

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

MASJID MUHAMMAD INC.

**STATEMENT IN SUPPORT OF
A PETITION FOR A MAP AMENDMENT
FROM THE MU-4 ZONE TO
THE MU-5A ZONE**

FOR

**PROPERTY LOCATED AT
SQUARE 5790, LOTS 32, 33, 34, 35, 39, 40, 47, 818, and 819**

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I.
INTRODUCTION

Masjid Muhammad Inc. (the “Petitioner”), through undersigned counsel, submits this statement in support of its petition pursuant to Subtitle Z, Sections 201.5 and 201.7(b)(1) of the District of Columbia Municipal Regulations, Title 11 (11 DCMR) (the “Zoning Regulations”) to amend the Zoning Map of the District of Columbia (the “Zoning Map”) to rezone property known as Lots 32, 33, 34, 35, 39, 40, 47, 818, and 819 in Square 5790 (the “Subject Properties”), from the MU-4 zone to the MU-5A zone. As further discussed below, the Petitioner is submitting the requested map amendment as a rulemaking case under pursuant to 11-Z DCMR § 201.7(b)(1), as the Petitioner does not own all of the properties that are proposed to be rezoned.

As thoroughly discussed herein, and as required under 11-X DCMR §§ 500.3 and 1300.2, the requested map amendment are not inconsistent with the Comprehensive Plan, including the Future Land Use Map (“FLUM”) and the Generalized Policy Map (“GPM”). In fact, the requested map amendment will bring the Subject Properties into conformance with the current Mixed Use (Medium Density Residential / Medium Density Commercial) FLUM designation.

II.
BACKGROUND

The Petitioner owns the two largest properties of the nine properties that comprise the Subject Properties, namely Lots 39 and 819, which have a combined land area of approximately 22,750 square feet and are currently improved with one-story structures that are devoted to commercial and cultural uses and surface parking (the “Petitioner Properties”). The remaining seven properties that make up the Subject Properties are held in separate ownership, have a combined land area of approximately 24,109 square feet, and are generally improved with two-story structures devoted to commercial, office, and residential uses (the “Other Properties”). A listing of the owner name and address of all properties included in the subject petition is included in Exhibit G. As demonstrated in the letters of authorization included in Exhibit M, at the time of filing the Petitioner had already received written authorization to submit the requested map amendment from the owners of Lots 32,33, 34, 35, 40, and 818. The Petitioner has made multiple attempts to contact the owner of Lot 47, TGMSDC Investment Inc., but has not yet been able to reach this owner to discuss the requested map amendment. As stated in Exhibit N, the Petitioner will continue to contact the owner of Lot 47 and will supplement the case record should written authorization from this owner be obtained prior to the hearing.

The requested map amendment will facilitate the Petitioner’s efforts to redevelop the Petitioner’s Properties with a new mixed-use development project. While plans have not yet been developed, the mixed-use development is anticipated to contain approximately 85 affordable dwelling units that are devoted to households earning between 30% AMI and 80% AMI, and approximately 13,000 square feet of ground floor retail space. A project of this type is ideal for the Petitioner’s Properties given the proximity to several new and established neighborhood amenities and close proximity to transit. The project will also make a positive contribution to the ongoing revitalization of the Martin Luther King Jr. Avenue, SE corridor, which is a designated

Great Street.¹ The Petitioner is investing private financing to develop the project and is also currently pursuing public financing to support the project.

The Petitioner has no ownership interest in the Other Properties, and has no knowledge of any development projects that are planned or proposed on these properties.

III.

DESCRIPTION OF THE SUBJECT PROPERTIES AND SURROUNDING AREA

The Subject Properties are located within the Anacostia neighborhood and consist of nine contiguous properties within Square 5790 that all front along the north side of the Martin Luther King Jr. Avenue, SE corridor (the “Corridor”). Exhibit A. As shown on the existing Zoning Map attached hereto as Exhibit B, the Subject Properties are currently zoned MU-4, and are bounded by Martin Luther King Jr. Avenue, SE on the south, Chicago Street, SE to the east, Talbert Street, SE to the west, and an approximately 20 foot public alley to the north. Based on the online records of the District of Columbia Office of Tax and Revenue (“OTR”), the Subject Properties have a combined land area of 46,859 square feet.

As shown in Exhibit B, south of Chicago Street the properties along either side of the Corridor, including the Subject Properties, are currently zoned MU-4. In contrast, the properties on both sides of the corridor to the north of Chicago Street are zoned MU-7. The areas to the northwest and southeast of the Corridor are zoned R-3, RF-1, and RA-1, which are all generally considered to be moderate density residential zones. Specifically, to the northwest of the Corridor, across the 20-foot public alley from the Subject Properties and between Shannon Place, SE and the Anacostia Freeway, the area is zoned RF-1 and RA-1. The properties located in the area that is southeast of the Corridor are zoned RF-1 and R-3. The prevailing development pattern of both of these areas is primarily characterized by two-story attached and semi-detached dwellings interspersed with vacant properties.

