

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Karen Thomas, Development Review Specialist
JLS
Jennifer Steingasser, Deputy Director, Development Review & Historic Preservation

DATE: April 29, 2022

SUBJECT: Hearing Report: Petition for a Map Amendment to Rezone lots fronting Benning Road NE from the MU-4, and RA-2 zones to the MU-5A zone.

I. BACKGROUND

At its regularly held meeting on January 13, 2022 the Zoning Commission (“Commission”) set down for a public hearing zoning map amendment case 22-02 to rezone lots fronting Benning Road¹ in Squares 4510, 4511, 4513, 4514, 4515, 4516, 4517, 4518 and Parcel 0149 0060 from the MU-4 zone to the MU-5A zone as a **Rulemaking case**.

II. RECOMMENDATION

The Office of Planning (“OP”) recommends that the Zoning Commission **approve** OP’s petition for a map amendment to rezone lots fronting Benning Road² in Squares 4510, 4511, 4513, 4514, 4515, 4516, 4517, 4518 and Parcel 0149 0060 from the MU-4 zone to the MU-5A zone.

The proposal is intended to implement changes to the recently updated Comprehensive Plan (2021) and **on balance would not be inconsistent** with the Comprehensive Plan, the Benning Road Corridor Redevelopment Framework Plan (2008) and would be appropriate for IZ Plus.

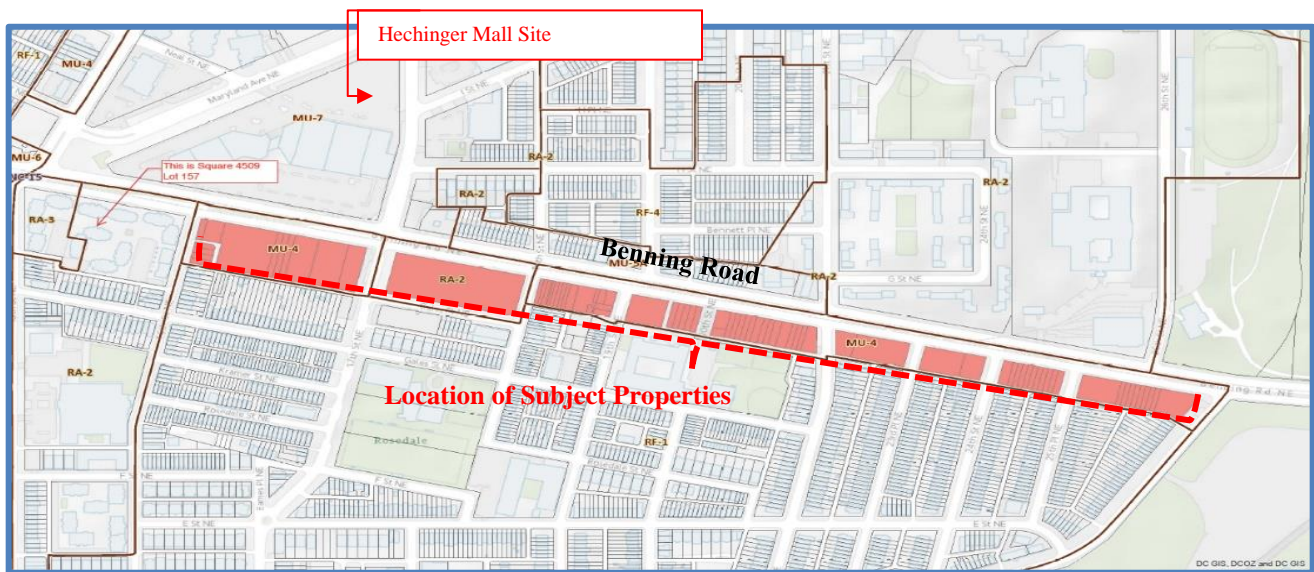
Should the Commission approve the application properties subject to this map amendment shall be indicated with a “IZ+” symbol on the Zoning Map pursuant to Subtitle X § 502.5.

¹ See Appendix A for a listing of the relevant Squares and related lots with addresses.

