

**BEFORE THE ZONING COMMISSION
OF THE
DISTRICT OF COLUMBIA**

**STATEMENT IN SUPPORT OF
AN APPLICATION FOR A ZONING MAP AMENDMENT**

**FROM THE PDR-2 ZONE
TO THE MU-10 ZONE**

**(Square 3623 Lots 1 and 2, and Parcels 131/94, 131/146, 131/147, 131/155, 131/161, 131/162,
and 131/217)**

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Leila M. Jackson Batties
HOLLAND & KNIGHT LLP
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006
(202) 955-3000

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I. INTRODUCTION

LDP Acquisitions, LLC (d/b/a Jair Lynch Real Estate Partners) and 525 Rhode Island Avenue LP (an affiliate of The Wilkes Company), hereinafter together referred to as the “Applicant,” through undersigned counsel, submit this statement in support of an application to amend the Zoning Map of the District of Columbia (the “Zoning Map”) to rezone the properties recorded as Lots 1 and 2 in Square 3623 and Parcels 131/94, 131/146, 131/147, 131/155, 131/161, 131/162, and 131/217 (collectively, the “Property”) from PDR-2 to the MU-10. Building plats showing the lots to be rezoned are attached as Exhibit A.

As required pursuant to 11-X DCMR § 500.1, the requested Zoning Map amendment is not inconsistent with the Comprehensive Plan (“Comp Plan”) and with other adopted public policies and active programs related to the Property. Further, consistent with the purposes of the Zoning Act, the requested rezoning will create conditions that are favorable to public health, safety, welfare, and convenience. As discussed herein, the current PDR-2 zoning of the Property is inconsistent with its designation on the Comp Plan’s Future Land Use Map (“FLUM”), and with Comp Plan policies. The proposed Zoning Map amendment to MU-10 will rectify this inconsistency and also advance the objectives and recommendations of the Rhode Island Avenue “Diamond of the District” Small Area Action Plan (the “Rhode Island SAP”).

II. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property, which contains approximately 122,631 square feet of land area, is bounded by Rhode Island Avenue, NE on the north, W Street, NE on the south, the Metrorail tracks and Rhode Island Avenue Metrorail Station to the east, and 5th Street, NE to the west. The Property has approximately 628 linear feet of frontage along Rhode Island Avenue, NE, and is immediately adjacent to the Rhode Island Avenue Metrorail Station and the Metropolitan Branch Trail.

The Property currently contains a collections of underutilized lots that contain a variety of industrial, warehouse, retail, surface parking, and other uses associated with the Greater Mount Calvary Holy Church (“GMCHC”) community programs, including a food bank, clothing center, family life community center, and various health and well-being services. Indeed, the GMCHC is the majority land owner of the lots that comprise the Property. As noted in its letter of support from the church attached as Exhibit B, since 1995, GMCHC has been able to acquire a number of properties in the neighborhood surrounding its sanctuary located at 610 Rhode Island Avenue, NE (on the north side of Rhode Island Avenue, NE), including those that are part of the subject application (on the south side of Rhode Island Avenue, NE). In 2013, consistent with the Rhode Island SAP, the formulation of which GMCHC actively participated in, GMCHC made a strategic decision to redevelop its properties directly across from its sanctuary, in part, to generate the funding needed to sustain its ministries and complete long overdue improvements to its sanctuary. After several years of internal planning with its membership and coordination with neighboring property owners, including 525 Rhode Island Avenue LP, GMCHC is hoping to finally be able to capitalize on the development momentum that has now come to Rhode Island Avenue.

The area north of the Property is experiencing significant redevelopment. For example, the former Rhode Island Avenue Shopping Center is currently being redeveloped into a major mixed-use neighborhood, known as “Bryant Street,” containing approximately 1,500 new residential units

and approximately 250,000 square feet of retail. Phase 1 of the Bryant Street development is currently under construction and will contain approximately 487 residential units, 35,000 square feet of retail, and a nine-screen movie theater. The area to the northeast of the Property, on the opposite site of the Metrorail tracks, is experiencing similar redevelopment, some of which has been facilitated by Zoning Map amendments (similar to the subject application) that were approved by the Zoning Commission (“Commission”). Examples of recent developments in this area include the six-story, 139-unit Brookland Press apartment building and the 9-story, 353-unit apartment building currently under construction at 2607 Reed Street, NE. Finally, the area to the east and southeast of the Property contains the Rhode Island Avenue Station project, a mixed-use development approved by the Commission containing approximately 270 residential units and approximately 70,000 square feet of retail; the Brentwood Shopping Center, which currently contains a Home Depot, Giant grocery store, and approximately 60,000 square feet of other retail uses; and a number of industrial uses, including the United States Postal Service – Brentwood Distribution Center.

As shown on the portion of the Comp Plan FLUM attached as Exhibit C, the Property is designated as Mixed Use (High Density Residential/Medium Density Commercial). The Property was placed in its current FLUM designation during the 2012 Comp Plan amendment cycle, when it was recognized that mixed-use development should be encouraged in close proximity to the Rhode Island Avenue Metrorail Station. As shown on the portion of the Comp Plan Generalized Policy Map (“GPM”) attached hereto as Exhibit D, the Property is located partially within a Land Use Change Area and partially within a Neighborhood Conservation Area. The Property is also located within the Rhode Island Avenue Metro Station Area Policy Focus Area within the Upper Northeast Area Element of the Comp Plan. As demonstrated below, the proposed Zoning Map amendment is not inconsistent with the Comp Plan, including the FLUM and GPM.

III. EXISTING AND PROPOSED ZONING

A. Existing Zoning

As indicated above, the Property is presently zoned PDR-2. The PDR-2 zone is intended to permit medium-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. 11-J DCMR § 200.2. The PDR-2 zone permits a maximum density of 4.5 FAR for uses falling within the use categories listed in 11-J DCMR § 202.2. All other permitted, conditional, or special exception uses are limited to a maximum density of 3.0 FAR. 11-J DCMR § 202.3. The maximum permitted building height, not including penthouse, in the PDR-2 zone is 60 feet. 11-J DCMR § 203.1. As evidence that the Property’s existing zoning is inconsistent with the Comp Plan, despite the Property’s Mixed Use (High Density Residential / Medium Density Commercial FLUM designation, the current PDR-2 zoning does not permit any new multi-family residential development.¹

¹ The Commission has previously found PDR zoning to be inconsistent with Mixed Use FLUM designations in Z.C. Order No. 10-30 (Jemal’s Channing, LLC), Z.C. Order No. 17-15 (806 Rhode Island Ave LLC), Z.C. Order No. 17-17 (Advisory Neighborhood Commission 8A), and Z.C. Order No. 18-07 (Lean Development, LLC). In Z.C. Order No. 18-07, the Commission also found the existing PDR-1 zoning to be inconsistent with the Neighborhood Conservation Area on the Comp Plan Generalized Policy Map because the PDR-1 zone did not allow the residential uses there were already in existence in the majority of the Neighborhood Conservation Area in which the Property is

B. Proposed Zoning

The Applicant requests a Zoning Map amendment to rezone the Property to MU-10. The MU-10 zone permits medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions. It is intended to 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. 11-G DCMR § 400.9. The MU-10 zone permits a maximum density of 6.0 FAR (7.2 with Inclusionary Zoning (“IZ”)), of which no more than 3.0 FAR may be devoted to non-residential uses. 11-G DCMR § 402.1. With respect to building height, the MU-10 zone permits a maximum height of 90 feet (100 feet with IZ), not including penthouse. 11-G DCMR § 403.1.

C. Effect of the Proposed Map Amendment

As described in detail below, the requested Zoning Map amendment from PDR-2 to MU-10 is not inconsistent with the Comp Plan, will advance the objectives and recommendations of the Rhode Island SAP, and is consistent with the purposes of the Zoning Act. Consistent with the recommendations of the Rhode Island SAP that are specific to the Property, the proposed Zoning Map amendment will permit commercial and residential uses as a matter-of-right on the Property, and will increase the maximum height and density on the Property to 90 feet (100 feet with IZ), and 6.0 FAR (7.2 FAR with IZ), respectively. In addition, the proposed rezoning will:

1. Establish zoning on the Property that is not inconsistent with the Comp Plan, as required under the Home Rule Charter;
2. Establish zoning on the Property that will allow medium- to high-density mixed-use development with a preference for residential uses as supported by the Property’s FLUM designation of Mixed Use (High Density Residential/Medium Density Commercial);
3. Permit uses on the Property that are currently not permitted or unnecessarily limited in allowable density consistent with Land Use Change portion of the Property’s GPM designation; and
4. Eliminate the ability to construct heavy commercial, light manufacturing and general industrial uses on the Property, which is consistent with policies of the Rhode Island Avenue Metro Station Area Policy Focus Area of the Upper Northeast Area Element of the Comp Plan, as well as the recommendations set forth in the Rhode Island SAP.

located, and concluded that, as a matter of public policy, the property must be rezoned to resolve the inconsistency with the FLUM, GPM, and the NoMA Small Area Plan. *See* Z.C. Order No. 18-7 at p. 7-8.

