and recommendations within the DUKE Plan and Convention Center Plan suggest a general preference for residential use within the portion of the Mixed Area on the FLUM that the Property is located.

The proposed Zoning Map amendment to MU-10 is not inconsistent with the FLUM, and in fact will implement the FLUM amendment change from Moderate Density Residential to Medium Density Residential and Medium Density Commercial Mixed Use that was adopted by the Council for the Property in 2021. The FLUM is intended to be read and applied broadly by area rather than on a property-by-property basis. In this case, the Property is within a larger area designated for Medium Density Mixed Use development. The zoning and general patterns of use and scale for this overall area are similarly characterized by medium density development containing a mix of residential and commercial buildings, many of which are single use (i.e. all residential or all commercial) and others containing ground floor commercial uses (retail and service) with residential or commercial use above. Importantly, the MU-10 zone is specifically identified in the Framework Element of the Comp Plan as a zone that is consistent with the Medium Density Commercial FLUM designation.

While the Framework Element states that “a variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities.” choosing a

mixed-use (MU) zone as opposed to a zone that only permits residential use (such as an RA zone) is appropriate in this case given the Property’s proximity to Metrorail and the Rhode Island Avenue, 9<sup>th</sup> Street, and 7<sup>th</sup> Street corridors. While the Applicant is not contemplating a notable ground floor retail component given the all-affordable development program that is anticipated, and the financing complexities that come with such a program, the proposed MU-10 zone will provide the opportunity for a limited retail and/or service uses if there is demand for such uses and the Applicant is able to navigate any financing hurdles.

Regarding density, the density permitted in the proposed MU-10 zone is well within Framework Element guidance. The Framework Element describes the “Medium Density Commercial” land use category as permitting “typical” matter-of-right density ranging between 4.0 FAR – 6.0 FAR, with greater density possible through IZ and a PUD. The Framework Element describes the “Medium Density Residential” land use category as permitting “typical” matter-of-right density ranging between 1.8 FAR – 4.0 FAR, with greater density possible through IZ and a PUD. The density permitted as a matter-of-right in the proposed MU-10 zone is 6.0 FAR (7.2 FAR w/ IZ), of which no more than 3.0 FAR may be devoted to non-residential uses. This overall permitted density, which favors residential density through the limitation on non-residential use, is consistent with the Property’s FLUM designation and additional Comp Plan policy and small area plan guidance.

Further, consistent with the FLUM the Zoning Regulations describe the MU-10 zone as being “intended to permit medium- to high-density mixed-use development” and be applied “to areas where a mixture of uses and building densities is intended to carry out elements of the [Comp Plan], small area plans, or framework plans, including goals in employment, population, transportation, housing, public facilities, and environmental quality.” Emphasis added. 11-G DCMR § 101.15. The height permitted under the MU-10 zone is appropriate given the Property’s location adjacent to Metrorail and next to existing and approved 90-foot residential buildings to the south and east, respectively. Further, future development on the Property will be separated from the lower-scale residential to the west by 9<sup>th</sup> Street, which has a right-of-way width of approx. 85 feet.

## **NEAR NORTHWEST AREA ELEMENT EVALUATION**

The Zoning Map amendment is not inconsistent with the policies set forth in the Near Northwest (“NNW”) Area Element. The proposed Zoning Map amendment to MU-10 will facilitate the Applicant’s planned redevelopment of the Property, an underutilized site close to Metrorail and near schools, community facilities, and neighborhood-serving amenities. Through use of the District’s Tenant Opportunity to Purchase Act (“TOPA”), the Applicant intends to redevelop the Property with an all-affordable residential project in a manner that will expand the District’s supply of affordable housing and guarantee existing tenants the opportunity to return to a similar unit following construction. In accordance with TOPA, the Applicant will implement a comprehensive tenant relocation plan throughout the redevelopment of the Property. (NNW-1.1.8, NNW-2.1.1). The proposed rezoning will not adversely affect existing moderate-density row house areas since the Property is already zoned for multi-family development; thus, the proposed rezoning will simply allow additional multi-family density in an appropriate location near the

Shaw/Howard University Metrorail station, neighborhood amenities, civic and institutional uses, and consistent with the FLUM. (NNW-2.1.2).