III. PETITION-IN-BRIEF

Petitioner	DC Office of Planning on behalf of the Ward 7 Economic Development Advisory Council (Ward 7 EDAC)
Proposed Map Amendment:	MU-4 and RA-2 to MU-5A
Address and Legal Description	See Appendix A for a listing of the affected Square and Lots with related addresses.
Ward and ANC:	Ward 6/ANC-6A and Ward 7/ANC 7D
Property Size:	372,938 square feet combined. Individual lot sizes – Appendix A
Future Land Use Map Designation:	Mixed Use (Medium Res / Moderate Comm) (Tracking #9983)
Generalized Policy Map Designation:	Mixed Use Corridor

IV. SITE AND AREA DESCRIPTION



The proposed map amendment would rezone approximately 372,938 square feet of land from the MU-4 and RA-2 zone to the MU-5A zone. The identified lots and parcels in this application, noted hereafter as the subject properties, are bounded by Benning Road NE on the north, an east west alley or Gales Place to the south, 16th Street to the west and Oklahoma Avenue, NE to the east. In combination, these lots represent approximately 2,990.94 linear feet of frontage along Benning Road, NE and the H Street/Benning Road streetcar line.

The majority of properties are zoned MU-4 with one block zoned RA-2 (Square 4511 Lot 68). As seen on the map (Appendix A) the properties are bounded on the south by either Gales Place or a public alley.

V. DEVELOPMENT CAPACITY OF EXISTING AND PROPOSED ZONES

The current MU-4 and RA-2 zoning do not permit medium-density residential development, and are typically located within low-to moderate-density residential areas but are now inconsistent with the amendments to the Future Land Use Map’s (FLUM) mixed-use designation of medium density residential and moderate density commercial.

Existing MU-4 Zoning:

Subtitle G, Chapter 4 of the zoning regulations states:

The MU-4 zone is intended to:

- permit moderate-density mixed-use development, including facilities for shopping and business needs for large segments of the District outside of the central core.
- It is also intended to be in low- and moderate density residential areas with access to main roadways or rapid transit stops.”

It permits a maximum density of 2.5 FAR for uses within the categories listed in Subtitle U § 512.1

<i>(a) Uses permitted as a matter of right in any R, RF, and RA zones, and all uses permitted as a matter of right for MU-Use Group D</i>	<i>(h) Firearms sales subject to criteria</i>
<i>(b) Animal boarding in a basement or cellar subject to criteria</i>	<i>(i) Gasoline service stations, subject to criteria</i>
<i>(c) Automobile Truck or marine sales</i>	<i>(j) Optical transmission node</i>
<i>(d) College or university uses;</i>	<i>(k) Retail uses, except for large format retail</i>
<i>(e) eating or drinking establishment subject to criteria;</i>	<i>(l) Service (general) subject to criteria</i>
<i>(f) Education uses (private)</i>	<i>(m) Veterinary office or hospital etc.</i>
<i>(g) Entertainment, assembly, performing arts uses, subject to criteria</i>	<i>(n) Accessory uses incidental/subordinate to uses of this section</i>

Existing RA-2 Zoning

Subtitle G, Chapter 4 of the zoning regulations states: The RA-2 zone is intended to permit moderate-density residential. It allows a maximum density of 1.8 FAR for uses within the categories listed in Subtitle U § 401.1

<i>(a) Any use permitted in the RF zones under Subtitle U § 301, except corner stores;</i>	<i>(e) Recreation building, park, playground etc.</i>
<i>(b) Private clubs with sleeping accommodations</i>	<i>(f) Elderly development center</i>
<i>(c) Child development center</i>	<i>(g) Temporary surface parking lot</i>
<i>(d) Multiple dwellings hotel and retirement community</i>	

Proposed MU-5A zone: Subtitle G, Chapter of the zoning regulations state:

The MU-5 zones are intended to:

- Permit medium-density, compact mixed-use development with an emphasis on residential use;
- 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 on arterial streets, in uptown and regional centers, and at rapid transit stops.

The MU-5A zone permits a maximum density of 3.5 FAR (4.2 with Inclusionary Zoning) of which no more than 1.5 FAR may be for non-residential uses.