To the northeast of the Subject Properties, improvements along the Corridor primarily consist of two- to four-story commercial buildings and several large surface parking lots. The surface parking lots and several outdated commercial and industrial buildings along the Corridor are slated for major redevelopment as part of the Reunion Square project, a Planned Unit Development (“PUD”) that has received overall first-stage and partial second-stage approvals from the Zoning Commission (the “Commission”) (Z.C. Order Nos. 08-07, 08-07A, 08-07B, 08-07C). As part of the first-stage PUD approval of the Reunion Square development, the Commission also approved a PUD-related map amendment which rezoned the site from C-2-A (MU-4) and C-M-1 (PDR-1) to C-3-A (MU-7). The Reunion Square development will contain a wide mix of residential, retail, commercial, service, and arts uses totaling approximately 1.5 million square feet of gross floor area in seven buildings ranging between 45 – 90 feet in height.

¹ 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. For more information visit <https://greatstreets.dc.gov/>

Immediately east of the Subject Properties is the five-story Salvation Army – Solomon G. Brown Community Center, which was developed under a PUD approved by the Commission in 2006 (Z.C. Order No. 04-35). A new five-story multi-family residential development containing approximately 114 dwelling units and 14,000 square feet of ground-floor retail is also located immediately east of the Subject Properties.

To the south, development along the Corridor primarily consists of two- to three-story buildings devoted to commercial and residential uses. Thurgood Marshall Academy, a public charter college preparatory high school, is also located to the south. Other development in close proximity to the south includes the Barry Farm Recreation Center and Barry Farm housing community.

IV. EXISTING AND REQUESTED ZONING

A. Existing Zoning

As stated above and shown in Exhibit B, the Subject Properties are currently zoned MU-4.² The MU-4 zone is intended to permit moderate-density mixed-use development; provide facilities for shopping and business needs, housing, and mixed-uses outside of the central core; be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops; and include office employment centers, shopping centers, and moderate bulk mixed-use centers. As a matter-of-right, the maximum permitted overall density in the MU-4 zone is 2.5 (3.0 FAR with Inclusionary Zoning (“IZ”)), of which no more than 1.5 FAR can be devoted to non-residential uses. 11-G DCMR § 402.1. The maximum permitted building height in the MU-4 zone, as a matter of right and not including the penthouse, is 50 feet with no limit on number of stories. 11-G DCMR § 403.1. The maximum permitted penthouse height is 12 feet for penthouse habitable space, and 15 feet for penthouse mechanical space. The maximum number of stories in a penthouse is limited to one story for penthouse habitable space, with a second story permitted for penthouse mechanical space. 11-G DCMR § 403.3. The maximum permitted lot occupancy for residential uses in the MU-4 zone is 60% (75% with IZ). 11-G DCMR § 404.1.

B. Requested Zoning

As shown in Exhibit C, the Petitioner requests a Zoning Map amendment pursuant to 11-Z DCMR § 201.7(b)(1) to rezone the Subject Properties to the MU-5A zone³. Consistent with the Subject Properties’ FLUM designation, the MU-5A zone is intended to permit medium-density mixed-use development. As a matter-of-right, the maximum permitted overall density in the MU-5A zone is 3.5 (4.2 FAR with IZ), of which no more than 1.5 FAR can be devoted to non-residential uses. 11-G DCMR § 402.1. The maximum permitted building height in the MU-5A zone, as a matter of right and not including the penthouse, is 65 feet (70 feet with IZ) with no limit on number of stories. 11-G DCMR § 403.1. The maximum permitted penthouse height is 12 feet for penthouse habitable space and 15 feet for penthouse mechanical space. The maximum number of stories in a penthouse is limited to one story for penthouse habitable space, with a second story permitted for

² The MU-4 zone was formerly the C-2-A zone under the 1958 Zoning Regulations

³ The MU-5A zone was formerly the C-2-B zone under the 1958 Zoning Regulation

penthouse mechanical space. 11-G DCMR § 403.3. The maximum permitted lot occupancy for residential uses in the MU-5A zone is 80%. 11-G DCMR § 404.1.