Further, redevelopment of the Property according to MU-10 matter-of-right standards will be compatible with the character of the surrounding context. Specifically, the property to the south across R Street (90 feet wide) is zoned RA-4 (permits 90 feet in height) and is improved with a building that is approximately 90 feet tall, and to the southeast is the Watha T. Daniel public library. To the east, across 8<sup>th</sup> Street (100 feet wide), the Commission recently approved a 90-foot-tall building (Z.C. Order No. 22-09). To the immediate north of the Property is New Bethel Baptist Church, which is a large institutional building. Finally, new development on the Property will be adequately separated from existing moderate-density residential uses to the west by 9<sup>th</sup> Street, which has a width of approx. 85 feet. Also, the MU-10 zone’s density, height, lot occupancy, and plaza (8% of land area) standards ensure that any redevelopment scenario at the Property will provide ample open space and a restraint on unduly encroaching on nearby moderate density buildings. This includes the maximum 80% residential lot occupancy (with IZ) and the approximately 5,165 square feet of plaza area that is required by the MU-10 zone for this Property.

### **Near Northwest Area Element Policies Advanced by the Application<sup>2</sup>**

#### **NNW-1.1: Guiding Growth and Neighborhood Conservation**

- **NNW-1.1.8: Affordable Housing**
- NNW-2.1.1: Affordable Housing
- NNW-2.1.2: Reinforce Existing Development Patterns

## **LAND USE ELEMENT EVALUATION**

Overall, the proposed Zoning Map amendment is not inconsistent with the Land Use Element. The proposed rezoning will help the District maintain a variety of neighborhood types throughout the city and protect lower-density residential areas by rezoning a property that is already zoned for multi-family development and in an area on the FLUM designated for greater density. The increase in permitted height and density on the Property is appropriate given the site’s proximity to transit, the width of surrounding streets, and proximity to other uses. (LU-2.1.1). Indeed, the proposed rezoning will help advance affordability, racial equity, and opportunity by preserving and expanding housing and affordable housing in proximity to Metrorail, priority bus corridors, and other forms of alternative transportation that will minimize the need for automobile use and thus lower transportation costs, particularly for households that may be housing cost burdened and are forced to rely on public transit, especially for access to employment. (LU-1.4.2, LU-1.4.3, LU-2.1.3). Using the District’s TOPA program, the Applicant will substantially increase the amount of housing, all of which will be affordable, on the Property while also preserving affordable housing for existing tenants that will have a guaranteed right of return to comparable dwelling units and rent levels. (LU-1.4.4).

### **Land Use Element Policies Advanced by the Application**

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<sup>2</sup> Policies in **bold underline** denote policies that explicitly address racial equity as identified in the D.C. Office of Planning’s (“OP”) Equity Crosswalk (effective August 21, 2021).

LU-1.4: Transit-Oriented and Corridor Development

- LU-1.4.2: Development Around Metrorail Stations
- LU-1.4.3: Housing Around Metrorail Stations
- LU-1.4.4: Affordable Rental and For-Sale Multi-Family Housing Near Metrorail Stations

LU-2.1: A District of Neighborhoods

- **LU-2.1.1: Variety of Neighborhood Types**
- LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods

**HOUSING ELEMENT EVALUATION**

The proposed Zoning Map amendment to rezone the Property to MU-10 is not inconsistent with the policies of the Housing Element. The rezoning will facilitate the Applicant’s efforts to replace the existing housing on the Property, which is outdated and needs significant improvement, through the TOPA program to provide improved housing for existing tenants, while also increasing the amount of housing on the site consistent with District land use policies and objectives. (H-1.1.1, H-1.1.3, H-1.2.1, H-2.1.4, H-2.1.5, H-2.1.9). Given the significant growth that has occurred in the Near Northwest Planning Area and nearby neighborhoods in the last two decades the preservation and expansion of the area’s affordable housing supply is critically important. (H-