The MU-5A zone permits a maximum height of 65 feet (70 feet with IZ), not including a penthouse. The current MU-4 and RA-2 zoning would not allow for this level of height or density. As outlined in Sections V and VI of this report, the Comprehensive Plan and Small Area Plan both support the rezoning of the subject property to the MU-5A zone.

The table compares the current MU-4 and RA-2 zone and the proposed MU-5 zone.

Table 1.

	Existing Zone: RA-2	Existing Zone: MU-4	Proposed Zone MU-5A
Permitted Uses:	Uses permitted as a matter of right in any R, RF, and RA zones, and all uses permitted as a matter of right for MU-Use Group D U § 401.1	Uses permitted as a matter of right in any R, RF, and RA zones, and all uses permitted as a matter of right for MU-Use Group D of this chapter, unless otherwise required as a special exception in U § 513 or not permitted by U § 514; (U § 512.1)	
Height:	40 ft. max./3 stories	50 ft. max./no story limit	65 ft/70 ft. with IZ
Floor Area Ratio (FAR):	0.9 max.	2.5 max.	3.5 max
	1.08 max. with IZ	3.0 max. with IZ	4.2 max with IZ
IZ	Greater of 10% of res. FA or 75% of bonus density utilized		Greater of 8% of res FA or 50% bonus density utilized.
IZ Plus			
Penthouse Height:	12 ft max.	12 ft. max./1 story max.	12 feet/ 18.5 feet mechanical
		15 ft. mechanical max./2 nd story max. for penthouse mechanical	2 nd story for penthouse mechanical space.
Lot Occupancy:	40% max.	60% max./75% with IZ	80%
Rear Yard:	20 ft min.	15 ft min.	
Side Yard:	One (1) side yard shall be provided unless the building is a multiple dwelling that contains three (3) or more dwelling units per floor, in which case two (2) side yards shall be	(G § 406) No side yard is required for a building or structure other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than five feet (5 ft.).	

	provided; in either case such side yards shall have the minimum distance equal to three inches (3 in.) per foot of building height but not less than eight feet.	A minimum side yard of eight feet (8 ft.) shall be provided for a detached single dwelling unit or semi-detached single dwelling unit. Any portion of a building set back from the side lot line shall be considered a side yard and not a court.
GAR:	0.4 min.	G § 407: 0.3 min.

IZ PLUS

As discussed in OP’s setdown report of Exhibit 2, an IZ Plus set-aside requirement would be appropriate pursuant to Subtitle X § 502 because:

1. The map amendment would rezone the properties to MU-5A, which allows a higher maximum permitted FAR than the existing MU-4 and RA-2 zone; and
2. The 2019 Housing Equity Report³ prepared by the Office of Planning and the Department of Housing and Community Affairs reports that:
 - a. There is only 3 percent of the District’s total number of affordable housing units as of 2018 in this planning area; and
 - b. The Capitol Hill Planning Area has a shortage of 1,120 units with a total production goal of 3,270 units by 2025.

IZ Plus requires a higher affordable housing set-requirement than Regular IZ and prescribes a set-aside requirement based on either:

- a sliding-scale that is correlated to the total floor area built, or
- the amount of IZ bonus density built.

Rezoning applications only consider consistency with the Comprehensive Plan and not a specific development proposal. Two examples are provided to demonstrate possible IZ Plus set-aside requirements pursuant to Subtitle C § 1003.3 if a new residential development was built under the MU-5A zone for the cumulative area of the MU-4 subject properties.

The examples are based on an apartment house that is stick-built (non-Type I construction) on the MU-4 properties (296,413 square feet without the RA-2 property) under the MU-5A zone.

Example 1 – Utilizes IZ Bonus Density

FAR Built:	4.2 IZ FAR
Regular IZ Set-Aside Requirement:	12.5% or 155,616 sq. ft.
Regular IZ Dwelling Units ⁴ :	155 units
Percent Increase in Total FAR Built ⁵ :	63%
IZ Plus Set-Aside Requirement:	18% or 224,088sq. ft.
IZ Plus Dwelling units:	224 units

³ [Housing-Equity-Report](#)

⁴ The OP typically uses a density factor 1,000 sq. ft. to estimate number of dwelling units.