IV. STANDARDS APPLICABLE TO AN APPLICATION FOR A ZONING MAP AMENDMENT

Given that the Property's current PDR-2 zoning is inconsistent with the Comp Plan, and that the Applicant does not own all of the property proposed to be rezoned, the requested Zoning Map amendment could, arguably, be processed as a rulemaking proceeding. Notwithstanding, the proposed Zoning Map amendment is submitted as a contested case pursuant to 11-Z DCMR § 201.1, which states, in relevant part, that "[c]ontested cases are adjudicatory in nature, present issues for resolution at a public hearing that potentially have a limited scope of impact, and involve primarily questions of fact applicable to that limited scope of impact, while broader issues of public policy are secondary concerns." 11-Z DCMR § 201.2. As discussed below, the Rhode Island SAP recommends rezoning the Subject Property to allow up to 6.0 FAR and 90 feet in height. *See* Rhode Island SAP, p. 17. As discussed below, the proposed Zoning Map amendment to MU-10 is not inconsistent with this recommendation.

The Zoning Act sets forth a number of criteria that must be applied by the Zoning Commission in adopting and amending the Zoning Regulations and Zoning Map. The Zoning Act states that 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" D.C. Code § 6-641.01 (2001). The Zoning Act further provides that:

[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 (2001).

The Commission must apply these standards and criteria in determining whether to approve a requested map amendment. The proposed rezoning of the Property from the PDR-2 zone to the MU-10 zone is consistent with each of these stated purposes.

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

A. Rhode Island Avenue “Diamond of the District” Small Area Action Plan

As stated above, the Property is located within the boundaries of the Rhode Island SAP, which was adopted by the D.C. Council on May 3, 2011, pursuant to PR 19-0019. The Rhode Island SAP is intended to advance the wide range of investment opportunities along Rhode Island Avenue, NE, and to outline objectives, preferences, and concerns shared by area stakeholders and the District government for the appropriate redevelopment of underutilized commercial properties along the Rhode Island Avenue corridor.

The Rhode Island SAP is “retail-driven,” recommending over 500,000 square feet of new retail along the corridor. *See* Rhode Island SAP, p. 4. It also promotes transit-oriented development, stating that the Rhode Island Avenue Metrorail Station “contains tremendous potential to become a diverse mixed use center at densities which are suitable near major transit rail stations,” and asserting that “[a]s a policy, the District actively seeks to capitalize upon its transit and high-volume transit and traffic corridors to enhance neighborhood centers. Implementation of this “smart growth” principle around the Metro station and along the corridor is a priority of the Rhode Island SAP.” *Id.* at 4-5 (emphasis added). The Rhode Island SAP also states that its successful realization “depends heavily upon the ability to construct new housing at greater densities,” and that “building new housing in higher density, multifamily apartment/condominium buildings and stacked townhomes along [Rhode Island] Avenue is very important to generating the foot traffic to make the retail viable.” *Id.* at 5 (emphasis added).

The Subject Property is located within “Sub-Area 1 – Site B” of the Rhode Island SAP. The Rhode Island SAP recognizes the untapped potential of Site B, specifically noting the potential for over 510,000 square feet of building area. The Rhode Island SAP also recognizes Site B as being appropriate for a change in zoning to “allow more housing along Rhode Island [Avenue] in a mix of office, retail and housing and push the C-M-2 zone back to W Street, NE.” *Id.* at 13. To capitalize on this potential, the Rhode Island SAP makes specific rezoning recommendations for Sub-Area 1. Specifically, it recommends rezoning Site B to allow matter-of-right development up to 6.0 FAR and 90 feet in height. *Id.* at 17.

The Zoning Map amendment application is fully consistent with the recommendations in the Rhode Island SAP. As a matter-of-right, the MU-10 zone permits a maximum density and height of 6.0 FAR and 90 feet, respectively, with additional height and density permitted for Inclusionary Developments. Allowing for higher density, mixed-use development at the Property will allow for the exact type of residential and commercial uses that are envisioned by the Rhode Island SAP. Redevelopment of the Property in accordance with the MU-10 zone will capitalize on the Property’s location adjacent to the Metrorail station and along the Rhode Island Avenue corridor in a manner that will contribute to the continued revitalization of the area. The Zoning Map amendment will allow for new commercial and residential uses where they are currently not permitted, thereby helping the District to achieve its housing and other land use goals for the area, and meeting the needs of District residents.

B. Comprehensive Plan

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. 10A 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. The Comp Plan allows the District to ensure that its resources are used wisely and efficiently and that public investment is focused in the areas where it is needed most. 10A DCMR § 100.14. The Comp Plan is not intended to be a substitute for more detailed plans nor dictate what other plans must cover. Rather, it is the one document that bridges all topics and is cross cutting in its focus. The Comp Plan provides the “big picture” of how change will be managed in the years ahead and, thus, is intended to be interpreted broadly, with implementation accomplished through agency strategic plans, operational plans, long-range plans on specific topics, and focused plans for small areas of the city. 10A DCMR § 103.5.

Pursuant to the Home Rule Charter, zoning shall not be inconsistent with the Comp Plan. D.C. Code §6-641.02. As stated in the recently adopted Framework Element, “[i]n its decision-making, the [Commission] must make a finding of not inconsistent with the [Comp Plan]. To do so, 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 before it in its decision-making, and clearly explain its decision-making rationale.” 10A DCMR § 224.8. The Framework Element further states that “the zoning of any given area should be guided by the FLUM, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area.” 10A DCMR § 226.1(d). Thus, to approve an application the Commission must evaluate the consistencies and inconsistencies of the requested rezoning with the Comp Plan GPM, FLUM, and various Citywide and Area Element policies and make an overall determination as to whether the request is “not inconsistent” with the Comp Plan when read as a whole. In the event the Zoning Map amendment is inconsistent with one or more Comp Plan policies, this does not mean the Commission must disapprove the application. As noted above, the Comp Plan is a broad policy framework that is intended to be interpreted broadly. Thus, to the extent there are inconsistencies, the Commission simply must acknowledge said inconsistencies and explain how they are outweighed by other Comp Plan policies and/or competing considerations. The D.C. Court of Appeals (the “Court”) has upheld this interpretation of the Comp Plan and the manner in which the Commission shall carry out its review relative to the Comp Plan. The Court has stated:

The Comp 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). Thus, “[e]ven 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.” *Durant v. District of Columbia Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013). The Comp Plan reflects numerous “occasionally competing policies and goals,” and, “[e]xcept where specifically provided, the [Comp] Plan is not binding.” *Id.* at 1167, 1168. Thus, “the Commission may balance competing

priorities” in determining whether a proposal would be inconsistent with the Comp 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). “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).

As detailed below, in this instance the proposed rezoning of the Property to MU-10 is not inconsistent with the policies and goals of the Comprehensive Plan, including the FLUM and GPM, when read as a whole. Indeed, the requested Zoning Map amendment will finally resolve the inconsistency that currently exists between the Property’s existing PDR-2 zoning and its Mixed Use (High Density Residential/Medium Density Commercial) FLUM designation.

The following sections of this statement reflect the Applicant’s thorough evaluation of the proposed Zoning Map amendment’s overall consistency with the Comp Plan, including the GPM, FLUM, all Citywide Elements, and the Upper Northeast Area Element. Given the wide range of topics addressed in the Comp Plan, certain Citywide Elements may have little to no applicability to requests for rezoning. Such is the case for this requested Zoning Map amendment. Notwithstanding, in conducting its Comp Plan evaluation the Applicant has thoroughly reviewed the goals and policies of every Comp Plan element and has determined that, individually and as a whole, the proposed Zoning Map amendment is not inconsistent with the elements of the Comp Plan. For those Citywide Elements that are more directly applicable to the Applicant’s request, a brief narrative is provided below explaining the basis for the Applicant’s determination that the proposed Zoning Map amendment is not inconsistent with that particular element. Finally, in accordance with the guidance provided by the Court, the Applicant’s evaluation also included a specific assessment of potential Comp Plan inconsistencies, for which there are few. As discussed below, to the extent the requested Zoning Map amendment is actually inconsistent with a small number of individual Comp Plan policies that promote retention/redevelopment of existing industrial land/properties, such inconsistencies are far outweighed by the FLUM; other Citywide and Upper Northeast Comp Plan policies relating to land use, housing, transportation, and economic development; and the recommendations of the Rhode Island SAP that specifically support medium- to high-density mixed-use development for the Property.