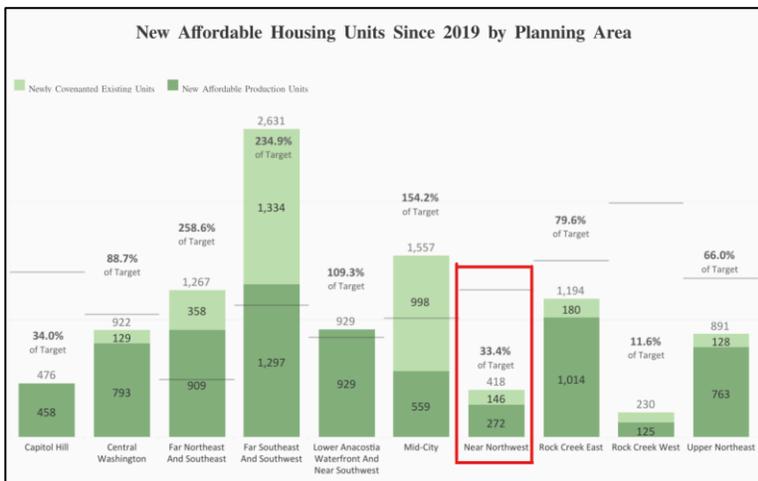


Figure 4: Current status of new affordable housing units constructed and newly covenanted since 2019 by Comp Plan Planning Area in relation to Housing Equity Report affordable housing goals.

fact, the Near Northwest Planning Area is second only to the Rock Creek West Planning Area in the lack of affordable housing production since 2019. The proposed rezoning will greatly assist the District in achieving its affordable housing goal for the Near Northwest Planning Area. Importantly, through a comprehensive tenant relocation plan, the Applicant will redevelop the Property consistent with the anti-displacement strategies set forth in the Housing Element, such as, for example, providing existing tenants with a guaranteed right of return to a replacement unit of the same type and rent levels, one-for-one replacement of units, and provision of temporary off-site relocation assistance during construction. (H-2.1.1). The Applicant’s planned redevelopment

1.2.2, H-1.2.3, H-2.1.2). Indeed, the District’s 2019 Housing Equity Report set an overall housing production goal to construct 1,850 housing units within the Near Northwest Planning Area by 2025, including 1,250 dedicated affordable units.<sup>3</sup>

As shown in **Figure 4**, to date, only approximately 418 affordable units (with 272 being new affordable units and 146 being newly covenanted affordable units) have been delivered in the Near Northwest Planning Area since 2019.<sup>4</sup> In

<sup>3</sup> <https://planning.dc.gov/sites/default/files/dc/sites/housingdc/publication/attachments/Housing%20Equity%20Report.pdf>

<sup>4</sup> <https://open.dc.gov/36000by2025/>

of the Property is likely to utilize public financing and subsidies to some degree which will impose long-term affordability requirements on the Property. (H-1.2.11, H-2.1.6).

### **Housing Element Policies Advanced by the Application**

#### H-1.1: Expanding Housing Supply

- H-1.1.1: Private Sector Support
- H-1.1.3: Balanced Growth

#### H-1.2: Ensuring Housing Affordability

- H-1.2.1: Low- and Moderate-Income Housing Production as a Civic Priority
- **H-1.2.2: Production Target**
- **H-1.2.3: Affordable and Mixed Income Housing**
- H-1.2.11: Inclusive Mixed-Income Neighborhoods

#### H-2.1: Preservation of Affordable Housing

- **H-2.1.1: Redeveloping Existing Income-restricted Affordable Housing**
- **H-2.1.2: Preserving Affordable Rental Housing**
- **H-2.1.4: Avoiding Displacement**
- **H-2.1.5: Conversion of At-Risk Rentals to Affordable Units**
- **H-2.1.6: Long-Term Affordability Restrictions**
- **H-2.1.9: Redevelopment of Affordable Housing**

## **ENVIRONMENTAL PROTECTION ELEMENT EVALUATION**

The proposed Zoning Map amendment is not inconsistent with the policies of the Environmental Protection Element. The proposal is necessary for the Applicant to advance redevelopment of the Property to not only meet housing demand and affordable housing goals, but also to advance the District’s sustainability goals by increasing density near transit, eliminating impervious surface, and promoting green building. Currently, the Property is improved with a collection of low-rise garden style apartment buildings and surface parking, which does not take advantage of the site’s proximity to transit and many other neighborhood-serving retail, service, cultural, and institutional uses. Compared to existing conditions, the Applicant’s future project will be significantly more sustainable as it will be subject to the requirements of the District’s Green Building Act, DOEE’s stringent stormwater regulations (which requires substantial on-site retention of stormwater) and site study and mitigation efforts, as well as other existing and future requirements for EV readiness and net zero construction (E-4.2.1). Additionally, future redevelopment of the Property will help mitigate urban heat island impacts caused by the existing impervious surface parking of the site (**E-1.1.2**).