⁵ The percent increase between the maximum permitted FAR of the existing/prior zone (MU-4), not including IZ bonus density, and the total FAR built in the IZ Plus Development.

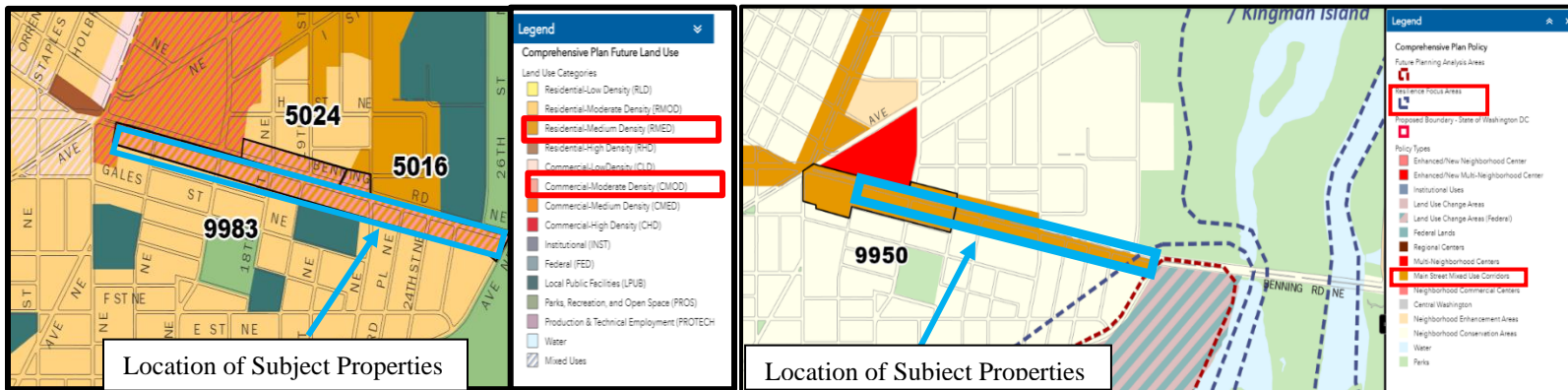
Example 2 – Does Not Utilize IZ Bonus Density

FAR Built:	3.5 FAR
Regular IZ Set-Aside Requirement:	10% or 103,744 sq. ft.
Regular IZ Dwelling Units:	104 units
Percent Increase in Total FAR Built:	40%
IZ Plus Set-Aside Requirement:	14% or 145,242sq. ft.
IZ Plus Dwelling units:	145 units

In both examples above, the set-aside requirement would exceed the Regular IZ percentage and be between 14 to 18 percent. The amount of residential floor area built in any future development under the MU-5A zone would determine the actual IZ Plus set-aside requirement. However, given the increase in maximum FAR permitted by the zone change, it is likely that under the majority of development scenarios the set-side requirement could be close to 18 percent.

VI. PLANNING CONTEXT

Generalized Future Land Use Map (“FLUM”) and Generalized Policy Map



The Future Land Use Map (FLUM) indicates that the subject properties are appropriate for Mixed Uses - medium-density residential and moderate-density commercial uses. The Framework Element, specifically identifies the MU-5 zones as being compatible with this designation

The Generalized Policy Map indicates that the site is designated as Mixed-Use Corridor. According to the Framework Element, the MU-5A zone is not inconsistent with this designation

Subtitle X § 500.3 of Title 11 requires that the Zoning Commission determine that a proposed zoning map amendment is not inconsistent with the Comprehensive Plan and other adopted policies and active programs related to the subject site. A full and detailed analysis is discussed in Section VI of the OP set down report ([Exhibit 2 page 8](#)) and summarized below.

Citywide Elements and Small Area Plan

The map amendment proposal is not inconsistent with the Citywide Element of the Comprehensive Plan and would further the policies of the Land Use, Transportation, and Housing Citywide Elements, as well as the Small Area Plan. These policies work together to support increasing density to permit more housing, including affordable housing, in proximity to transit and services in a high-opportunity area. The MU-5A zone would further these important District goals and policies. A compilation of relevant policies can be found in [Appendix B](#) of the OP set down report.