1. 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 a generalized guide for development and conservation decisions. 10A DCMR §§ 200.5 and 224.1. 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 (for example, through Planned Unit Developments or Inclusionary Zoning) may result in density that exceeds the typical ranges cited. 10A DCMR § 228.1(c).

The Comp Plan does not require that 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). Rather, similar to the GPM, the “[FLUM] is not a zoning map. Whereas zoning maps are parcel-specific, and establish detailed requirements and development standards for setbacks, height, use, parking, and other attributes, the [FLUM] is intended to be “soft-edged,” does not follow parcel boundaries, and its categories do not specify allowable uses or development standards. By definition, the [FLUM] is to be interpreted broadly and the land use categories identify desired objectives.” 10A DCMR § 228.1(a). Decisions on requests for rezoning shall be guided by the [FLUM] read in conjunction with the text of the Comp Plan (Citywide and Area Elements) as well as Small Area Plans pertaining to the area proposed for rezoning. *Id.* at § 2504.5.

As shown on Exhibit C, the FLUM designates the Subject Property as Mixed Use (High Density Residential/Medium Density Commercial). 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 unto itself. The Mixed Use designation is assigned to areas where the mixing of two or more land uses is encouraged, but is not mandatory, with the particular combination of uses desired in a given area depicted in the specific striped pattern on the FLUM. The Mixed Use designation is generally applied to: (i) established, pedestrian-oriented commercial areas that also include substantial amounts of housing; (ii) commercial corridors or districts which may not currently contain substantial amounts of housing but where more housing is desired, such as the Subject Property; and (iii) large sites where opportunities for multiple uses exist but a plan dictating the precise location of these uses has yet to be prepared. 10A DCMR § 227.20. The Property is consistent with the locational characteristics of areas typically assigned a Mixed Use designation given its location along Rhode Island Avenue immediately adjacent to the Metrorail station, and within walking distance to several existing and new retail and service uses.

As described by the Framework Element, the general density and intensity of development within Mixed Use areas are determined by the specific mix of uses shown 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. The Area Elements may also provide detail on the mix of uses envisioned for a site. 10A DCMR § 227.21. In this case, the Mixed Use (High Density Residential/Medium Density Commercial) FLUM designation indicates a desire for mixed-use development on the Property that favors residential use. Further, the Rhode Island SAP and, as discussed below, the policies of the Upper Northeast Area Element also promote additional residential use on the Property. The Applicant’s request to rezone the Property to MU-10 is not inconsistent with the FLUM, since the MU-10 zone is specifically described in ZR16 as permitting medium- to high-density mixed-use development and generally favors residential use over commercial use by allowing an overall density of 6.0 FAR (7.2 FAR w/ IZ), limiting non-residential density to 3.0 FAR.

As discussed above, the Mixed Use designation is a FLUM category unto itself and is not intended to be interpreted according to its individual components, and the proposed MU-10 zone is not inconsistent with the Property’s specific Mixed Use FLUM designation. Notwithstanding, from a density perspective, the proposed MU-10 zone also happens to be not inconsistent with the typical densities of the individual Medium Density Commercial and High Density Residential FLUM designations. First, the MU-10 zone is expressly referred to in the Framework Element as being consistent with the Medium Density Commercial land use category, which is used to define:

“...shopping and service areas that are somewhat greater in scale and intensity than the Moderate Density Commercial areas. Retail, office, and service businesses are the predominant uses, although residential uses are common. Areas with this designation generally draw from a citywide market area. Buildings are larger and/or taller than those in Moderate Density Commercial areas. Density typically ranges between a FAR of 4.0 and 6.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-8 and MU-10 Zone Districts are consistent with the Medium Density category, and other zones may also apply.” Emphasis added. 10A DCMR § 227.12.

Furthermore, the Framework Element describes the High Density Residential FLUM designation as defining

“neighborhoods and corridors generally, but not exclusively, suited for high-rise apartment buildings. Pockets of less dense housing may exist within these areas. Density is typically greater than a FAR of 4.0, and greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-4 and RA-5 Zone Districts are consistent with the High Density Residential category, and other zones may also apply.” Emphasis added. 10A DCMR § 227.8.

The Applicant’s proposal to rezone the Property to the MU-10 is fully consistent with the FLUM designation for the Property. Consistent with the Rhode Island SAP, the MU-10 zone is intended to permit medium- to high-density mixed-use development in areas where a mixture of uses and building densities is intended to carry out elements of the Comprehensive Plan, small area plans, or framework plans, including goals in employment, population, transportation, housing, public facilities, and environmental quality. *See* 11-G DCMR § 400.9. Further, the density permitted as a matter-of-right in the MU-10 zone (6.0 FAR (7.2 FAR w/ IZ), 3.0 FAR non-residential maximum) is fully consistent with the Rhode Island SAP and guidance provided in the Framework Element description for the Medium Density Commercial and High Density Residential FLUM designations. Specifically, the Medium Density Commercial category is described as permitting between 4.0 – 6.0 FAR, with greater density possible when complying with IZ. The High Density Residential category is described as permitting densities that are typically greater than 4.0 FAR, with greater density possible when complying with IZ. According to the Framework Element, the RA-5 zone is consistent with the High Density Residential FLUM designation. As a matter-of-right, the RA-5 zone permits 6.0 FAR (7.2 FAR with IZ) and a maximum building height of 90 feet. These are the exact same development parameters as the proposed MU-10 zone. Thus, high density residential development can be accommodated within the proposed MU-10 zone while also permitting limited non-residential development consistent with the Property’s Mixed Use FLUM designation.

2. 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 Comp Plan and in follow-up plans, to manage this change. 10A DCMR § 225.1. The GPM is intended to “guide land use decision-making in conjunction with the [Comp Plan] text, the

[FLUM], and other [Comp Plan] maps. Boundaries on the [GPM] are to be interpreted in concert with these other sources, as well as the context of each location.” *Id.* at § 225.2. The guidelines included on the GPM itself provided further guidance as to how the boundaries of the map shall be interpreted. Specifically, the guidelines state the GPM is not a zoning map, does not follow parcel boundaries, and its categories do not specify allowable uses or dimensional standards. Like the FLUM, the GPM is intended to be interpreted broadly. In fact, the GPM expressly states that the map represents a “generalized depiction” and that “boundaries shown should be interpreted as approximate and not precise delineations.” Emphasis added. The boundaries depicted on the GPM are intended to provide generalized policy guidance rather than establish fixed lines and quantitative standards by which proposals are to be approved or disapproved.

As shown on Exhibit D, the GPM depicts the eastern portion of the Property within a Land Use Change Area, and the western portion of the Property within a Neighborhood Conservation Area. The Comp Plan provides that Land Use Change Areas “are areas where change to a different land use from what exists today is anticipated” and “the [FLUM] depicts the specific mix of uses expected for these areas.” 10A DCMR § 225.9. The “guiding philosophy in the Land Use Change Areas is to encourage and facilitate new development and promote the adaptive reuse of existing structures. Many of these areas have the capacity to become mixed-use communities containing housing, retail shops, services, workplaces, parks, and civic facilities. The [Comp Plan’s] Area Elements provide additional policies to guide development and redevelopment within the Land Use Change Areas, including the desired mix of uses in each area.” 10A DCMR § 225.11.

According to the Framework Element, areas within a Neighborhood Conservation Area on the GPM “have little vacant or underutilized land and are generally residential in character.” 10A 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 [Comp Plan] policies and the [FLUM]. Neighborhood Conservation Areas that are designated ‘PDR’ on the [FLUM] are expected to be retained with the mix of industrial, office, and retail uses they have historically provided.” 10A 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 Comp Plan policies. 10A DCMR § 225.5.