### **Environmental Protection Element Policies Advanced by the Application**

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

- **E-1.1.2: Urban Heat Island Mitigation**

#### E-4.2: Promoting Green Building

- E-4.2.1: Support for Green Buildings

## URBAN DESIGN ELEMENT EVALUATION

The proposed Zoning Map amendment is not inconsistent with the policies of the Urban Design Element. As part of any future redevelopment of the Property the Applicant would be required to reconstruct the surrounding streetscape. As shown in **Figure 5**, the Property currently has surface parking located on the north and south sides of the site that are accessed via curb cuts along 9<sup>th</sup> Street, with the southern curb cut located approximately 48 feet from R Street which does not meet DDOT’s minimum distance between a curb cut and street intersection. The future redevelopment of the Property will resolve this condition and likely result in access to the site being consolidated to a single curb cut, thus improving pedestrian safety. (UD-2.1.6).



Figure 5: Photos of existing north (top) and south (bottom) curbs cuts leading to surface parking lots on the Property

In conducting this evaluation, the Applicant did identify a couple potential Urban Design policy inconsistencies relating to infill development (UD-2.2.5: Infill Development) and transitions in building intensity between high- and lower-scaled areas (UD-2.2.4: Transitions in Building Intensity). These policies are thoroughly addressed in the “Potential Comp Plan Inconsistencies” section below.

### Urban Design Element Policies Advanced by the Application

#### UD-2.1: Streets for People

- UD-2.1.6: Minimize Mid-Block Vehicular Curb Cuts

## DUKE SMALL AREA PLAN

The Property is within the boundary of the DUKE Plan, which was approved by the D.C. Council in September 2004. Its recommendations were subsequently incorporated into the Comp Plan in 2006. Developed through an extensive community engagement process, the DUKE Plan provides direction to the community, private sector, and public sector on neighborhood revitalization to achieve a cohesive and inclusive district that meets community and District government development goals. DUKE Plan at p.4. The DUKE Plan calls for “land use adjustments that can be implemented through amendments to the zoning map, planned unit

developments, and amendments to the zoning text...[and] provides additional guidance to the Zoning Commission as it considers zoning actions for the area. *Id* at p.34. While the Property is within the boundary of the DUKE Plan, it does not make any zoning, land use, or any other recommendations specific to the Property. However, the Property is located at the western edge of the DUKE Plan’s “Rhode Island Avenue” sub-area, which is named “*Residences.*” As the name implies, the DUKE Plan envisions primarily high density residential above neighborhood retail uses along 7<sup>th</sup> Street within the Rhode Island Avenue sub-area. Consistent with this objective, the proposed MU-10 zone will facilitate the Applicant’s efforts to redevelop the Property - in accordance with a development agreement that has been established with existing tenants through the TOPA process – with a new medium-density multi-family residential building.

## CONVENTION CENTER AREA STRATEGIC DEVELOPMENT PLAN

The Property is located within the boundaries of the Convention Center Plan, which was approved by the D.C. Council in June 2006. The Convention Center Plan was prepared to: (i) help strengthen neighborhood businesses in the Shaw neighborhood through capital investment that meets the needs of visitors and tourists and creates job opportunities and tax revenues for local services, (ii) generate quality housing that will ensure that the community remains demographically diverse and offers a wide range of housing types, and improve the public realm. Convention Center Plan at p.2.