The area of the proposed map amendment is located within the **Benning Road Corridor Redevelopment Framework Plan** (“Plan”).

Within the Plan, one of the study areas was Benning Road from Bladensburg Road to Anacostia Avenue, which includes the proposed MU-5A map amendment area. The Plan states that this area *is the natural extension of the H Street, NE corridor, and the western portion near Hechinger Mall is likely to start attracting development interest in the near future as opportunities on H Street are taken up*. The Plan’s vision for this specific stretch includes:

- *New development that takes full advantage of current zoning to build 4-8 story structures that better frame and respect the wide boulevard.*
- *Mixed use development with mixed-income housing to fill the gaps along this portion of the corridor, while providing a boost in population necessary for sustaining new retail and commercial ventures.*
- *More neighborhood-serving retail, restaurants and service businesses.*

Neither the current FLUM designation, nor the existing MU-4 zoning has been able to realize this vision. The map amendment proposal to MU-5A would further many goals by:

- Promoting the continued mixed-use character of the area;
- Encouraging new development to take advantage of the proposed zone’s height limit of up to approximately 7-8 stories;
- Providing additional market rate and affordable residential development capacity that in return could support the commercial and retail businesses in the map amendment area; and
- Incentivize new development with new commercial and retail opportunities that could increase services and opportunities for employment to residents in the surrounding neighborhoods, including the row house area south of the highlighted area.

Equity

Equity is conveyed throughout the Comprehensive Plan, particularly in the context of zoning, where certain priorities such as affordable housing, displacement, and access to opportunity are emphasized.

A key piece of this map amendment is the potential to create additional affordable housing through an IZ Plus set-aside requirement. The Comprehensive Plan recognizes that without increased housing, the imbalance between supply and demand will drive up housing prices in a way that creates challenges for many residents, particularly low-income residents. The Comprehensive Plan further recognizes the importance of inclusionary zoning requirements in providing affordable housing opportunities for households of varying income levels. The rising cost of housing in the District limits the ability to provide housing for a variety of household types, including family and senior housing, rental and ownership housing, and housing for all income levels.

Given the land use characteristics of the District, only a small amount of the total land area (28.1 percent) is dedicated to residential use (§ 205.3). Scarcity of land increases the cost of new housing, limits the availability of housing, and intensifies housing cost burdens, particularly for lower- and middle-income households. The Comprehensive Plan states that “residents of color are a majority of lower-income households in the District and, therefore, face a disproportionate share of the problems caused by housing insecurity and displacement” (206.4).

Overall, the map amendment has the potential to create additional affordable housing through an IZ Plus set-aside requirement. It is likely that the MU-5A zone could require an 18 percent set-aside requirement resulting in up to 224 affordable housing units. The IZ program requires affordable housing units to be available to households earning either no more than 60 percent MFI for rental housing or 80 percent MFI for ownership housing. The potential affordable housing units that could be created under the requested MU-5A zone is substantially higher than if the property was not rezoned. Making room for affordable housing has the potential to benefit non-white populations who on average have lower incomes than white residents.

The rezoning would also result in the potential for more non-residential space which could result in employment and economic development opportunities. A detailed analysis was provided in the OP set down report pages 11-13 ([Exhibit 2](#)).

Summary: Balancing of Policies

The Comprehensive Plans contains several differing policies about infill development and development along corridors. LU-1.5.1 describes that new “development should reflect high-quality design, complement the established character of the area and should not create sharp changes in the physical development pattern.” while Policy LU-2.1.8 describes the need to “explore approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types.” This policy bases any rezoning proposal on detailed neighborhood planning.

Though LU-2.1.5 supports the retention of low-density zoning, LU-2.1.8 acknowledges that there is also a need to increase density to help support many other policies of the Comprehensive Plan, including the development of more market-rate and affordable housing. The change in zoning from the lower density RA-2 and MU-4 zones to include medium density residential is supported by LU-2.1.8 because the properties’ FLUM designation was specifically changed to support mixed uses, with medium density residential zoning. The varying policies cited are complimentary in support of future development and redevelopment of the mixed-use character of the proposed MU-5A zone.