The Zoning Map amendment is not inconsistent with the GPM. The Property has had the same GPM designation since at least 2006, when the D.C. Council last adopted a full update of the Comp Plan.² At that time the FLUM designated the Property as PDR. As discussed above, in 2011 the D.C. Council adopted the Rhode Island SAP, which recommended the Property be rezoned to encourage medium- to high-density mixed-use, transit-oriented development. *See* Rhode Island SAP at 12 – 13, and 17. Subsequent to the adoption of the Rhode Island SAP, the D.C. Council amended the Comp Plan, which incorporated the recommendations of the Rhode Island SAP, including the recommendations regarding rezoning the Property to allow medium- to high-density

² Comprehensive Plan Amendment Act of 2006 (D.C. Law No. L16-0300, effective March 8, 2007).

mixed-use development.³ The amendments also included a change to the Property's FLUM designation from PDR to Mixed Use (High Density Residential/Medium Density Commercial), the designation that exists today. However, despite the change made to the Property's land use designation no change was made to the Property's GPM designation.

It would appear that when the Property's land use designation was changed to its current designation, the Property's GPM designation should have also been changed. Indeed, to align with the FLUM it seems appropriate that the Land Use Change area designation that already exists on the eastern portion of the Property should have been extended to the entire site. Consistent with the Framework Element, such a change to the GPM would have reflected the District's policy goal to change the land use of the Property as guided by the Property's new FLUM designation.

Despite this apparent omission, the requested Zoning Map amendment is still not inconsistent with the GPM. First, as stated above, the GPM provides generalized policy guidance rather than establish fixed lines and quantitative standards by which proposals are to be approved or disapproved. The boundaries of the GPM are to be interpreted broadly, and in concert with the Comp Plan text, FLUM, other Comp Plan maps, and the context of each location. Further, the boundaries are only intended to provide a generalized depiction, and should be interpreted as approximate and not precise delineations. Thus, when considered together, the recommendations of the Rhode Island SAP, the FLUM, and the Upper Northeast Element policies all support a determination that the proposed Zoning Map amendment is not inconsistent with the GPM. This determination is further supported by the surrounding context as the rezoning will allow for the type of mixed-use development that is compatible with development currently underway to the north and northeast of the Property, and is appropriate given the Property's location adjacent to Metrorail and the Rhode Island Avenue corridor, a designated Great Street.⁴

Importantly, and in addition to the above, the Zoning Map amendment is also not inconsistent with the Framework Element's description of a Neighborhood Conservation Area. First, as stated above 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 Comp Plan policies, and new development should be compatible with the scale and character of each area. As discussed herein, the density permitted in the proposed MU-10 zone is consistent with the recommendation of the Rhode Island SAP, the FLUM, and applicable Comp Plan policies. Further, the proposed rezoning will enhance the surrounding neighborhood by enabling a new mix of uses on the Property, particularly residential which is currently not permitted under existing zoning. This new mix of uses will help the District achieve its housing goals, and will provide additional retail and improvements to the public realm as recommended by the Rhode Island SAP.

³ Comprehensive Plan Amendment Act of 2010 (D.C. Law No. L18-0361, effective April 8, 2011) and Comprehensive Plan Future Land Use Map and Generalized Policy Map Approval Resolution of 2012 (R19-0698, approved December 4, 2012)

⁴ The District's Great Street program is a multi-agency and multi-year commercial revitalization initiative to transform emerging corridors into thriving and inviting neighborhood centers. The program utilizes public actions and resources to leverage private investment in retail, office space, housing, and cultural facilities across the District. <https://greatstreets.dc.gov/>

3. Land Use Element

The underlying goal of the Land Use Element is to:

“[e]nsure the efficient use of land resources to meet the long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries.” 10A DCMR § 302.1.

The proposed Zoning Map amendment will advance this important goal through consistency with the following Land Use Element policies:

LU-1.3.1: Station Areas as Neighborhood Centers - Encourage the development of Metro stations as anchors for economic and civic development in locations that currently lack adequate neighborhood shopping opportunities and employment. The establishment and growth of mixed use centers at Metrorail stations should be supported as a way to reduce automobile congestion, improve air quality, increase jobs, provide a range of retail goods and services, reduce reliance on the automobile, enhance neighborhood stability, create a stronger sense of place, provide civic gathering places, and capitalize on the development and public transportation opportunities which the stations provide. This policy should not be interpreted to outweigh other land use policies which call for neighborhood conservation. Each Metro station area is unique and must be treated as such in planning and development decisions. The Future Land Use Map expresses the desired intensity and mix of uses around each station, and the Area Elements (and in some cases Small Area Plans) provide more detailed direction for each station area. 10A DCMR § 306.10

LU-1.3.2: Development Around Metrorail Stations - Concentrate redevelopment efforts on those Metrorail station areas which offer the greatest opportunities for infill development and growth, particularly stations in areas with weak market demand, or with large amounts of vacant or poorly utilized land in the vicinity of the station entrance. Ensure that development above and around such stations emphasizes land uses and building forms which minimize the necessity of automobile use and maximize transit ridership while reflecting the design capacity of each station and respecting the character and needs of the surrounding areas. 10A DCMR § 306.11

LU-1.3.3: Housing Around Metrorail Stations - Recognize the opportunity to build senior housing and more affordable “starter” housing for first-time homebuyers adjacent to Metrorail stations, given the reduced necessity of auto ownership (and related reduction in household expenses) in such locations. 10A DCMR § 306.12

The proposed Zoning Map amendment will advance the District’s policies for transit-oriented development. The industrial zoning of the Property is not appropriate considering its

location immediately adjacent to the Rhode Island Avenue Metrorail Station. The Rhode Island SAP, FLUM, and Upper Northeast Area Element understood and recognized this by promoting the rezoning of the Property to allow for medium- to high-density mixed-use development. Rezoning the Property to allow for mixed residential and commercial uses will encourage development around the Metrorail station, thus reducing automobile congestion, improving air quality, providing a range of retail goods and services, reducing reliance on the automobile, enhancing neighborhood stability, creating a stronger sense of place, and capitalizing on the development and public transportation opportunities that the Metrorail station provides. 10A DCMR § 306.10. The Zoning Map amendment would also facilitate more efficient use of property that has long been underutilized, and permit development of new housing, including affordable housing, adjacent to the Metrorail.

LU-2.1.1: Variety of Neighborhood Types - Maintain a variety of residential neighborhood types in the District, ranging from low-density, single family neighborhoods to high-density, multi-family mixed use neighborhoods. The positive elements that create the identity and character of each neighborhood should be preserved and enhanced in the future. 10A DCMR § 309.5

LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods - Recognize the importance of balancing goals to increase the housing supply and expand neighborhood commerce with parallel goals to protect neighborhood character, preserve historic resources, and restore the environment. The overarching goal to “create successful neighborhoods” in all parts of the city requires an emphasis on conservation in some neighborhoods and revitalization in others. 10A DCMR § 309.8

The proposed Zoning Map amendment will permit new medium- to high-density development in an area that is rapidly becoming a new multi-family mixed-use neighborhood anchored by the Rhode Island Avenue Metrorail Station. The Zoning Map amendment will allow for future mixed-use development that would increase the District’s housing supply and expand neighborhood commerce. Doing so at the Property will help to create a successful neighborhood and contribute to the ongoing revitalization of the area surrounding the Metrorail station. Consistent with the Rhode Island SAP, the proposed Zoning Map amendment will eliminate the ability to construct PDR uses with a new ability to develop residential and commercial uses on the Property as a matter-of-right.

LU-2.3.6: Places of Worship and other Religious Facilities - Recognize places of worship and other religious facilities as an ongoing, important part of the fabric of the city’s neighborhoods. Work proactively with the faith-based community, residents, ANCs, and neighborhood groups to address issues associated with these facilities’ transportation needs, operations, and expansion, so that churches existing and new religious facilities may be sustained as neighborhood anchors and a source of spiritual guidance for District residents. 10A DCMR 311.8

As stated above, GMCHC (and its 8,000 member congregation) is the majority land owner of the lots that comprise the Property. For over 50 years, GMCHC has been an integral part of the

spiritual, cultural, and social lives of thousands of District residents. Like so many other religious institutions, GMCHC is working to maintain the level of service it provides to the community in the face of mounting financial demands. As stated in its letter of support, GMCHC has worked for several years on a strategic plan to leverage the properties it owns along Rhode Island Avenue to complete long overdue improvements to its Rhode Island Avenue sanctuary. The proposed Zoning Map amendment will finally allow GMCHC to advance its strategic plan through a long-term ground lease partnership with the Applicant that will allow GMCHC to carry out the necessary improvements to its sanctuary and allow it to remain a neighborhood anchor.