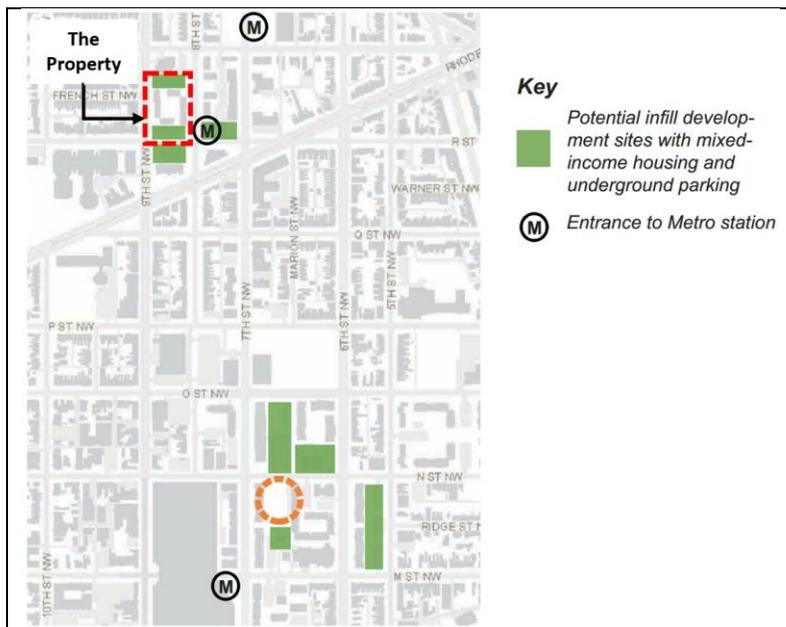


Figure 6: Diagram from Convention Center Plan – Transit Oriented Sub-Area identifying infill opportunities on the Property.

The Convention Center Plan identifies a series of sub-areas that each face different issues and opportunities, with the Property located in the “Transit Oriented Housing” sub-area. This sub-area is defined by the common design of apartment developments and their proximity to Metrorail stations. The sub-area’s apartment developments provide a variety of unit types and include a substantial number of affordable housing units. Convention Center Plan at p.29. For the sub-area, the Convention Center Plan encourages mixed-income residential development on surface parking lots adjacent to Metrorail, as well as renewal of Project-based Section 8 contracts

or redevelopment with equivalent/increased number of affordable housing. Convention Center Plan at p.43. Additional new construction of mixed-income housing at or near Metrorail that is compatible with adjacent residential areas is also encouraged. *Id.* The proposed rezoning is consistent with the recommendations of the Convention Center Plan. As shown in **Figure 6**, the

Convention Center Plan specifically identifies that surface parking on the north and south ends of the Property as “potential infill development sites.” As discussed above, using the District’s TOPA program, the Applicant intends to redevelop the Property with a new all affordable multi-family residential development that will preserve and expand the amount of affordable housing on the Property and near Metrorail. In accordance with a tenant relocation plan, existing tenants will be provided a guaranteed right of return to comparable dwelling units.

## **POTENTIAL COMP PLAN INCONSISTENCIES**

The foregoing Comp Plan analysis thoroughly demonstrates the numerous ways in which the proposed Zoning Map amendment aligns with the policies and goals of the Comp Plan, including the FLUM and GPM. However, as explained in multiple decisions by the D.C. Court of Appeals (“**Court**”), it is not sufficient to simply identify the policies that would be advanced when evaluating a proposal for consistency with the Comp Plan. Rather, because there is intentional overlap within and between the Comp Plan elements, a Comp Plan evaluation must recognize potential inconsistencies and explain why the inconsistencies are outweighed by other Comp Plan policies and/or competing considerations. The Court has provided the following specific guidance:

The Comp Plan is a broad framework intended to guide the future land use planning decisions for the District. Thus, even if a proposal 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 [Comp] Plan as a whole. The Comp Plan reflects numerous occasionally competing policies and goals, and, except where specifically provided, the [Comp] Plan is not binding. Thus, the Commission may balance competing priorities in determining whether a proposal would be inconsistent with the Comp Plan as a whole. If the Commission approves a [proposal] that is inconsistent with one or more policies reflected in the [Comp] Plan, the Commission must recognize these policies and explain [why] they are outweighed by other, competing considerations.” *Friends of McMillan Park v. District of Columbia Zoning Comm’n*, 149 A.3d 1027, 1035 (D.C. 2016) (“*McMillan*”) (internal citations and quotations omitted).