The following chart provides a comparison of select matter of right development standards for the existing MU-4 zone and the requested MU-5A zone:

	EXISTING ZONING	PROPOSED ZONING
	MU-4	MU-5A
Purpose	<p>The purposes of the MU-4 zone are permit moderate-density mixed-use development; provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate bulk mixed-use centers.</p> <p>11-G DCMR § 400.3</p>	<p>The purposes of the MU-5 zone are to permit medium-density, compact mixed-use development with an emphasis on residential use, and to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. The MU-5 zones are intended to be located on arterial streets, in uptown and regional centers, and at rapid transit stops.</p> <p>11-G DCMR § 400.4</p>
FAR	<p>2.5 FAR (3.0 with IZ)</p> <p>1.5 FAR (max nonresidential)</p> <p>11-G DCMR § 402.1</p>	<p>3.5 FAR (4.2 with IZ)</p> <p>1.5 FAR (max nonresidential)</p> <p>11-G DCMR § 402.1</p>
Building Height	<p>50 feet</p> <p>11-G DCMR § 403.1</p>	<p>65 feet (70 with IZ)</p> <p>11-G DCMR § 403.1</p>
Penthouse Height	<p>12 feet habitable (15 feet mechanical)</p> <p>One story for penthouse habitable space, and second story for penthouse mechanical space.</p> <p>11-G DCMR § 403.3</p>	<p>12 feet (habitable) / 15 feet (mechanical)</p> <p>One story for penthouse habitable space, and second story for penthouse mechanical space.</p> <p>11-G DCMR § 403.3</p>
Lot Occupancy	<p>60% (75% with IZ)</p> <p>11-G DCMR § 404.1</p>	<p>80%</p> <p>11-G DCMR § 404.1</p>
Rear Yard	<p>15 feet</p> <p>11-G DCMR § 405.2</p>	<p>15 feet</p> <p>11-G DCMR § 405.2</p>

C. Effect of the Requested Map Amendment

The requested zoning map amendment satisfies each of the statutory standards applicable to zoning map amendments. Rezoning the Subject Properties to the MU-5A zone is also not inconsistent with the Comprehensive Plan, including the FLUM and the GPM designations of the Subject Properties, and with other adopted public policies and active programs related to the Subject Properties. In fact, as discussed in detail below, the requested map amendment will bring the Subject Properties into conformance with the current Mixed Use (Medium Density Residential / Medium Density Commercial) FLUM designation, which was adopted by the D.C. Council pursuant to the Comprehensive Plan Amendment Act of 2010 and the Comprehensive Plan Future Land Use Map and Generalized Policy Map Approval Resolution of 2012.

V.

**STANDARDS APPLICABLE TO A PETITION
FOR A ZONING MAP AMENDMENT**

The requested zoning map amendment is submitted as a rulemaking pursuant to 11-Z DCMR §§ 201.5 and 201.7(b)(1). As stated in 11-Z DCMR §201.5, rulemaking cases are legislative in nature and present issues for resolution at a public hearing that potentially affect large numbers of persons or property or the public in general. The requested map amendment affects nine properties that all front along the Martin Luther King Jr. Avenue, SE corridor, a designated Great Street, and are in close proximity to the Anacostia Metrorail Station. The Subject Properties have a combined land area of approximately 46,859 square feet.

Pursuant to the Zoning Act of 1938, approved June 20, 1938, as amended (52 Stat. 797; D.C. Official Code § 6-641.01 *et seq.* (2012 Repl.)) (the "Zoning Act"), there are a number of criteria that must be applied by the Zoning Commission in adopting and amending the Zoning Regulations and 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" 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.

Pursuant to the Home Rule Charter, the District of Columbia Comprehensive Plan Act of 1989 (D.C. Law 8-129), and Subtitle A § 401.1 of the 2016 Zoning Regulations (“ZR16”), the Commission is charged with preparing, adopting and subsequently amending the Zoning Regulations and Zoning Map in a means not inconsistent with the Comprehensive Plan. As such, to approve the subject petition the Commission must conclude that the request is not inconsistent with the Comprehensive Plan.

As demonstrated below, the requested rezoning of the Subject Properties from the MU-4 zone to the MU-5A zone will satisfy each of the standards and criteria noted above.

VI.

EVALUATION OF PROPOSED MAP AMENDMENT AND COMPLIANCE WITH STATUTORY STANDARDS

A. Comprehensive Plan

The requested map amendment is not inconsistent with the policies and goals of the Comprehensive Plan (the “Plan”), including the FLUM and the Generalized Policy Map (“GPM”). The Plan is described as “the centerpiece of a “Family of Plans” that guide public policy in the District. 10-A DCMR § 103.1. Under the D.C. Code, the Comprehensive Plan is the one plan that guides the District’s development, both broadly and in detail. 10-A DCMR § 103.2. Thus it carries special importance in that it provides overall direction and shapes all other physical plans that District government adopts. In fact, all plans and regulations relating to the city’s physical development should take their lead from the Comprehensive Plan, building on common goals and shared assumptions about the future. 10-A DCMR § 103.2. As the guide for all District planning, the Plan establishes the priorities and key actions that other plans address in greater detail. The broad direction it provides may be implemented through agency strategic plans, operational plans, long-range plans on specific topics (such as parks or housing), and focused plans for small areas of the city. 10-A DCMR § 103.3.