LU-2.4.5: Encouraging Nodal Development - Discourage auto-oriented commercial “strip” development and instead encourage pedestrian-oriented “nodes” of commercial development at key locations along major corridors. Zoning and design standards should ensure that the height, mass, and scale of development within nodes respects the integrity and character of surrounding residential areas and do not unreasonably impact them. 10A DCMR § 312.9

The Zoning Map amendment will encourage pedestrian-oriented nodal development along the Rhode Island Avenue corridor, immediately adjacent to the Metrorail station, by permitting mixed-use development at a height and density that are consistent with the Rhode Island SAP and FLUM. The existing scale and mix of auto-oriented retail, service, and PDR uses on the Property do not take advantage of the site’s proximity to transit, and are no longer appropriate considering the major transformation this stretch of Rhode Island Avenue is currently undergoing. The proposed Zoning Map amendment will facilitate the type of mixed-use development that is appropriate, and that will contribute to the pedestrian-oriented, multi-neighborhood center node that is taking shape in the area around the Metrorail.

LU-3.1.4: Rezoning Industrial Areas - Allow the rezoning of industrial land for non-industrial purposes only when the land can no longer viably support industrial or PDR activities or is located such that industry cannot co-exist adequately with adjacent existing uses. Examples include land in the immediate vicinity of Metrorail stations, sites within historic districts, and small sites in the midst of stable residential neighborhoods. In the event such rezoning results in the displacement of active uses, assist these uses in relocating to designated PDR areas. 10A DCMR § 314.10

While the existing PDR zoning of the Property may have been appropriate at one time, the Rhode Island Avenue corridor, and particularly this portion of the corridor around the Metrorail station, industrial uses are no longer the highest and best use for the Property. Further, continued location of industrial and PDR activities on the Property is no longer appropriate given the substantial number of new multi-family and mixed-use buildings that are planned or under construction nearby. For these reasons, the proposed rezoning to MU-10 is consistent with this policy.

4. Transportation Element

The goal for transportation in the District is to:

“[c]reate a safe, sustainable, efficient multi-modal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors; supports local and regional economic prosperity; and enhances the quality of life for District residents.” 10A DCMR § 401.1.

The proposed Zoning Map amendment advances this goal by allowing for new, mixed-use development on a major District corridor. New development at the Property will enhance this section of Rhode Island Avenue as a multi-modal transportation node that meets the needs of District residents, the regional workforce, and visitors. Moreover, the new mixed-use development permitted on the Property as a result of the Zoning Map amendment will help to support the local economy and enhance the quality of life for District residents. The Zoning Map amendment also advances the specific policies listed below:

T-1.2.1: Boulevard Improvements - Continue to work across District agencies to beautify and stabilize selected boulevards by implementing coordinated transportation, economic development, and urban design improvements. 10A DCMR § 404.6

T-1.2.3: Discouraging Auto-Oriented Uses - Discourage certain uses, like “drive-through” businesses or stores with large surface parking lots, along key boulevards and pedestrian streets, and minimize the number of curb cuts in new developments. Curb cuts and multiple vehicle access points break-up the sidewalk, reduce pedestrian safety, and detract from pedestrian-oriented retail and residential areas. 10A DCMR § 404.8.

The proposed Zoning Map amendment will discourage auto-oriented uses by allowing for the productive use of an underutilized site on a key urban boulevard. Currently, there are at least four separate curb cuts totaling approximately 135 linear feet along the Property’s Rhode Island Avenue frontage. Redevelopment of the Property will reduce the number and total length of cut curbs substantially, thus improving the urban design quality and pedestrian safety along Rhode Island Avenue.

T-2.2.1: Multi-Modal Connections - Create more direct connections between the various transit modes consistent with the federal requirement to plan and implement intermodal transportation systems. 10A DCMR § 408.5.

T-2.2.2: Connecting District Neighborhoods - Improve connections between District neighborhoods through upgraded transit, auto, pedestrian and bike connections, and by removing or minimizing existing physical barriers such as railroads and highways. However, no freeway or highway removal shall be undertaken prior to the completion of an adequate and feasible alternative traffic plan that has been approved by the District government. 10A DCMR § 408.6.

The Zoning Map amendment will facilitate the development of new, mixed-use development on the Property that could include residential, office, and retail uses. This new development will bring an increase in residents, workers, and patrons that could access the Property using the adjacent Metrorail and Metropolitan Branch Trail. Further, as previously noted, new development facilitated by the proposed rezoning will likely result in a substantial reduction in the number of curb cuts along Rhode Island Avenue, which will improve pedestrian and bike connections between District neighborhoods and to transit.

T-2.3.3: Bicycle Safety - Increase bicycle safety through traffic calming measures, provision of public bicycle parking, enforcement of regulations requiring private bicycle parking, and improving bicycle access where barriers to bicycle travel now exist. 10A DCMR § 409.10.

T-2.4.1: Pedestrian Network - Develop, maintain, and improve pedestrian facilities. Improve the city's sidewalk system to form a network that links residents across the city. 10A DCMR § 410.5.

T-2.4.2: Pedestrian Safety - Improve safety and security at key pedestrian nodes throughout the city. Use a variety of techniques to improve pedestrian safety, including textured or clearly marked and raised pedestrian crossings, pedestrian-actuated signal push buttons, and pedestrian count-down signals. 10A DCMR § 410.6.

New development facilitated by the proposed Zoning Map amendment will likely result in a substantial reduction in the number of curb cuts and improvements to the public space adjacent to the Property, including along Rhode Island Avenue. These improvements to the District's sidewalk system will increase pedestrian and bicycle safety by reducing the number of potential vehicular conflict points.

5. Housing Element

The Comp Plan's underlying goal for housing is to:

“[d]evelop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia.” 10A DCMR § 501.1.

The proposed Zoning Map amendment will advance this goal and several policies within the Housing Element as follows:

H-1.1.1: Private Sector Support: Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. 10A DCMR § 503.2.

The proposed Zoning Map amendment will allow the Applicant to provide new, high-quality housing on the Property to meet the needs of existing and future District residents. As stated herein, the transit-oriented location of the Property adjacent to the Rhode Island Avenue

Metrorail station, and the mix of uses that will be permitted on the Property under the MU-10 zone, are consistent with the District’s land use policies and objectives.

H-1.1.3: Balanced Growth: Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing. 10A DCMR § 503.4.

The proposed Zoning Map amendment will allow for the development of new housing, including affordable housing, on an underutilized site, thus expanding the range of housing types in the area and advancing this Policy’s directive to ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs. Further, as discussed below, approval of the Zoning Map amendment will allow the Applicant to pursue participation in the District’s recently adopted Middle Income Housing Program that, if selected, would bring a substantial amount of workforce housing to the Property.

H-1.1.4: Mixed Use Development: Promote mixed use development, including housing, on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed use corridors, and around appropriate Metrorail stations. 10A DCMR § 503.5.

The proposed Zoning Map amendment will allow for development of a mix of uses, including housing, on the Property. The Property is located adjacent to the Rhode Island Avenue Metrorail station.

H-1.2.5: Workforce Housing: In addition to programs targeting persons of very low and extremely low incomes, develop and implement programs that meet the housing needs of teachers, fire fighters, police officers, nurses, city workers, and others in the public service professions with wages insufficient to afford market-rate housing in the city. 10A DCMR § 504.12

Given its proximity to transit and numerous retail and service uses, the Property is an ideal location for new workforce housing.

The two organizations comprising the Applicant in this case – Jair Lynch Real Estate Partners and The Wilkes Company – assisted Mayor Bowser in the formulation of the new Middle Income Housing Program that was recently adopted by the D.C. Council as part of the FY21 Budget Support Act. This program, which will be funded \$4 million annually, offers tax abatements to residential projects located in areas with a high need for new affordable housing. To qualify for a tax abatement under this program, the developer must agree to devote 33.3% of dwelling units to households earning, on average, 80% of the Median Family Income (“MFI”) or less with no household earning more than 100% MFI, for a period of at least 30 years. The areas that qualify under this program include the four planning areas identified in the District’s Housing Equity Report, published October 2019, that have the highest affordable housing production goals. One of these areas is the Upper Northeast Planning Area, within which the Property is located.

