

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission  
**FROM:** <sup>JLS</sup> Jennifer Steingasser,  
Deputy Director, Development Review & Historic Preservation  
**DATE:** July 20, 2018  
**SUBJECT:** ZC Case 18-07– Setdown Report for a Petition for a Zoning Map Amendment to Re-Zone Portions of Lots 156- 158 in Square 750 from PDR-1 to MU-4 and to Re-Zone Square 750, Lot 128 and Other Portions of Lots 156-158 from PDR-1 to MU-5A

**I. RECOMMENDATION**

The Office of Planning recommends that the Zoning Commission **set down** this petition for a map amendment to re-zone portions of Lots 156- 158 in Square 750 from PDR-1 to MU-4 and to re-zone Square 750, Lot 128 and other portions of Lots 156-158 from PDR-1 to MU-5A.

Prior to a public hearing, the applicant should provide additional information about why the inclusion of a portion of the site in the MU-5A zone would be not inconsistent with Square 750’s designation in the Generalized Future Land Use Map (FLUM) of the Comprehensive Plan.

**II. APPLICATION-IN-BRIEF**

<b>Applicant</b>	Lean Development LLC, represented by Cozen O’Connor
<b>Total Property size</b>	5001 Square Feet
<b>Northern Sub-Site</b> (black outlined in Fig. 1)	(60% of total site)
Address	Portion of 929 2 <sup>nd</sup> St., NE and 203 – 205 K Street, NE
Legal Description	Square 750, northern portion of Lots 156-158
Size of Sub-Site	2,542.2 SF
Proposed Amendment	From PDR-1 to MU4
<b>Southern Sub-Site</b> (blue outlined in Fig. 1)	40% of total site
Address	923 2 <sup>nd</sup> St., NE; Portion of 929 2 <sup>nd</sup> St., NE & 203–205 K St., NE
Legal Description	Square 750, all of Lot 128, southern portions of Lots 156-158
Size of Sub-Site	2,476.8 SF
Proposed Amendment	From PDR-1 to MU-5A
<b>Generalized Policy Map</b>	Neighborhood Conservation Area
<b>Future Land Use Map</b>	Moderate-Density Residential and Low-Density Commercial

<b>Current Zoning</b>	PDR-1
<b>Ward and ANC</b>	Ward 6, ANC 6C
<b>Historic District</b>	N/A