The purposes of the Comprehensive Plan are six-fold: (1) to define the requirements and aspirations of District residents and, accordingly, influence social, economic and physical development; (2) to guide executive and legislative decisions on matters affecting the District and its citizens; (3) to promote economic growth and jobs for District residents; (4) to guide private and public development in order to achieve District and community goals; (5) to maintain and enhance the natural and architectural assets of the District; and (6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. D.C. Code §1-245(b). The subject petition significantly advances these purposes by promoting the social, physical and economic development of the District by facilitating the future redevelopment of the Subject Properties with a better mix of uses, including active ground floor retail, at a height and density that is not inconsistent with the Comprehensive Plan.

The policies contained in the Comprehensive Plan are based on 36 Guiding Principles that acknowledge that the benefits and opportunities of living in the District are not available to everyone equally and that divisions in the city—physical, social and economic—must be overcome to move from vision to reality. 10-A DCMR § 216.3. The Guiding Principles are derived from the Comprehensive Plan’s “vision for growing an inclusive city,” and express cross-cutting goals for

the District's future. 10-A DCMR § 2004.4. The Guiding Principles are grouped into five core themes: Managing Growth and Change, Creating Successful Neighborhoods, Increasing Access to Education and Employment, Connecting the City, and Building Green and Healthy Communities. 10-A DCMR § 216.2.

The subject petition will aid in managing growth and change by assisting the District to accommodate the continuing demand for more housing, both market rate and affordable, in a location that is close to transit. 10-A DCMR § 217.2 & 217.10. The subject petition will also support the District's non-residential growth and new neighborhood-serving commercial development which will generate tax revenue and create jobs and opportunities for District residents to increase their income. 10-A DCMR § 217.4 & 219.9. The subject petition will help increase the economic strength of Anacostia by increasing the permitted utilization of several properties that are in close proximity to transit. 10-A DCMR §§ 217.6. Finally, the requested map will help advance the District's environmental goals by facilitating the potential redevelopment of the Subject Properties with buildings that meets or exceeds required green building standards. 10-A DCMR § 221.3.

The substantive policies of the Comprehensive Plan are organized into 12 Citywide Elements that each address a specific topic that is citywide in scope, and ten Area Elements that focus on issues that are unique to a particular part of the District, and are intended to provide a sense of local priorities and to recognize the different dynamics at work in each part of the city. Although they focus on a specific area of the District, the policies contained within the Area Elements are still general in nature and do not prescribe specific uses or design details. 10-A DCMR 104.4 – 104.6. The Area Elements also do not repeat policies that already appear in the Citywide Elements; however, this does not mean all Comprehensive Plan policies are mutually exclusive from each other. On the contrary, the Comprehensive Plan specifically recognizes the overlapping nature among and between the Citywide and Area Elements, and that the policies in one element may be tempered by one or more of the other elements where there may be a need to balance competing policies.

The following sections of this statement provide an evaluation of the subject petition's consistency with the Comprehensive Plan. Due to the wide range of topics addressed in the Comprehensive Plan, some Citywide Elements may not necessarily be applicable to a proposed amendment to the Zoning Regulations or specific development proposal, or are applicable to only a minor degree. Such is the case for the requested map amendment, where the Parks, Open Space, and Recreation; Educational Facilities; Infrastructure; Community Services and Facilities; and the Arts and Culture Elements have little to no applicability. Nonetheless, in preparing this evaluation the Petitioner still reviewed the overarching goal and policies of these elements and confirmed that the subject petition is not inconsistent with these elements. For the remaining Citywide Elements that are more directly applicable to the Petitioner's request, a brief narrative is provided below explaining the basis for the Petitioner's finding that the subject petition is not inconsistent with that particular element.

1. Generalized Policy Map

The purpose of the GPM is to categorize how different parts of the District may change between 2005 and 2025. 10-A DCMR § 223.1. It highlights areas where more detailed policies are

necessary, both within the Comprehensive Plan and in follow-up plans, to manage this change. *Id.* The GPM is intended to “guide land use decision-making in conjunction with the Comprehensive Plan text, the FLUM, and other Comprehensive Plan maps.” *Id.* at § 223.2. Boundaries on the map are approximate and not precise delineations, and are to be interpreted in concert with these other sources, as well as the actual physical characteristics of each location shown. *Id.* By its nature the GPM provides a projection, and the changes outline may or may not occur as anticipated.