Should the proposed Zoning Map amendment be approved, Jair Lynch Real Estate Partners intends to pursue participation in the Middle Income Housing Program. If selected for the program, a minimum of 33.3% of new dwelling units constructed on the Property will be devoted to households earning, on average, 80% MFI. Taking into account applicable IZ requirements, this will result in at least 8% of all new dwelling units being devoted to households earning no more than 60% MFI. This wide range of income levels located in close proximity to transit and amenities is exactly the type of development that is envisioned in the Rhode Island SAP, the Comp Plan Housing Element, and the Mayor’s Order on Housing.

6. Environmental Protection Element

The Comp Plan’s goal of the Environmental Element is to:

“[p]rotect, restore, and enhance the natural and man-made environment in the District of Columbia, taking steps to improve environmental quality, prevent and reduce pollution, and conserve the values and functions of the District’s natural resources and ecosystems.” 10A DCMR § 601.1.

The proposed Zoning Map amendment advances this overarching goal as well as specific policy objectives by facilitating mixed-use development on the Property at a density and use mix that are not currently permitted under existing zoning. Redevelopment of the Property under the proposed MU-10 zone will replace the underutilized, largely impervious condition of the Property with high-density uses that meet or exceed the District’s regulations pertaining to green building and storm water management. The proposed Zoning Map amendment will advance this important goal through consistency with the following Environmental Protection Element policies:

E-1.1.1: Street Tree Planting and Maintenance: Plant and maintain street trees in all parts of the city, particularly in areas where existing tree cover has been reduced over the last 30 years. Recognize the importance of trees in providing shade, reducing energy costs, improving air and water quality, providing urban habitat, absorbing noise, and creating economic and aesthetic value in the District’s neighborhoods. 10A DCMR § 603.4.

E-1.1.2: Tree Requirements in New Development: Use planning, zoning, and building regulations to ensure that trees are retained and planted when new development occurs, and that dying trees are removed and replaced. If tree planting and landscaping are required as a condition of permit approval, also require provisions for ongoing maintenance. 10A DCMR § 603.5.

Currently, there are significant gaps in the street trees adjacent to the Property caused by numerous curb cuts and narrow sidewalk conditions. Redevelopment of the Property with new residential, office, and retail uses will likely require reduction of curb cuts and reconstruction of adjacent public space that will include wider sidewalks and the addition of street trees.

E-2.1.1: Promote Water Conservation: Promote the efficient use of existing water supplies through a variety of water conservation measures, including the use of plumbing fixtures designed for water efficiency, drought-tolerant landscaping, and irrigation systems designed to conserve water. 10A DCMR § 609.3.

E-2.2.1: Energy Efficiency: Promote the efficient use of energy, additional use of renewable energy, and a reduction of unnecessary energy expenses. The overarching objective should be to achieve reductions in per capita energy consumption by DC residents and employees. 10A DCMR § 610.3.

E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff: Promote an increase in tree planting and landscaping to reduce storm water runoff, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces. 10A DCMR § 613.3.

E-3.2.1: Support for Green Building: Encourage the use of green building methods in new construction and rehabilitation projects, and develop green building methods for operation and maintenance activities. 10A DCMR § 614.2

Most new developments in the District are subject to the requirements of the D.C. Green Buildings Act and D.C. Green Construction Code. In addition, new developments are required to meet Green Area Ratio (“GAR”) requirements under the Zoning Regulations, as well as the District’s stringent storm water management regulations. As such, redevelopment of the Property in accordance with the proposed MU-10 zone will undoubtedly improve the overall environmental quality of the site compared to existing conditions. To meet D.C. Green Building Act and D.C. Construction Code requirements, new buildings will contain plumbing and electrical fixtures, as well as mechanical systems that are more water and energy efficient. Further, in order to satisfy GAR and storm water requirements, new development on the Property will need to incorporate sustainable landscaping and green roofs.

E-4.1.5: Improving Air Quality Through Transportation Efficiency: Promote strategies that reduce motor vehicle emissions in the District and surrounding region. As outlined in the Land Use and Transportation Elements of this Comprehensive Plan, this includes the development of a fully integrated regional system of buses, streetcars, rail transit, bicycles, taxis, and pedestrian facilities to make it easier and more convenient to travel without an automobile. It also includes the promotion of trip reduction measures such as videoconference facilities, telecommuting, flextime, and carpooling. Strategies to reduce congestion and idling time, such as improved signal timing and reversible commute lanes also should contribute to air quality improvement. 10A DCMR § 618.10.

The proposed Zoning Map amendment will improve air quality through transportation efficiency. As discussed in the Comp Plan, land use and transportation policies work in tandem to affect air quality. In general, the more vehicle miles people must travel to reach home, work, shopping, and services, the worse air quality becomes. The Comp Plan identifies two land use

strategies that can help improve air quality. The first strategy is to direct future growth to parts of the District where car ownership is an option and not a necessity, such as areas that are close to Metrorail and other mode of transit. The second strategy is to encourage the mixing of land uses such as housing, shopping, and offices to reduce the need for routine car trips. The proposed Zoning Map amendment is consistent with both of these strategies. First, the proposed MU-10 zone will facilitate higher density development immediately adjacent to the Rhode Island Avenue Metrorail Station, several major bus routes, and the Metropolitan Branch Trail. Secondly, as a mixed-use zone, the MU-10 zone will allow for a mix of uses to be developed on the Property, including residential use which is currently not permitted under the existing PDR-2 zoning.

7. Economic Development Element

The goal of the Economic Development Element is to:

“[s]trengthen the District’s economy by sustaining its core industries, attracting new and diverse industries, accommodating future job growth, fostering the success of small businesses, revitalizing neighborhood commercial centers, improving resident job skills, and helping a greater number of District residents find and keep jobs in the Washington regional economy.” 10A DCMR § 701.1.

The proposed Zoning Map amendment advances this overarching goal as well as specific policy objectives by facilitating redevelopment of a site that will create new jobs for District residents and generate substantially tax revenue for the District. Furthermore, the redevelopment of the Property that would be facilitated by the proposed Zoning Map amendment will help advance the continued revitalization of Rhode Island Avenue, NE, and bring patrons to new and existing local businesses along this important corridor. More specifically, the Zoning Map amendment will advance the following specific policies of the Economic Development Element:

ED-2.1.1: Office Growth: Plan for an office sector that will continue to accommodate growth in government, government contractors, legal services, international business, trade associations, and other service-sector office industries. The primary location for this growth should be in Central Washington and in the emerging office centers along South Capitol Street and the Anacostia Waterfront. 10A DCMR § 707.6

Under existing PDR-2 zoning, office uses are permitted to a maximum density of 3.0 FAR. Under the proposed Zoning Map amendment, office uses can continue to be accommodated up to the same density. As a matter-of-right, the proposed MU-10 zone permits a maximum density of 6.0 FAR (7.2 FAR w/ IZ), of which no more than 3.0 FAR may be devoted to non-residential uses. Thus, the proposed Zoning Map amendment will not reduce or increase the Property’s ability to accommodate office growth at an appropriate level considering the site’s location outside of Central Washington but adjacent to Metrorail.

ED-2.2.1: Expanding the Retail Sector: Pursue a retail strategy that will allow the District to fully capitalize on the spending power of residents, workers and visitors, and that will meet the retail needs of underserved areas. 10A DCMR § 708.4.

ED-2.2.3: Neighborhood Shopping - Create additional shopping opportunities in Washington's neighborhood commercial districts to better meet the demand for basic goods and services. Reuse of vacant buildings in these districts should be encouraged, along with appropriately-scaled retail infill development on vacant and underutilized sites. Promote the creation of locally-owned, non-chain establishments because of their role in creating unique shopping experiences. 10A DCMR § 708.7

The Zoning Map amendment will allow for retail growth at the Property that will help address the need for additional retail identified in the Rhode Island SAP.

ED-3.1.1: Neighborhood Commercial Vitality - Promote the vitality and diversity of Washington's neighborhood commercial areas by retaining existing businesses, attracting new businesses, and improving the mix of goods and services available to residents. 10A DCMR § 713.5

ED-3.1.2: Targeting Commercial Revitalization - Continue to target government economic development programs to areas of greatest need, including older business areas and commercial centers that inadequately serve surrounding areas. Focus on those areas where the critical mass needed to sustain a viable neighborhood commercial center can be achieved. 10A DCMR § 713.6

The proposed Zoning Map amendment will enable development of new shopping opportunities at the Property to better meet the demand for basic goods and services for residents in this part of the District. The new development will have the potential to attract new businesses, improve the mix of goods and services available to residents, and help to create and sustain a viable multi-neighborhood commercial center that is taking shape around the Rhode Island Avenue Metrorail Station.