### III. SITE AND AREA DESCRIPTION

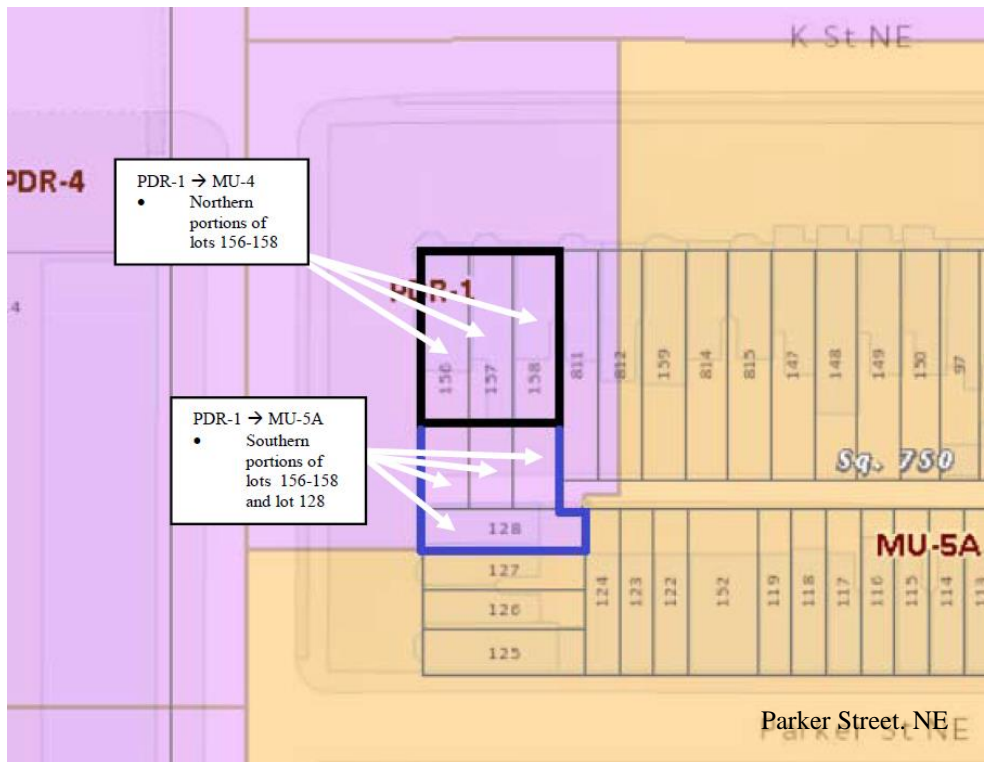


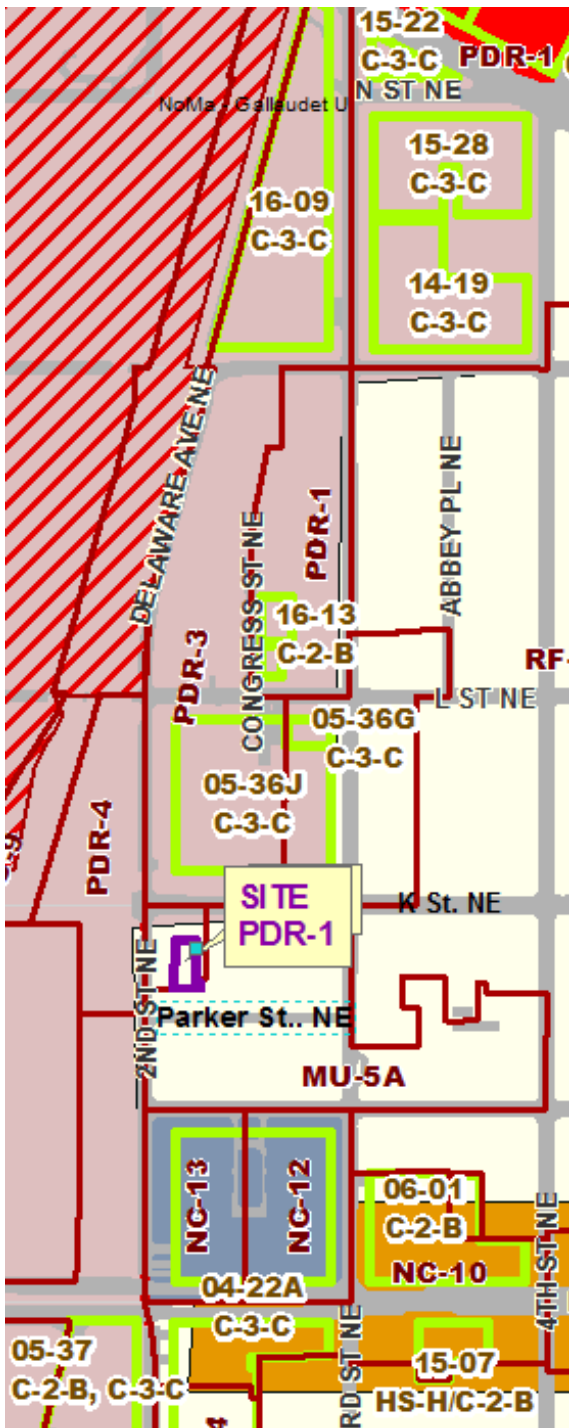
Figure 1. Site of Petition for Map Amendment, with area to north (in Black) proposed for MU-4 and the area to the south (in Blue) proposed for MU-5A (Case Exhibit 3B).

The generally rectangular 5001 square-foot site is in the northwest portion of Square 750, which is part of the NoMA-east neighborhood, immediately east of the embanked railway viaduct in Near Northeast Washington. The Square is bounded by I, K, 2<sup>nd</sup> and 3<sup>rd</sup> Streets, NE and is bisected by the east/west-aligned Parker Street, NE. The Square is northeast of Union Station and one block north of H Street, NE. Two red-line Metro stations are less than ½ mile away.

The petitioner is requesting that the lots outlined in black in Figure 1 be rezoned from PDR-1 to MU-4, and that the area outlined in blue be rezoned from PDR-1 to MU-5A.

The buildings on the applicant’s site, and along Parker, K, 2<sup>nd</sup> and 3<sup>rd</sup> Streets are moderate-density rowhouses, except for a new five-story apartment building on the southeast corner of Parker and 2<sup>nd</sup>

Streets, NE. As illustrated in Figure 2, in the nearby area bounded by G Street, Florida Avenue, 2<sup>nd</sup>



Street, and 4<sup>th</sup> Street, there are several medium to high-density mixed-use PUD developments that include related map amendments from PDR zones to high-density mixed-use zones. The PUDs are outlined in green. The case numbers are in brown and the related map amendment zoning is noted in brown, below the case numbers.