As shown in Exhibit D, the GPM depicts the Subject Properties as being within the “Main Street Mixed Use Corridors” category, which is one of five types of commercial/mixed use areas on the GPM that correspond to the District’s business districts. As described in the Framework Element, the Main Street Mixed Use Corridors category includes traditional commercial business corridors that have a concentration of older storefronts along the street, and can have a service area ranging from one neighborhood to multiple neighborhoods. A common feature of areas with this particular GPM designation is that they have a pedestrian-oriented environment with traditional storefronts, with many having upper-story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and to serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment.

The subject petition will help implement the policies embodied in the GPM by increasing the overall amount of density that can be developed on the Subject Properties while retaining the same nonresidential density limitation as the existing MU-4 zone, thus strengthening the ability of the Martin Luther King Jr Avenue, SE corridor to attract new housing which can help spur new neighborhood serving commercial uses. Currently, the Subject Properties are substantially underutilized considering their proximity to Metrorail and location along one of the District’s Great Streets. New and existing businesses along the Corridor will benefit from the increased amount of residential density permitted on the Subject Properties as a result of the subject petition, which will contribute to the economic vitality of the Corridor and generate positive economic benefit to business owners and the District. Furthermore, redevelopment of the Subject Properties will result in improvements to the adjacent public realm, thus improving pedestrian circulation along this portion of the Corridor.

2. Future Land Use Map

The FLUM, which is adopted as part of the Comprehensive Plan Land Use Element, sets forth a generalized depiction of intended land uses over a period of approximately 20 years. The Framework Element of the Comprehensive Plan states that the FLUM is not a zoning map. See 10A DCMR § 226.1(a); see also Z.C. Order No. 11-13; Z.C. Order No. 10-28. Whereas zoning maps are parcel-specific and establish detailed requirements for setback, height, use, parking, and other attributes, the FLUM does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. *Id.* By definition, the FLUM is to be interpreted broadly. *Id.* Decisions on requests for rezoning shall be guided by the [FLUM] read in conjunction with the text of the Comprehensive Plan (Citywide and Area Elements) as well as Small Area Plans pertaining to the area proposed for rezoning. *Id.* at § 2504.5.

As shown in Exhibit E, the Subject Properties are currently designated Mixed Use (Medium Density Residential / Medium Density Commercial), the designation that was adopted

by the D.C. Council as part of the Comprehensive Plan Amendment Act of 2010 (the “2010 Act”) and Comprehensive Plan Future Land Use Map and Generalized Policy Map Approval Resolution of 2012 (the “FLUM Amendment”). As shown in Exhibit F, prior to the FLUM Amendment the Subject Properties were designated Mixed Use (Moderate Density Residential / Moderate Density Commercial) on the 2006 FLUM. The 1995 FLUM designated the Subject Properties as Moderate Density Residential.

The current Mixed Use (Medium Density Residential / Medium Density Commercial) designation of the Subject Properties is a direct reflection of the recommendations made for the Corridor in the Anacostia Transit-Area Strategic Investment and Development Plan, a small area plan that was adopted by the D.C. Council in 2006 (the “Small Area Plan”). *See* Resolution No. 16-0685. These recommendations were incorporated into the Comprehensive Plan as part of the 2010 Act which designated both sides of the Corridor from the Anacostia Freeway to Talbert Street SE to Mixed Use (Medium Density Residential / Medium Density Commercial).⁴ Furthermore, as discussed below the 2010 Act also included amendments to planning area policies that encourage future housing and employment growth to be directed “along the ‘Great Streets’ corridors of Martin Luther King Jr. Avenue SE and South Capitol Street SE.” Thus, the FLUM designation for the Subject Properties has evolved along with the District’s long-term vision for the Corridor, and now the subject petition will bring zoning for the Subject Properties into consistency with the Comprehensive Plan.

As to the specific FLUM designation of the Subject Properties, a “Mixed Use” designation on the FLUM is not intended to be interpreted in terms of its separate land use designations. Rather, “Mixed Use” on the FLUM is a specific land use category unto itself, and is assigned to areas where the mixing of two or more land uses is encouraged, but is not mandatory. It 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; 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 § 225.18. The Subject Properties fit the second of these circumstances.

According to the Framework Element, the Medium Density Residential designation is used to describe neighborhoods or areas where mid-rise (4-7 stories) apartment buildings are the predominant use, with potential for pockets of low and moderate density housing. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-B (ZR16: RA-2) and R-5-C (ZR16: RA-3) zone districts are generally considered to be consistent with this particular designation, although other zones may apply.⁵ 10A DCMR § 225.5.