8. Urban Design Element

The overarching goal of the Urban Design Element is to:

“[e]nhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces.”
10A DCMR § 901.1.

The proposed Zoning Map amendment advances this overarching goal by facilitating the type of mixed-use development that is appropriate along one of the District's major avenues, Rhode Island Avenue, rather than continuing to permit the location of industrial uses under the existing PDR-2 zoning. More specifically, the Zoning Map amendment will advance the following specific policies of the Urban Design Element:

UD-1.4.1: Avenues/Boulevards and Urban Form - Use Washington's major avenues/boulevards as a way to reinforce the form and identity of the city, connect its neighborhoods, and improve its aesthetic and visual character. Focus improvement efforts on avenues/boulevards in emerging neighborhoods, particularly those that provide important gateways or view corridors within the city. 906.6. 10A DCMR § 906.6

UD-1.4.5: Priority Avenues/Boulevards - Focus the city's avenue/boulevard design improvements on historically important or symbolic streets that suffer from poor aesthetic conditions. Examples include North and South Capitol Streets, Pennsylvania Avenue SE, and Georgia Avenue and the avenues designated by the "Great Streets" program. 10A DCMR § 906.11

The Property defines the majority of the south side of Rhode Island Avenue between 5th Street, NE and the Metrorail tracks, Currently, the existing improvements on the Property create an unappealing aesthetic that diminishes the urban design quality of the Rhode Island Avenue corridor, which is a designated Great Street. The north side of this segment of Rhode Island Avenue is undergoing substantial revitalization with several new buildings currently under construction. Unfortunately, the existing PDR-2 zoning of the south side of this segment of Rhode Island Avenue does not support the type of development that can match the kind of revitalization that is occurring to the north. In contrast, the proposed MU-10 zone does permit the scale and type of development that is appropriate along the corridor, and will complement the development activity to the north.

UD-2.2.3: Neighborhood Centers - Undertake strategic and coordinated efforts to create neighborhood centers, civic buildings, and shopping places that reinforce community identity. 10A DCMR § 910.9

The Zoning Map amendment will facilitate new medium- to high-density mixed use development on the Property that will contribute positively to the new neighborhood center that is rapidly taking shape around the Rhode Island Avenue Metrorail Station. The mix of uses that will be permitted under the proposed MU-10 zoning will expand the range of shopping opportunities available to the surrounding neighborhoods and reinforce community identity.

UD-3.1.8: Neighborhood Public Space - Provide urban squares, public plazas, and similar areas that stimulate vibrant pedestrian street life and provide a focus for community activities. Encourage the "activation" of such spaces through the design of adjacent structures; for example, through the location of shop entrances, window displays, awnings, and outdoor dining areas. 10A DCMR § 913.15

Redevelopment of the Property is required to provide public plaza space that will stimulate pedestrian street life and community activity. Under the proposed MU-10 zone, any development on a lot that is greater than 10,000 square feet is required to provide a plaza space that is equal to 8% of the lot area. Based upon the land area of the Property, that would result in a plaza space of approximately 9,80 square feet. Pursuant to the plaza requirements of Subtitle C, Chapter 17, the

required plaza space must be open and available to the public and may be used for café seating, temporary commercial displays, access to mass transit facilities, art displays, or similar uses.

9. Upper Northeast Area Element

The Property is located within the Upper Northeast Area Element of the Comp Plan. The Upper Northeast Area Element is principally known as a residential community, with single-family and row house neighborhoods, apartments, and higher-density housing. 10A DCMR § 2400.2. The Upper Northeast Area also contains the largest concentration of industrial land uses in the District, as well as shops and local businesses along neighborhood commercial streets, including Rhode Island Avenue. 10A DCMR § 2400.3 and 2400.4.

The Property is located within the Rhode Island Avenue Metro Station Area Policy Focus Area within the Upper Northeast Area Element. The Comp Plan states that “[I]and around the Rhode Island Avenue Metro Station is underutilized,” and that “medium to high density housing is strongly encouraged in this area.” 10A DCMR § 2415.2. Moreover, “filling the gaps” would be desirable in the commercial areas, creating a more pedestrian-friendly environment. While most of the street is zoned for commercial uses, development that includes ground floor retail uses and upper story housing would be desirable. The surrounding area is under-served by retail uses and would benefit from new restaurants, local-serving stores, and other services.” 10A DCMR § 2415.4.

The proposed Zoning Map amendment is consistent with the Policies set forth in the Upper Northeast Area Element and the Rhode Island Avenue Metro Station Area Policy Focus Area as follows:

UNE-1.1.3: Metro Station Development - Capitalize on the presence of the Metro stations at Rhode Island Avenue, Brookland/CUA, and Fort Totten, to provide new transit-oriented housing, community services, and jobs. New development around each of these three stations is strongly supported. The District will coordinate with WMATA to ensure that the design, density, and type of housing or other proposed development at these stations is compatible with surrounding neighborhoods; respects community concerns and feedback; serves a variety of household incomes; and mitigates impacts on parking, traffic, and public services. Development shall comply with other provisions of the Comprehensive Plan regarding the compatibility of new land uses with established development, the provision of appropriate open space, and mitigation of impacts on traffic, parking, and public services. 10A DCMR § 2408.4

UNE-1.1.6: Neighborhood Shopping - Improve neighborhood shopping areas throughout Upper Northeast. Continue to enhance I2th Street NE in Brookland as a walkable neighborhood shopping street and encourage similar pedestrian-oriented retail development along Rhode Island Avenue, Bladensburg Road, South Dakota Avenue, West Virginia Avenue, Florida Avenue, and Benning Road. New pedestrian-oriented retail activity also should be encouraged around the area’s Metro stations. 10A DCMR § 2408.7

The Zoning Map amendment will allow for pedestrian-oriented retail growth at the Property that will help address the need for additional retail identified in the Rhode Island SAP.

UNE-1.2.1: Streetscape Improvements - Improve the visual quality of streets in Upper Northeast, especially along North Capitol Street, Rhode Island Avenue, Bladensburg Road, Eastern Avenue, Michigan Avenue, Maryland Avenue, Florida Avenue, and Benning Road. Landscaping, street tree planting, street lighting, and other improvements should make these streets more attractive community gateways. 10A DCMR § 2409.1

New development facilitated by the proposed Zoning Map amendment will likely result in (i) a substantial reduction in the number of curb cuts and (ii) improvements to the public space adjacent to the Property, most importantly along Rhode Island Avenue. These improvements to the streetscape will include new street trees, sidewalks, street lighting, and plaza space.

UNE-2.5.1: Rhode Island Avenue/Brentwood Metro Station - Encourage the development of additional medium-to high-density mixed use development around the Rhode Island Avenue Metro station, particularly on the surface parking lots in the station vicinity. Review the Rhode Island properties west of and proximate to the Rhode Island Avenue Metro station for transit connections and appropriate land use recommendations. 10A DCMR § 2415.5

The Zoning Map amendment will allow for development of new medium- to high-density mixed-use development at the Property adjacent to the Rhode Island Avenue Metrorail Station.

UNE-2.5.2: Redevelopment of Older Commercial and Industrial Sites - Encourage the long-term reuse of older commercial and industrial sites in the Rhode Island Avenue Metro station vicinity with higher-value mixed uses, including housing. Future mixed-use development should be pedestrian-oriented, with design features that encourage walking to the Metro station and nearby shopping. 10A DCMR § 2415.6

The proposed Zoning Map amendment will allow for the redevelopment of an industrially-zoned site in the Rhode Island Avenue Metro Station vicinity with higher-value mixed uses, including housing and affordable housing. Due to its transit-oriented location and proximity to existing retail uses, any new development at the Property will encourage walking to the Metrorail station and nearby shopping.

UNE-2.5.3: Pedestrian Improvements - Enhance pedestrian connections between the neighborhoods around the Rhode Island Avenue Metro station and the station itself. This should include improvements to the “public realm” along Rhode Island Avenue, with safer pedestrian crossings, street trees, and other amenities that make the street more attractive. 10A DCMR § 2415.7

New development facilitated by the proposed Zoning Map amendment will likely result in (i) a substantial reduction in the number of curb cuts and (ii) improvements to the streetscape

adjacent to the Property, including along Rhode Island Avenue. These improvements increase pedestrian safety by reducing the number of potential vehicular conflict points, thereby enhancing pedestrian connections between the neighborhoods surrounding the Property and the Rhode Island Avenue Metrorail station.