On balance, the proposal would not be inconsistent with the Comprehensive Plan. The policies cited in Appendix B of the OP set down report support increasing density to permit more housing, including affordable housing, with improved housing diversity encouraged by the District’s emphasis on development viewed through the equity lens.

VII. AGENCY COMMENTS

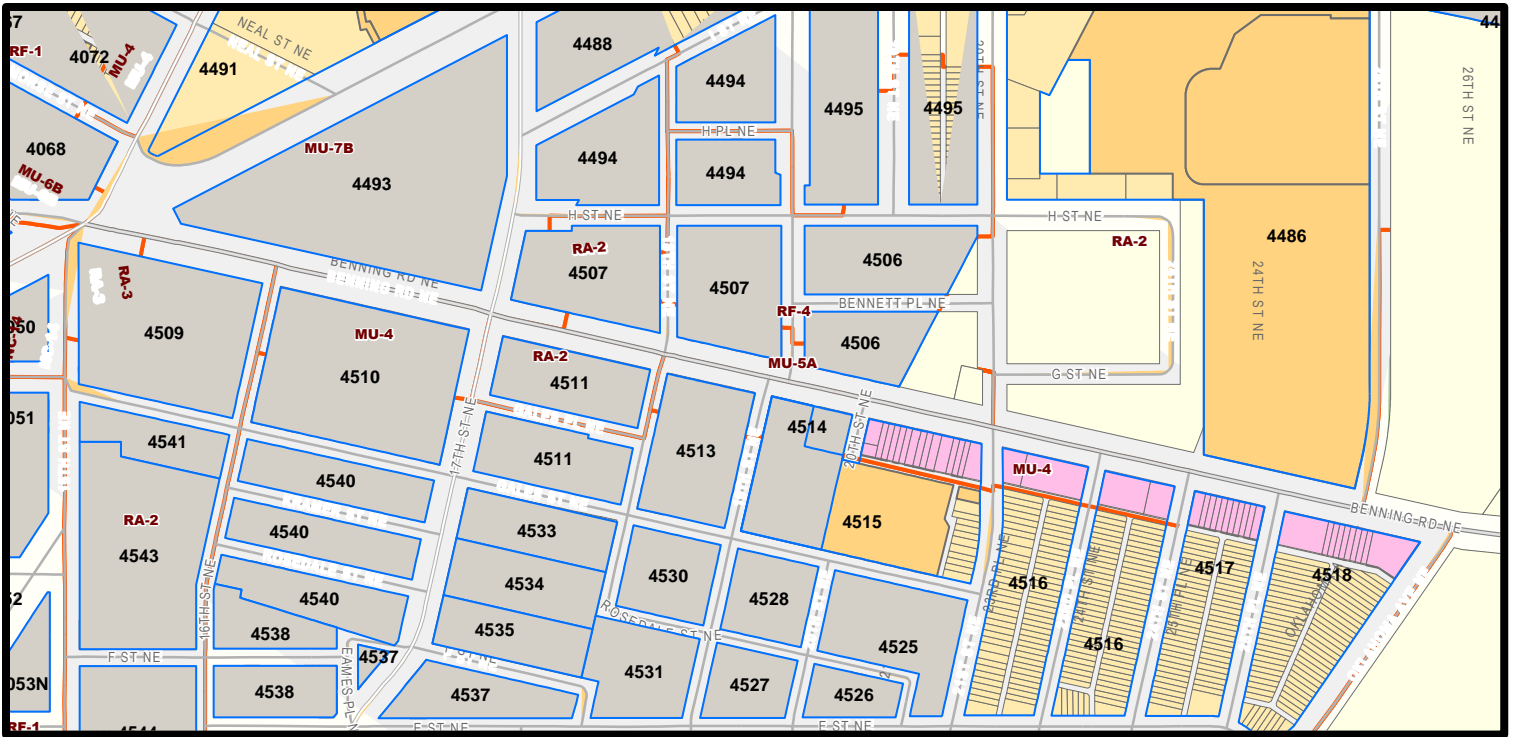
The Department of Housing and Community Development (DHCD) via email on 4/18/2022 indicated its support regarding this petition.