The Framework Element describes the Medium Density Commercial designation as defining shopping and service areas that are somewhat more intense in scale and character than

⁴ The Mixed Use (Medium Density Residential / Medium Density Commercial) FLUM designation was applied to the Corridor between the Anacostia Freeway and Talbert Street SE “to a depth of 200 feet from the avenue with exceptions to be made where historic district considerations suggest otherwise.” *See* Comprehensive Plan Amendment Act of 2010, Section 101(u)(50). The Subject Properties are not located within a historic district.

⁵ The land use category descriptions contained in the Framework Element were adopted as part of the 2006 Comprehensive Plan; and therefore reflect the zone district names from the 1958 Zoning Regulations.

the moderate-density commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation generally draw from a citywide market area. Buildings are generally larger and/or taller than those in moderate density commercial areas but generally do not exceed eight stories in height. The corresponding zone districts are generally C-2-B (ZR16: MU-5), C-2-C (ZR16: MU-6), C-3-A (ZR16: MU-7), and C-3-B (ZR16: MU-8), although other districts may apply. 10A DCMR § 225.10

The Applicant's proposal to rezone the Site to MU-5A is not inconsistent with the FLUM designation for the Subject Properties. For areas with a Mixed Use designation, the general density and intensity of development is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other, the FLUM may note the dominant use by showing it at a slightly higher density than the other use(s) in the mix. 10A DCMR § 225.19. In this case the Subject Properties are designated as Mixed Use (Medium Density Residential / Medium Density Commercial); and therefore, the FLUM does not express a desired outcome that favors one use over another. Rather, the FLUM designation is consistent with the recommendations of the Small Area Plan and policies of the Far Southeast and Southwest Element that promote both medium-density residential and commercial development, perhaps slightly favoring new residential development, to help spur new economic development along the Corridor. The proposed MU-5A zoning is consistent with these recommendation and policies. Not only is the MU-5A zone expressly identified as corresponding to the Medium Density Commercial land use designation on the FLUM, it also favors residential development over commercial development by allowing an overall by-right density of 4.2 FAR (with IZ), of which only 1.5 FAR may be devoted to nonresidential uses. Finally, the MU-5A zone is specifically described as being "intend to "permit medium-density mixed-use development, and be located on arterial streets, in uptown and regional centers, and at rapid transit stops." The Subject Properties possess these characteristics in that the Martin Luther King Jr. Avenue SE corridor is classified as an arterial street on the District Department of Transportation's ("DDOT") Functional Classification Map and the Anacostia Metrorail Station is only approximately 800 feet to the southwest.

3. Land Use Element

The Land Use Element is the cornerstone of the Comprehensive Plan. It establishes the basic policies guiding the physical form of the city, and provides direction on a range of development, conservation, and land use compatibility issues. The Land Use Element describes the balancing of priorities that must take place in order to accommodate a multiplicity of land uses within the boundaries of the District of Columbia. 10-A DCMR § 300.1. Because the Land Use Element integrates the policies and objectives of all the other District Elements, "it should be given greater weight than the other elements as competing policies in different elements are balanced." 10-A DCMR § 300.3.

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. (emphasis added)
10-A DCMR § 302.1.

The proposed zoning map amendment is not inconsistent with this important goal as it will facilitate greater utilization of the Subject Properties with a higher and better mix of uses that can better meet long-term neighborhood and citywide needs. Overall, the subject petition is not in consistent with the objectives and policies of the Land Use Element, and particularly the following policies:

- *Policy 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)*
- *Policy LU-1.3.5: Edge Conditions Around Transit Stations - Ensure that development adjacent to Metrorail stations is planned and designed to respect the character, scale, and integrity of adjacent neighborhoods. For stations that are located within or close to low density areas, building heights should “step down” as needed to avoid dramatic contrasts in height and scale between the station area and nearby residential streets and yards. (10A DCMR § 306.14)*
- *Policy 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 § 307.8)*
- *Policy LU-2.4.1: Promotion of Commercial Centers - Promote the vitality of the District’s commercial centers and provide for the continued growth of commercial land uses to meet the needs of District residents, expand employment opportunities for District residents, and sustain the city’s role as the center of the metropolitan area. Commercial centers should be inviting and attractive places, and should support social interaction and ease of access for nearby residents. (10A DCMR § 312.5)*
- *Policy LU-2.4.2: Hierarchy of Commercial Centers - Maintain and reinforce a hierarchy of neighborhood, multi-neighborhood, regional, and main street commercial centers in the District. Activities in each type of center should reflect its intended role and market area, as defined in the Framework Element. Established centers should be expanded in areas*

where the existing range of goods and services is insufficient to meet community needs. (10A DCMR § 312.6)