8. Potential Comprehensive Plan Inconsistencies

As discussed above, in the event the Zoning Map amendment is inconsistent with one or more Comp Plan policies, this does not mean the Commission must disapprove the application. Rather, to the extent there are inconsistencies the Commission simply must acknowledge said inconsistencies and explain how they are outweighed by other Comp Plan policies and/or competing considerations.

As clearly demonstrated above, the proposed Zoning Map amendment is not inconsistent with the Comp Plan when read as a whole. In fact, the application will resolve the current inconsistencies that exists between the Property’s existing PDR-2 zoning and: (i) its Mixed Use (High Density Residential/Medium Density Commercial) FLUM designation; (ii) numerous Citywide and Upper Northeast Comp Plan policies relating to land use, housing, transportation, and economic development; and the recommendations of the Rhode Island SAP that specifically support medium- to high-density mixed-use development for the Property. However, as part of its thorough Comp Plan evaluation, the Applicant did identify a small number of policies that one could potentially attempt to argue weigh against the proposed Zoning Map amendment. In general, these policies pertain to retention and redevelopment of industrial land (LU-3.1.1, LU-3.1.2, UNE-1.1.8, UNE-1.1.9, and ED-2.5.1). As shown in the table below, supported by the Comp Plan discussion included in Sections B.1 – B.7 of this statement, to the extent the proposed Zoning Map amendment is inconsistent with these policies, such inconsistency is far outweighed by other Comp Plan policies and competing considerations that strongly weight in favor of the application.

Potential Inconsistency	Outweighing Policy / Consideration
<p><i><u>LU-3.1.2: Redevelopment of Obsolete Industrial Uses</u> - Encourage the redevelopment of outmoded and non-productive industrial sites, such as vacant warehouses and open storage yards, with higher value production, distribution, and repair uses and other activities which support the core sectors of the District economy (federal government, hospitality, higher education, etc.). 10-A DCMR § 314.8</i></p>	<ul style="list-style-type: none"> · Rhode Island Avenue SAP recommendations to rezone the Property to allow medium- to high-density mixed-use development, particularly to allow new residential uses, and to push industrial uses away from Rhode Island Avenue.
<p><i><u>LU-3.1.3: Location of PDR Areas</u> - Accommodate Production, Distribution, and Repair (PDR) uses—including municipal public works facilities—in areas that are well buffered from residential uses (and other sensitive uses such as schools), easily accessed from major roads and railroads, and characterized by existing concentrations of PDR and industrial</i></p>	<ul style="list-style-type: none"> · FLUM designation: Mixed Use (High Density Residential/Medium Density Commercial). · GPM designation: Land Use Change Area/Neighborhood Conservation Area.

<p>uses. Such areas are generally designated as “PDR” on the Comp Plan’s FLUM. 10A DCMR § 314.9</p>	<ul style="list-style-type: none"> · <u>Land Use Element policies:</u>
<p><u>ED-2.5.1: Industrial Land Retention</u> – Retain an adequate supply of industrially zoned land in order to accommodate the production, warehousing, distribution, light industrial, and research and development activities which sustain the local economy, support municipal services, and provide good employment opportunities for District residents. 10A DCMR § 711.5</p>	<ul style="list-style-type: none"> · <u>LU-1.3.1: Station Areas as Neighborhood Centers</u> · <u>LU-1.3.3: Housing Around Metrorail Stations</u> · <u>LU-3.1.4: Rezoning Industrial Areas</u>
<p><u>UNE-1.1.8: Untapped Economic Development Potential</u> - Recognize the significant potential of the area’s commercially and industrially-zoned lands, particularly along the New York Avenue corridor, V Street NE, and Bladensburg Road, and around the Capital City Market, to generate jobs, provide new shopping opportunities, enhance existing businesses, create new business ownership opportunities, and promote the vitality and economic well-being of the Upper Northeast community. The uses, height, and bulk permitted under the existing M and CM-1 zones are expected to remain for the foreseeable future. 10A DCMR § 2408.9</p>	<ul style="list-style-type: none"> · <u>Housing Element Policies</u> · <u>H-1.1.1: Private Sector Support:</u> · <u>H-1.1.3: Balanced Growth:</u> · <u>H-1.1.4: Mixed Use Development</u> · <u>Urban Design Element Policies</u> · <u>UD-1.4.1: Avenues/Boulevards and Urban Form</u> · <u>Upper Northeast Element Policies</u>
<p><u>UNE-1.1.9: Production, Distribution, and Repair Uses</u> - Retain the existing concentration of production, distribution, and repair (PDR) uses in Upper Northeast, but encourage the upgrading of these uses through higher design standards, landscaping, and improved screening and buffering. Emphasize new uses, including retail and office space, that create jobs for Upper Northeast area residents, and that minimize off-site impacts on the surrounding residential areas. 10A DCMR § 2408.10</p>	<ul style="list-style-type: none"> · <u>UNE-1.1.3: Metro Station Development</u> · <u>UNE-1.1.6: Neighborhood Shopping</u> · <u>UNE-2.5.1: Rhode Island Avenue/Brentwood Metro Station</u> · <u>UNE-2.5.2: Redevelopment of Older Commercial and Industrial Sites</u>

C. 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-10 zone will allow the Property to be put to a more productive use, thus contributing to the ongoing revitalization of the Rhode Island Avenue, NE corridor, and the neighborhoods located near the Rhode Island Avenue Metrorail Station, in a manner that is compatible with surrounding development. The Zoning 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 consistent with the recommendations of the Rhode Island SAP; not inconsistent with the Comp Plan, including the FLUM and GPM, and compatible with the scale of development that is taking shape around the Rhode Island Avenue Metrorail Station without causing adverse impacts on adjacent properties. The Zoning Map amendment will also promote the general welfare through the substantial amount of new housing that will now be permitted on the Property; the jobs created as a result of the redevelopment of the Property, both short-term and long-term; and through significant new tax revenue for the District government.

D. No Adverse Consequences

The Zoning Map amendment will not result in adverse consequences. Rather, the requested rezoning will contribute to several positive and important benefits as it will facilitate the redevelopment of a significantly underutilized site located along one of the District's major transportation corridors. Redevelopment will improve the Property's current condition, thereby enhancing the quality of the entire community and increasing revenue for the District. The Zoning 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 city's image.

E. Proposed MU-10 District Would Create Favorable Conditions

As described above, the proposed Zoning Map amendment will bring the zoning of the Property into conformance with the Mixed Use (High Density Residential/Medium Density Commercial) FLUM designation. The requested rezoning will advance a number of policies embodied in the various elements of the Comp Plan, and will further the recommendations of the Rhode Island SAP. Overall, the rezoning will allow the future development of a wide range of residential and commercial uses on the Property while eliminating the possibility of future industrial development in contravention to both the Comp Plan and the Rhode Island SAP.

VI. COMMUNITY OUTREACH AND ANC COORDINATION

Prior to filing this application, the Applicant met with representatives from Advisory Neighborhood Commission ("ANC") 5E, the ANC in which the Property is located, to discuss the Property and the proposed Zoning Map amendment. Similarly, the Applicant met with the Eckington Civic Association ("ECA"). A listing of the Applicant's meetings with ANC 5E and the ECA is attached as Exhibit G.

On June 1, 2020, the Applicant presented the proposed Zoning Map amendment at a regularly scheduled meeting of the ECA. Following the Applicant's presentation, the ECA voted in support of the proposed rezoning of the Property. A copy of the ECA's letter in support is attached as Exhibit H.

On June 16, 2020, the Applicant presented the proposed Zoning Map amendment at a regularly scheduled meeting of ANC 5E. Following the Applicant's presentation, ANC 5E voted in support of the proposed rezoning of the Property. A copy of ANC 5E's letter in support is attached as Exhibit I.

The Applicant has also met with the Office of Planning and the Deputy Mayor for Planning and Economic Development to discuss the application and will continue to work with the Office of Planning leading up to the public hearing.

VII. CONCLUSION

For all of the reasons stated herein, the Applicant submits that the proposed rezoning of the Property from the PDR-2 to MU-10 meets all of the requirements for an amendment to the 2016 Zoning Map. The proposed Zoning Map amendment is overwhelmingly consistent with the District's plans and policies for the Property and the surrounding area. Furthermore, the proposed rezoning is not inconsistent with the Comp Plan and will further each of the specific 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,

HOLLAND & KNIGHT LLP

By: 
Leila M. Jackson Batties