The Implementation Element reflects similar guidance: “[r]ecognize the overlapping nature of the [Comp Plan] elements as they are interpreted and applied. An element may be tempered by one or more of the other elements.” 10-A DCMR § 2504.6.

Consistent with the guidance provided in the Implementation Element and by the Court, the Applicant conducted a thorough Comp Plan evaluation using a racial equity lens, and, as detailed throughout this statement, finds the proposed Zoning Map amendment to be not inconsistent with the Comp Plan when read as a whole using a racial equity lens. In conducting its evaluation, the Applicant was careful to identify any instances where the Zoning Map amendment may be viewed as being inconsistent with certain Comp Plan policies.

### **Potential Comp Plan Inconsistencies Evaluation**

The potential inconsistencies present in the proposed Zoning Map amendment relate to policies that call for avoidance of overwhelming contrasts in building intensity and scale during infill development or redevelopment of sites. As discussed below, while the Applicant believes the case can be made that the proposed rezoning to MU-10 is not inconsistent with these particular policies, to the extent the Commission deems the rezoning inconsistent with these policies, such inconsistency is outweighed by the proposal's consistency with other Land Use and Housing policies that promote increased density and housing affordability near Metrorail, preservation and expansion of affordable housing, and maintaining / conserving existing lower-scale residential areas by allowing increased density on land that is already zoned for multi-family residential use.

### Policies Related to Infill Development and Transitions in Building Height

Urban Design Element policy UD-2.2.4 calls for design of transitions between large- and small-scale developments, noting that “the relationship between taller, more visually prominent buildings and lower, small buildings (such as single-family or row houses) can be made more pleasing and gradual through a variety of context-specific design strategies,” such as a slender massing of taller elements, upper-level step backs, strategic placement of taller elements, or open-space frontages. 10-A DCMR § 909.9. In addition, policy UD-2.2.5 states that “new construction, infill development, redevelopment, and renovations to existing buildings should respond to and complement the defining visual and spatial qualities of the surrounding neighborhood,” and to avoid overpowering contrasts of scale and height as infill development occurs. 10-A DCMR § 909.10. Both of these policies are more applicable when considering a specific development, which is not the case in this proposal. However, a basic assessment of the proposed Zoning Map amendment against these two policies can be conducted using the primary development standards of the proposed MU-10 zone (density, height, lot occupancy, and plaza) and basic planning- and design-level assumptions.

As previously noted, the Property is surrounded by a range of land uses and building sizes. To the south is the Watha T. Daniel public library and an 8-story apartment building in the RA-4 zone. To the east is a vacant low-rise apartment complex that will be redeveloped with a 90-foot apartment building that was recently approved by the Commission (Z.C. Case No. 22-09), and to the north is a church with surface parking along the south and east sides of its site. To the west of the Property is an established moderate-density rowhouse neighborhood that is zoned RF-1. There are approximately ten (10) - primarily three-story - rowhomes that face the Property immediately across 9<sup>th</sup> Street, which is approximately 85 feet. Based on the surrounding context, it is intended that the massing of future development on the Property under the proposed MU-10 zone would be oriented and concentrated toward the east side of the site, away from the moderately-scaled rowhomes across 9<sup>th</sup> Street. Furthermore, it is more likely that vehicular and loading access to future development would be located on the northeast side of the site to avoid conflicts with street intersections on the south side of the Property, as required by DDOT. This would likely push the massing of future development away from the church to the north. Based on these simple planning and design assumptions alone, redevelopment of the Property under the proposed MU-10 zone is not expected to result in any overpowering contrasts in scale or unacceptable transitions in the overall development pattern of the surrounding area. This observation is further supported through a high-level review of the primary MU-10 development standards.