The Department of Energy and Environment (DOEE) also via email on 4/18/2022 noted that the map amendment would lead to good development in Ward 7.

VIII. COMMUNITY COMMENTS

At the writing of this report, there were no comments noted in the record.

APPENDIX A: Subject Properties within Squares Designated for Proposed Map Amendment



SQUARE	LOT	SSL	LANDAREA	PREMISE ADDRESS
4510	98	4510 0098	1620	725 16TH ST NE WASHINGTON DC 20002
4510	99	4510 0099	1570	16TH ST NE WASHINGTON DC 20002
4510	82	4510 0082	1920	1601 BENNING RD NE WASHINGTON DC 20002
4510	151	4510 0151	19100	1647 BENNING RD NE WASHINGTON DC 20002
4510	65	4510 0065	0	
4510	156	4510 0156	33774	1611 BENNING RD NE WASHINGTON DC 20002
4510	150	4510 0150	15280	1635 BENNING RD NE WASHINGTON DC 20002
4510	152	4510 0152	11460	1653 BENNING RD NE WASHINGTON DC 20002
4510	66	4510 0066	3820	1631 BENNING RD NE WASHINGTON DC 20002
4510	97	4510 0097	1620	723 16TH ST NE WASHINGTON DC 20002
4510	64	4510 0064	3820	1627 BENNING RD NE WASHINGTON DC 20002
4510	153	4510 0153	5400	1603 BENNING RD NE WASHINGTON DC 20002
4510	96	4510 0096	1620	721 16TH ST NE WASHINGTON DC 20002
RA-2	4511	4511 0068	76525	1707 BENNING RD NE # D13 WASHINGTON DC 20002
4513	91	4513 0091	2076	740 19TH ST NE WASHINGTON DC 20002-4714
4513	81	4513 0081	0	
4513	921	4513 0921	696	19TH ST NE WASHINGTON DC 20002
4513	881	4513 0881	1404	1809 BENNING RD NE WASHINGTON DC 20002-7211
4513	872	4513 0872	1404	1813 BENNING RD NE WASHINGTON DC 20002