These PUDs are primarily residential, with some ground-floor retail and office uses. The PUDs north of L Street, NE also include light-PDR uses. Those below L Street do not include PDR uses.

Square 750, which includes the applicant’s site, is unusual within the context of its current development and the Policy Map. It is the only Square between the railway viaduct and 3<sup>rd</sup> Street, NE where:

- there has not been an approved PUD with a related map amendment;
- two-story rowhouses remain the predominant building and use type; and
- the only Square identified as part of a neighborhood conservation area (in white in Figure 2) rather than as a land use change area (in light purple).

The existing PDR-1 zoning of the applicant’s part of Square 750 does not appear to be consistent with either the Policy Map, or with recent Zoning Commission actions in the area.

Fig. 2 East NoMA Area, with Comprehensive Plan Generalized Policy Map Designations, Existing Base Zones, and Location of PUDs and PUD-related Map Amendments

#### IV. EXISTING AND POTENTIAL DEVELOPMENT CAPACITY

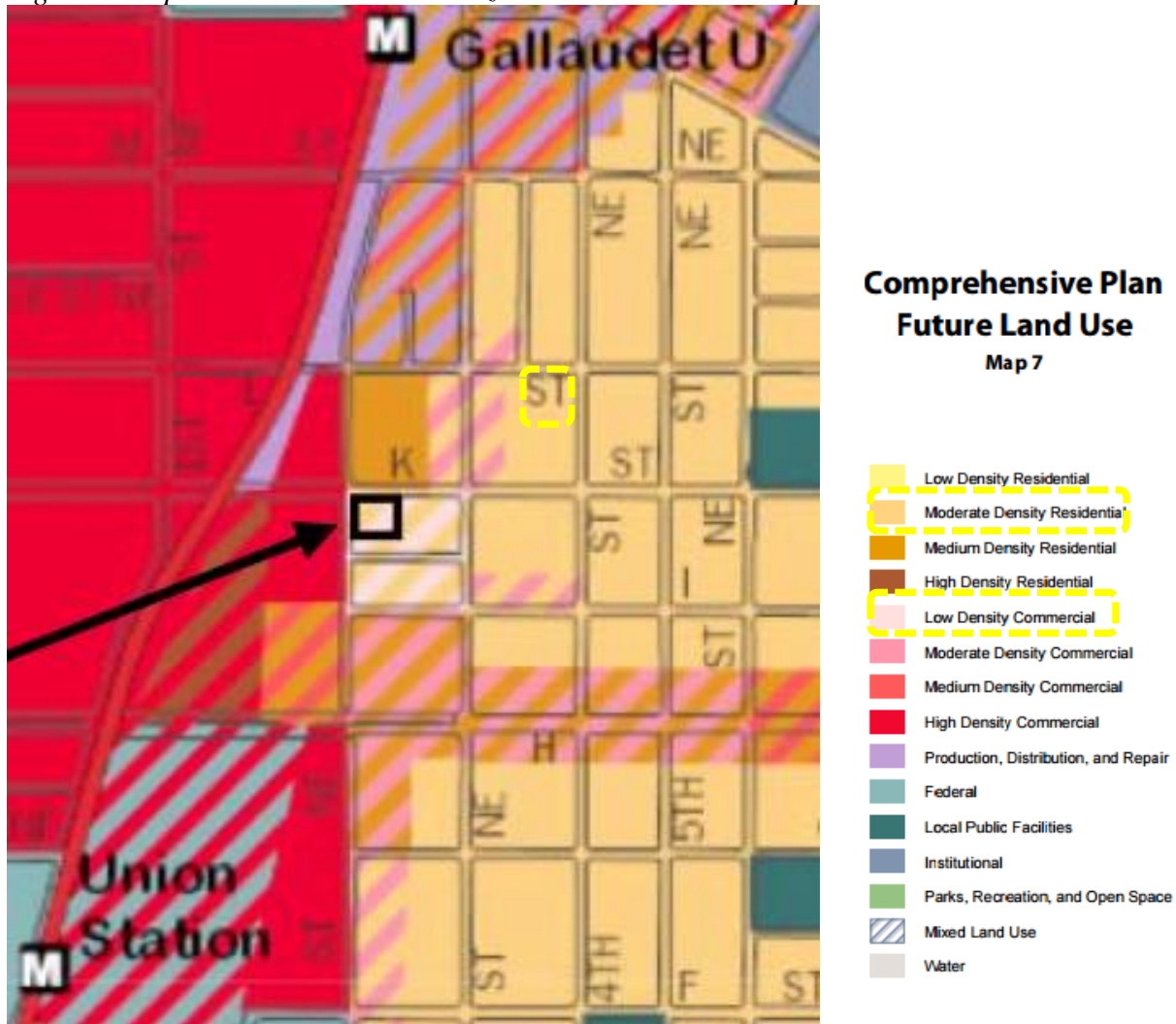
A summary of the zone standards follows:

	<b>Existing Zone PDR-1</b>	<b>Proposed Zone MU-4</b>	<b>Proposed Zone MU-5A</b>
<b>Purposed and Permitted Use(s)</b>	Intended to permit moderate-density commercial and large-scale government uses, PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones.	Intended to permit moderate-density mixed use development, including shopping, commercial, residential and mixed uses outside the CBD, and to be located in low and moderate density residential areas with access to main roadways or rapid transit stops, and to include offices, shopping centers and moderate-bulk mixed-use centers	Intended to permit medium-density, compact mixed-use development with emphasis on residential use. Also, to provide for shopping, commercial, residential and mixed uses outside the CBD, with locations on arterial streets, in uptown and regional centers and at rapid transit stops.
<b>Height</b>	50 feet + 1-story penthouse ≤ 12' ( <i>J § 203</i> )	50 ft. + ≤ 2-story 12'-15' penthouse ( <i>G § 403.1</i> )	65 ft. (70 ft. w/IZ) + ≤ 2-story 12'-18.5' penthouse ( <i>G § 403.2</i> )
<b>Lot Area</b>	No minimum required; 5001 SF total existing	No minimum required; 2524.2 SF in proposed MU-4 sub-area	No minimum required; 2476.8 SF in proposed MU-5A sub-area
<b>Lot Width</b>	No minimum required	No minimum required	No minimum required
<b>FAR</b>	3.5 maximum No residential permitted ( <i>J § 202</i> )	2.5 (3.0 IZ) total 1.5 max. non-residential ( <i>G § 402.1</i> )	3.5 (4.2 IZ) total 1.5 max. non-residential ( <i>G § 402.1</i> )
<b>Lot Occ.</b>	15 ft. to 25 ft. setbacks from lot lines required ( <i>J § 207.2</i> )	60% (60% IZ) ( <i>G § 404</i> )	80% (80% IZ) ( <i>G § 404</i> )
<b>Rear Yard</b>	≥ 12'. ( <i>J § 205</i> )	≥ 15 ft. ( <i>J § 405</i> )	≥ 15 ft. ( <i>J § 405</i> )
<b>Side Yard</b>	Same as rear yard (( <i>J § 205</i> ))	If provided greater of 5 ft. (8' for semi-detached and detached) or 2.5" per ft. of height ( <i>G § 406</i> )	If provided greater of 5 ft. (8' for semi-detached and detached) or 2.5" per ft. of height ( <i>G § 406</i> )
<b>Parking</b>	Varies by use ( <i>C § 701.5</i> )	Varies by use. Multi-family residential: 1 per 3 units ( <i>C § 701.5</i> )	Varies by use. Multi-family residential: 1 per 3 units ( <i>C § 701.5</i> )
<b>GAR</b>	0.1 to 0.3, depending on ht. ( <i>J § 208</i> )	0.3	0.3