The massing and scale of a building is primarily a function of its density, height, and lot occupancy. While developments in the MU-10 zone that are subject to IZ allow a maximum density of 7.2 FAR, a maximum height of 100 feet, and maximum 80% lot occupancy, any future development on the Property will be unable to maximize all of these standards for the entire Property. For example, as shown in **Table 1** below, assuming full utilization of allowable density (which is very unlikely for the current owner), any development on the Property that maximizes lot occupancy (80%) would be limited to approximately 90 feet in height (See “Maximize Lot Occupancy scheme). Under this scheme, a 90-foot building located across the 85-foot wide 9<sup>th</sup> Street from a moderate density residential area would not result in an overwhelming contrast in scale. In fact, these types of height transitions are found throughout the District. Similarly, and again assuming full utilization of allowable density, any development that takes full advantage of permitted building height (100 feet) would be limited to approximately 72% lot occupancy (See “Maximize Height scheme). This scenario is unlikely as it would require the Applicant to utilize Type I (steel and concrete) construction which is not currently contemplated for the all-affordable project’s financing. Nonetheless, even under this scenario, any potential impact of the increased building height would be mitigated by a more slender building form and substantial increase in open space that would likely be oriented toward 9<sup>th</sup> Street, with the building massing likely situated toward the RA-4 zoned 8-story building to the south and the 90-foot building that has been approved across 8<sup>th</sup> Street to the east. Note, as shown in **Table 1**, the Applicant’s current targeted development program, which is based on the Applicant’s agreement with existing tenants and anticipated financing, is not expected to maximize height or lot occupancy. Indeed, the height and lot occupancy likely will be well below the maximums that are permitted in the MU-10 zone, and thus not incompatible with the row houses and flats to the west of the Property.

<b>Table 1: Evaluation of MU-10 Density, Height, and Lot Occupancy in Relation to Surrounding Context of the Property</b>						
<b>Scheme</b>	<b>Land Area</b>	<b>Density</b>	<b>Lot Occupancy</b>	<b>Bldg. Footprint</b>	<b>No. Stories</b>	<b>Approx. Height (not incl. penthouse)</b>
<b>Maximize Lot Occupancy</b>	64,568 sf	464,889 sf	80%	51,654 sf	9	90 ft.
<b>Maximize Height</b>	64,568 sf	464,889 sf	72%	46,488 sf	10	100 ft.
<b>Targeted Development Program (approximate and subject to change)</b>	64,568 sf	309,926 sf	60%	34,450 sf	8	85 ft.

Based on the foregoing, the Applicant believes that redevelopment of the Property according to MU-10 matter-of-right standards will be compatible with the character of the surrounding area and not result in overwhelming contrasts in scale with the adjacent context. Notwithstanding, as shown in **Table 2**, the potential inconsistencies with policies UD-2.2.4 and UD-2.2.5, those inconsistencies would be outweighed by the Property’s Medium Density Mixed Use FLUM designation, which was adopted by the Council in 2021, and by Near Northwest, Land Use, and Housing policies promoting increased density and housing affordability near Metrorail, preservation and expansion of affordable housing, and maintaining / conserving existing lower-

scale residential areas by allowing increased density on land that is already zoned for multi-family residential use.

<b>Table 2: Comparison of Potential Comp Plan Inconsistencies and Competing Comp Plan Policies and Considerations</b>	
<b>Potential Inconsistency</b>	<b>Outweighing Policy / Consideration</b>
<ul style="list-style-type: none"> <li>· UD-2.2.4: Transitions in Building Intensity</li> <li>· UD-2.2.5: Infill Development</li> </ul>	<p>FLUM designation (Mixed Use (Medium Density Commercial / Medium Density Residential))</p> <p><u>Near Northwest Planning Area Element</u></p> <ul style="list-style-type: none"> <li>· <b><u>NNW-1.1.8: Affordable Housing</u></b></li> <li>· NNW-2.1.1: Affordable Housing</li> <li>· NNW-2.1.2: Reinforce Existing Development Patterns</li> </ul> <p><u>Land Use Element</u></p> <ul style="list-style-type: none"> <li>· LU-1.4.2: Development Around Metrorail Stations</li> <li>· LU-1.4.3: Housing Around Metrorail Stations</li> <li>· LU-1.4.4: Affordable Rental and For-Sale Multi-Family Housing Near Metrorail Stations</li> </ul> <p><u>Housing Element</u></p> <ul style="list-style-type: none"> <li>· <b><u>H-2.1.1: Redeveloping Existing Income-restricted Affordable Housing</u></b></li> <li>· <b><u>H-2.1.2: Preserving Affordable Rental Housing</u></b></li> </ul>