- *Policy LU-2.4.6: Scale and Design of New Commercial Uses - Ensure that new uses within commercial districts are developed at a height, mass, scale and design that is appropriate and compatible with surrounding areas. (10A DCMR § 312.10)*

4. Transportation Element

The Transportation Element of the Comprehensive Plan provides policies and actions to maintain and improve the District's transportation system and enhance the travel choices of current and future residents, visitors and workers. These policies are complemented by policies in the Land Use, Urban Design, and Environmental Protection elements on related topics such as air quality and the management of public space. Recognizing the interplay between transportation and these related topics is critical to improving mobility and accessibility in the city. 10A DCMR § 400.1.

The overarching 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. Overall, the subject petition is not in consistent with the objectives and policies of the Transportation Element, and particularly the following policies:

- *Policy T-1.1.4: Transit-Oriented Development - Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points. (10A DCMR § 403.10)*
- *Policy 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)*
- *Policy 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)*

5. Housing Element

The District's overarching 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. As described below under the Housing Element policies that are applicable to the subject petition, the proposed zoning map amendment is consistent with this goal as it will facilitate the reuse / redevelopment of the Subject Properties with a new mix of uses, including the potential for new market-rate and affordable housing. Overall, the subject petition is not

inconsistent with the objectives and policies of the Housing Element, and particularly the following policies:

- *Policy 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)*
- *Policy 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)*
- *Policy 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. (10-A DCMR § 503.5)*
- *Policy H-1.2.2: Production Targets - Consistent with the Comprehensive Housing Strategy, work toward a goal that one-third of the new housing built in the city over the next 20 years should be affordable to persons earning 80 percent or less of the area-wide median income (AMI). Newly produced affordable units should be targeted towards low-income households in proportions roughly equivalent to the proportions shown in Figure 5.2. (10-A DCMR § 504.7)*

6. Economic Development Element

The Economic Development Element addresses the future of the District's economy and the creation of economic opportunity for current and future residents. It includes strategies to sustain Washington's major industries, diversify our economy, accommodate job growth, maintain small businesses and neighborhood commercial districts, and increase access to employment for District residents. 10A DCMR 700.1. The overarching goal for economic development in the District is to "strengthen 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. Overall, the subject petition is not inconsistent with the goals and policies of the Economic Development Element, and specifically the following policies:

- *Policy 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)*

- *Policy 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)*
- *Policy 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)*

The subject petition is consistent with the policies stated above as it will promoting the vitality of the Martin Luther King Jr. Avenue SE corridor, a designated Main Street Mixed Use Corridor on the GPM and one of the District's Great Streets...

7. Urban Design Element

The Urban Design Element addresses the District's physical design and visual qualities. Critical urban design issues facing the District, and that are addressed in the policies of the Urban Design Element, including, among others, strengthening civic identity through a renewed focus on assets such as public spaces, boulevards, and waterfront areas; and improving the public realm, particularly street and sidewalk space. 10A DCMR § 900.2. The overall goal of the Comprehensive Plan's 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 § 900.6. Overall, the subject petition is not inconsistent with the objectives and policies of the Land Use Element, and particularly the following policies:

- *Policy 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 (10-A DCMR § 906.6)*
- *Policy 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. (10-A DCMR § 906.11)*

- *Policy UD-2.2.1: Neighborhood Character and Identity - Strengthen the defining visual qualities of Washington's neighborhoods. This should be achieved in part by relating the scale of infill development, alterations, renovations, and additions to existing neighborhood context. (10A DCMR § 910.6)*
- *Policy UD-2.2.4: Transitions in Building Intensity - Establish gradual transitions between large-scale and small-scale development. The relationship between taller, more visually prominent buildings and lower, smaller buildings (such as single family or row houses) can be made more pleasing when the transition is gradual rather than abrupt. The relationship can be further improved by designing larger buildings to reduce their apparent size and recessing the upper floors of the building to relate to the lower scale of the surrounding neighborhood. (10A DCMR § 910.11)*
- *Policy UD-2.2.7: Infill Development - Regardless of neighborhood identity, avoid overpowering contrasts of scale, height and density as infill development occurs. (10A DCMR § 910.15)*
- *Policy UD-3.1.6: Enhanced Streetwalls - Promote a higher standard of storefront design and architectural detail along the District's commercial streets. Along walkable shopping streets, create street walls with relatively continuous facades built to the front lot line in order to provide a sense of enclosure and improve pedestrian comfort. (10A DCMR § 913.13)*