## V. COMPREHENSIVE PLAN

### 1. Future Land Use Map:

Fig. 2: *Comprehensive Plan Generalized Future Land Use Map*



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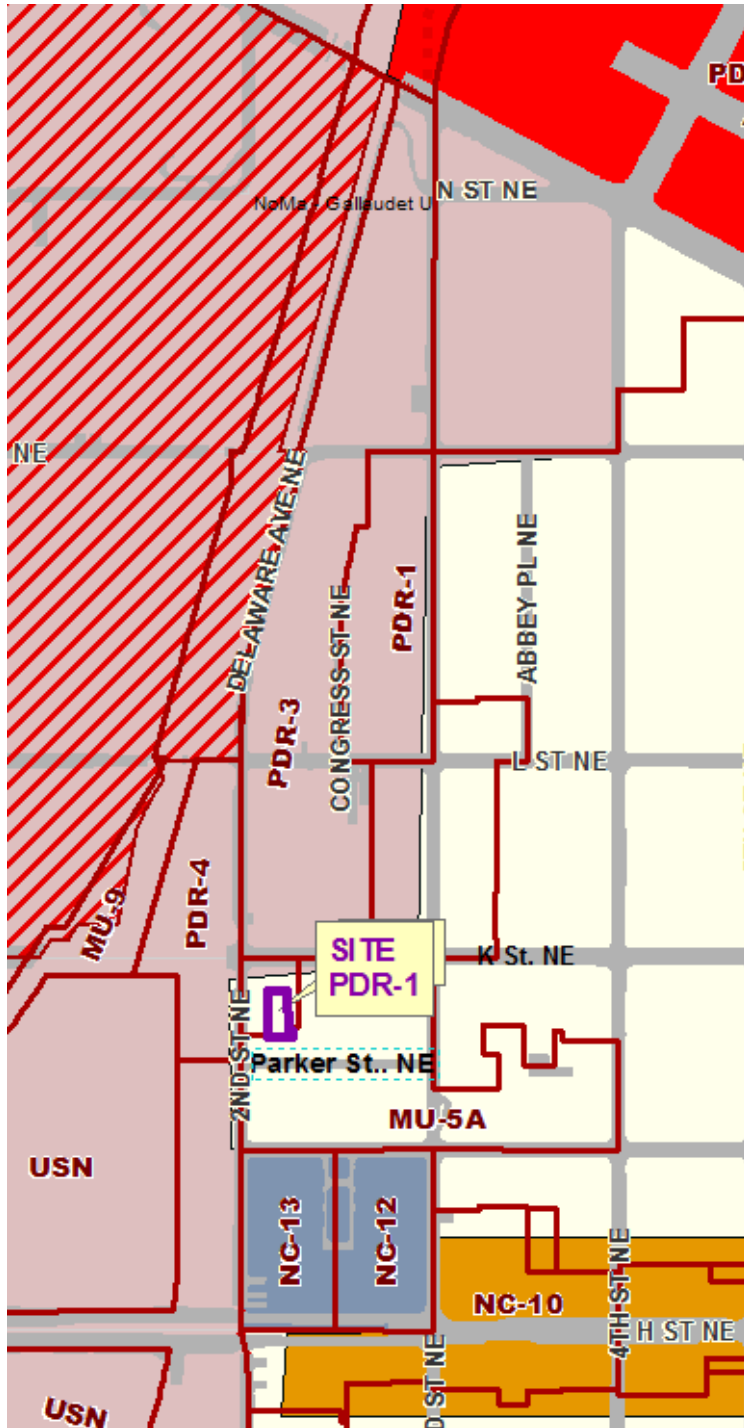
The Generalized Future Land Use Map (FLUM) identifies the property as appropriate for moderate density residential and low-density commercial uses.

The MU-4 zone requested for the northern portion of the site is intended to permit moderate-density mixed use development and would not be inconsistent with the FLUM.

The MU-5A zone requested for the southern portion of the site is intended to permit medium-density, compact mixed-use development with an emphasis on residential use. This proposed zone would not necessarily be inconsistent with the FLUM when considered in the context of the MU-5 zone mapped on the rest of Square 750, the development to the north and south, and the vision for the area set forth in the NoMa Small Area Plan (see page 8 of this report).

## 2. Generalized Policy Map

Fig. 3: Comprehensive Plan Generalized Policy Map



The Generalized Policy Map reinforces the Generalized Land Use Map's designation of the site as appropriate for the moderate-density residential and low-density commercial uses that now exist on the Square, and to the east.

The Policy Map includes the site in a Neighborhood Conservation Area (white on map). It is part of the only Square in the first line of development east of the rail tracks between H Street and Florida Avenue that has not been either designated for land use change, or that has had its use changed through a PUD. Although bordered by areas designated for Land Use Change (light purple) Main Street Mixed Use Corridors (orange/brown) or Institutional (blue/gray on map), but developed with high-density residential), it appears that the Policy Map's direction was for the Square to remain what it was at the time the map was adopted; i.e. moderate density residential with scattered commercial uses, like the adjacent Squares to the east. However, the NoMA Small Area Plan (discussed below) recommends that this part of NoMA East be developed with moderate to medium densities.