SQUARE	LOT	SSL	LANDAREA	PREMISE ADDRESS
4513	901	4513 0901	1404	1801 BENNING RD NE WASHINGTON DC 20002-7211
4513	912	4513 0912	2040	1837 BENNING RD NE WASHINGTON DC 20002-7211
4513	905	4513 0905	1404	1805 BENNING RD NE WASHINGTON DC 20002
4513	877	4513 0877	720	1831 BENNING RD NE WASHINGTON DC 20002-7211
4513	885	4513 0885	468	BENNING RD NE WASHINGTON DC 20002
4513	919	4513 0919	696	19TH ST NE WASHINGTON DC 20002
4513	82	4513 0082	6192	1827 BENNING RD NE WASHINGTON DC 20002
4513	90	4513 0090	1452	746 19TH ST NE WASHINGTON DC 20002-4714
4513	77	4513 0077	2807	1817 BENNING RD NE # 3 WASHINGTON DC 20002
4513	899	4513 0899	1404	1803 BENNING RD NE WASHINGTON DC 20002-7211
4513	875	4513 0875	1440	1835 BENNING RD NE WASHINGTON DC 20002-7211
4513	909	4513 0909	1404	1811 BENNING RD NE WASHINGTON DC 20002-7211
4513	883	4513 0883	936	1807 BENNING RD NE WASHINGTON DC 20002
4514	32	4514 0032	2148	1915 BENNING RD NE WASHINGTON DC 20002-4723
4514	812	4514 0812	2160	1917 BENNING RD NE WASHINGTON DC 20002-4723
4514	31	4514 0031	2160	1923 BENNING RD NE WASHINGTON DC 20002-4723
4514	810	4514 0810	2160	1919 BENNING RD NE WASHINGTON DC 20002
4514	808	4514 0808	2160	1921 BENNING RD NE WASHINGTON DC 20002-4723
4515	103	4515 0103	1888	2029 BENNING RD NE WASHINGTON DC 20002-4725
4515	97	4515 0097	1888	2009 BENNING RD NE WASHINGTON DC 20002
4515	98	4515 0098	1889	2013 BENNING RD NE WASHINGTON DC 20002
4515	102	4515 0102	1888	2027 BENNING RD NE WASHINGTON DC 20002-4725
4515	803	4515 0803	2776	2021 BENNING RD NE WASHINGTON DC 20002-4725
4515	830	4515 0830	2681	BENNING RD NE WASHINGTON DC 20002
4515	828	4515 0828	3235	2001 BENNING RD NE # 3 WASHINGTON DC 20002
4515	805	4515 0805	1944	2019 BENNING RD NE WASHINGTON DC 20002-4725
4515	809	4515 0809	1889	2005 BENNING RD NE WASHINGTON DC 20002-4725
4515	829	4515 0829	1486	725 20TH ST NE WASHINGTON DC 20002-4770
4515	823	4515 0823	1889	2007 BENNING RD NE WASHINGTON DC 20002-4725
4515	101	4515 0101	3777	2025 BENNING RD NE # B WASHINGTON DC 20002
4515	825	4515 0825	1889	2011 BENNING RD NE WASHINGTON DC 20002
4515	819	4515 0819	1709	2031 BENNING RD NE WASHINGTON DC 20002
4515	831	4515 0831	2039	2017 BENNING RD NE WASHINGTON DC 20002-4725
4515	834	4515 0834	14250	725 19TH ST NE WASHINGTON DC 20002
4516	206	4516 0206	18069	580 23RD PL NE WASHINGTON DC 20002
4516	209	4516 0209	7100	2305 BENNING RD NE WASHINGTON DC 20002
4516	208	4516 0208	13650	2301 BENNING RD NE WASHINGTON DC 20002
4516	210	4516 0210	6338	633 21ST ST NE WASHINGTON DC 20002
4517	78	4517 0078	1700	2417 BENNING RD NE WASHINGTON DC 20002-4827
4517	821	4517 0821	1650	2403 BENNING RD NE WASHINGTON DC 20002
4517	805	4517 0805	1700	2407 BENNING RD NE WASHINGTON DC 20002

SQUARE	LOT	SSL	LANDAREA	PREMISE ADDRESS
4517	817	4517 0817	1700	2419 BENNING RD NE WASHINGTON DC 20002
4517	803	4517 0803	1700	2405 BENNING RD NE WASHINGTON DC 20002
4517	77	4517 0077	1700	2409 BENNING RD NE WASHINGTON DC 20002
4517	813	4517 0813	1700	2415 BENNING RD NE WASHINGTON DC 20002
4517	822	4517 0822	3250	2401 BENNING RD NE WASHINGTON DC 20002
4517	819	4517 0819	2146	566 25TH PL NE WASHINGTON DC 20002
4517	811	4517 0811	1700	2413 BENNING RD NE WASHINGTON DC 20002
4517	809	4517 0809	1700	2411 BENNING RD NE WASHINGTON DC 20002
4518	76	4518 0076	1658	2521 BENNING RD NE WASHINGTON DC 20002
4518	79	4518 0079	1658	2527 BENNING RD NE WASHINGTON DC 20002
4518	77	4518 0077	1658	2523 BENNING RD NE WASHINGTON DC 20002
4518	74	4518 0074	1659	2517 BENNING RD NE WASHINGTON DC 20002
4518	82	4518 0082	13272	2501 BENNING RD NE WASHINGTON DC 20002
4518	81	4518 0081	1658	2531 BENNING RD NE WASHINGTON DC 20002
4518	80	4518 0080	1658	2529 BENNING RD NE WASHINGTON DC 20002
4518	78	4518 0078	1658	2525 BENNING RD NE WASHINGTON DC 20002
4518	75	4518 0075	1658	2519 BENNING RD NE WASHINGTON DC 20002
4518	800	4518 0800	12532	2539 BENNING RD NE WASHINGTON DC 20002
PAR 149	60	PAR 01490060	4685	2033 BENNING RD NE WASHINGTON DC 20002
			372938 sf	