8. Far Southeast / Southwest Area Element

The Subject Properties are located within the area covered by the Far Southeast / Southwest ("Far SE/SW") Area Element of the Comprehensive Plan. The Far Southeast / Southwest Planning Area encompasses 10.1 square miles east of the Anacostia Freeway and south of Good Hope Road/Naylor Road. The Planning Area includes neighborhoods such as Historic Anacostia, Congress Heights, Hillside, Woodland, Fort Stanton Barry Farm, Bellevue, Washington Highlands, Douglas/Shipleigh Terrace Garfield Heights, and Knox Hill/Buena Vista. The Far SE/SW Element identifies a list of planning and development priorities that were developed through several community meetings. These priorities include, among other things, the need for more housing and recognition that there are opportunities for increased density around Metro stations and in neighborhood centers along Martin Luther King Jr. Avenue SE and South Capitol Street. In addition, there is a stated need for more retail services in the community. The Far SE/SW Element promotes additional investment in the existing retail centers along specific corridors, including Martin Luther King Jr. Avenue SE, as well as façade improvements, streetscape improvements, and upgrades public transit to help existing businesses and promote new businesses.

The proposed map amendment will assist the District in achieving the planning and development priorities noted above. Overall, the subject petition is not inconsistent with the objectives and policies of the Far SE/SW Area Element, and particularly the following:

- *Policy FSS-1.1.7: Retail Development - Support additional retail development within the Far Southeast/Southwest, especially in Historic Anacostia, and in the neighborhood centers at Malcolm X/Martin Luther King Jr Avenue and South Capitol/Atlantic. Projects which combine upper story housing or offices and ground floor retail are particularly encouraged in these three locations. (10A DCMR § 1808.8)*

B. Health, Safety, and General Welfare

The requested zoning map amendment will further the public health, safety, and general welfare of the District of Columbia. The requested rezoning to the MU-5A zone will promote the public safety and general welfare through increased activation of the Subject Properties with a range of new uses that will improve connections, add vitality, and contribute to the economic well-being of the District’s economy through the creation of new housing and commercial development.

C. No Adverse Consequences

The requested zoning map amendment will not result in the overcrowding of land or the undue concentration or population, nor will it have any significant adverse impacts on traffic congestion in the surrounding area. The request will allow the Petitioner to redevelop its properties with a new mixed-use development that provides substantial affordable housing in a manner that is not inconsistent with the Comprehensive Plan, and likewise allow for similar development to occur in the future on the Other Properties. It will increase utilization of the Subject Properties by allowing additional height and density while remaining compatible with the surrounding context. The subject petition will not generate any negative external effects, but will instead promote the efficient use of land in a manner that will, among other things, strengthen the District’s economy and vitality of the Anacostia neighborhood.

D. Map Amendment Would Create Favorable Conditions

As discussed above, the requested zoning map amendment is not inconsistent with the Comprehensive Plan, and will not generate any negative external effects. Rather, the subject petition will instead promote the efficient use of land in a manner that will, among other things, strengthen the District’s economy and contribute to the ongoing revitalization of the Anacostia neighborhood and Martin Luther King Jr. Avenue SE corridor through support of both the residential and commercial sectors.

**VII.
COMMUNITY COORDINATION**

At a meeting held on December 18, 2018, the Petitioner discussed the subject petition with Tyon Jones, the newly elected Advisory Neighborhood Commission (“ANC”) member representing Single Member District (“SMD”) 8A06, the SMD within which the Subject Properties are located. Also in attendance was Monica Ray, the Executive Director of the Congress Heights Community Training and Development Corporation (“CHCTDC”). At that meeting, both Mr. Jones and Ms. Ray expressed no objections or concerns regarding the

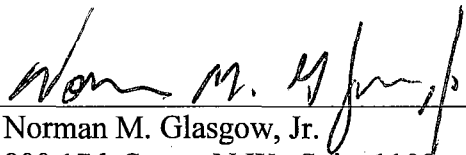
Petitioner's request to rezone the Subject Properties from MU-4 to MU-5A. The Petitioner will continue working with interested stakeholders and stakeholder organizations, and will seek formal support from ANC 8A prior to the public hearing on the subject petition.

VIII.
CONCLUSION

For all of the reasons stated herein, the Petitioner submits that the requested rezoning of the Subject Properties from the MU-4 zone to the MU-5A zone meets all of the requirements applicable to a map amendment under the Zoning Regulations. Furthermore, the subject petition is not inconsistent with the Comprehensive Plan, including the FLUM and GPM designations applicable to the Subject Properties, and will further each of the specific objectives set forth in the Zoning Act. Accordingly, the Petitioner respectfully requests that the Commission schedule a public hearing on this petition and grant the requested zoning map amendment.

Respectfully submitted,

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