### **3. Comprehensive Plan Policies**

#### **Land Use Element**

The map amendment would be not inconsistent with the following land use policies:

*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. 309.8*

*Policy LU-2.3.8: **Non-Conforming Commercial and Industrial Uses** Reduce the number of nonconforming uses in residential areas, particularly those uses that generate noise, truck traffic, odors, air and water pollution, and other adverse effects. Consistent with the zoning regulations, limit the expansion of such uses and fully enforce regulations regarding their operation to avoid harmful impacts on their surroundings. 311.10*

*Policy LU-3.1.4: **Rezoning of 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. 314.10*

The amendment would help to retain the residential use of the site – a use that could not be replicated with the existing PDR zoning. It would also permit the introduction of a limited amount of neighborhood-serving retail use. Residential use occupies approximately 80% of the Square, and zoning that permits residential use covers the entire Square. The PDR zoning of the applicant’s site is the anomaly.

#### **Capitol Hill and Central Washington Area Elements**

The site is within the boundaries of the Capitol Hill Area Element, but is also adjacent to the eastern edge of the Central Washington Area Element. The latter element includes NoMA and defines that areas as extending to 2<sup>nd</sup> and 3<sup>rd</sup> Streets, NE, thereby encompassing the applicant’s site (Comprehensive Plan, para. 1618.1). The Central Washington Element incorporates the following vision for NoMA:

*...an area of high-density commercial and mixed use development between North Capitol Street and the CSX railroad tracks, and a less intense and primarily residential area east of the tracks, stepping down to the moderate density residential areas of Capitol Hill. 1618.7(emphasis added).*

It also emphasizes the need to protect residential areas east of NoMA:

*Policy CW-2.8.4: **Protecting Neighborhoods Abutting NoMA** Provide appropriate scale transitions between NoMA and existing adjacent residential neighborhoods in Eckington and Capitol Hill to conserve the fine-grained row house fabric of these communities. Service facilities, loading docks, and*

*other potentially objectionable features should be located away from sensitive uses such as housing.*  
1618.12

Neither the proposed MU-4 nor the proposed MU-5A zone would be inconsistent with the area element's vision for a transition area. If adopted, the proposed zoning would promote primarily residential development of between 50 and 70 feet in height and 1.5 to 4.2 FAR. This would be consistent with a transition area, thus stepping-down from the 11 – 13 story buildings to the north, south and west, to the moderate-density zoned residential areas of Capitol Hill, to the east of the site.

Either zone would, however, permit the development of taller, denser buildings than now exist on most of the Square, and would enable the introduction of low-density commercial uses where they do not now exist. While this could lead to some change in the scale and types of uses in the immediate area, such changes would be not-inconsistent with the FLUM's larger context or with the Small Area Plan.

#### **4. The NoMA Small Area Plan**

The Small Area Plan is advisory to the Comprehensive Plan. The MoMA Vision Plan and Development Strategy SAP was adopted by the Council in 2006. For the area east of the rail tracks, the SAP's objective is to strive for a balance among residential, retail and PDR uses. The area between L Street, NE and Florida Avenue is identified as appropriate for a "mixed-use/creative industries district" (NoMA SAP, page 5.6). However, the area between I and L Streets, NE ("Transition Area A of the East NoMA Neighborhood" in the SAP), where the applicant's site is located, is identified as appropriate for – in ZR 16 terms – the MU-4 and MU-5 districts, for areas adjacent to RF-1 districts (SAP, page 5.6). The desired land use mix is for moderate to medium density residential and neighborhood-serving retail (SAP, page 5.11). There is no indication that the SAP considers industrial uses to be appropriate for the East NoMA Neighborhood south of L Street, NE.

The petition to rezone the applicant's site would, therefore, appear to be consistent with the vision and recommendations in the small area plan.

## **VI. SUMMARY ANALYSIS**

Historically, there has not been congruence among the types of uses, the zoning and the future land plan for the petitioner's site. Although developed in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries with the row houses that still exist, the site was zoned for commercial uses in the 1936 zoning map. The 1958 zoning changed the designation to C-M-1, which reflected the site's location next to industrial uses east of the rail tracks. However, the zone did not reflect the site's, or the block's, actual rowhouse use. Between 1996 and 2003, all Square 750, other than the petitioner's site, was re-zoned to C-2-B (now MU-5). There is no indication that the MU-5 zoning on the rest of the Square has been considered inconsistent with the moderate-density residential / low density commercial designation that has applied to all Square 750 since the Generalized Future Land Use maps were adopted in 2006. The existing -PDR-1 industrial zoning for the petitioner's site is, however, clearly inconsistent with the Generalized Future Land Use Map Designation.

## **VII. ANC COMMENTS**

ANC 6C has not taken a position on whether the application should be set down for a hearing, but has requested that it be designated a contested case if it is set down (Exhibit 11).



JS/SLC  
Stephen Cochran, project manager