

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 22-22**  
**Z.C. CASE NO. 22-22**  
**Preservation DC L&6, LLC**  
**(Zoning Map Amendment @ Square 449, Lot 64)**  
**January 26, 2023**

Pursuant to notice, at its public hearing on December 19, 2022 and its January 26, 2023 public meeting, the Zoning Commission for the District of Columbia (the “Commission”) considered an application (the “Application”) for a Zoning Map amendment by Preservation DC L&6, LLC (the “Applicant”) for approval of a map amendment of the Zoning Map from the RA-2 zone to the MU-8A zone (the “Map Amendment”) for Lot 64 in Square 449 (the “Property”), pursuant to Subtitle X § 500.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all references are made unless otherwise specified.) The Commission determined the Property is appropriate for IZ Plus. The Property shall be indicated with an “IZ+” symbol on the Zoning Map. The Commission considered the Application as a contested case pursuant to Subtitle A § 210 and Subtitle Z, Chapter 4. For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

**I. BACKGROUND**

**PARTIES**

1. In addition to the Applicant, the parties to this case were: Advisory Neighborhood Commission (“ANC”) 6E, the ANC in which the Property is located and the “affected ANC” pursuant to Subtitle Z §§ 101.8 and 403.5(b).
2. The Commission received no requests for party status.

**NOTICE**

3. On March 8, 2022, the Applicant mailed a notice of intent to file the Application to all property owners within 200 feet of the Property as well as ANC 6E, as required by Subtitle Z § 304.5. (Exhibit [“Ex.”] 2I.)

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**ZONING COMMISSION**  
District of Columbia  
CASE NO.22-22  
EXHIBIT NO.27

4. On August 30, 2022, the Office of Zoning (“OZ”) sent notice of the December 19, 2022, virtual public hearing to:
  - Applicant;
  - ANC 6E;
  - ANC Single Member District (“SMD”) 6E04;
  - Office of the ANCs;
  - Office of Planning (“OP”);
  - District Department of Transportation (“DDOT”);
  - At-Large Councilmembers and the Chair of the Council;
  - The Ward 6 Councilmember;
  - Department of Energy & Environment (“DOEE”);
  - Department of Consumer and Regulatory Affairs (“DCRA”);
  - Office of Zoning Legal Division (“OZLD”); and
  - Property owners within 200 feet of the Property. (Ex. 13-14.)
5. OZ published notice of the public hearing in the September 2, 2022, *D.C. Register* (69 DCR 35 *et seq.*), as well as on the calendar on OZ’s website. (Ex. 12.)
6. Pursuant to Subtitle Z §§ 402.8 and 402.9, the Applicant filed an affidavit supported by photos stating that on November 2, 2022, it had posted the required notice of the public hearing. (Ex. 16.)
7. Pursuant to Subtitle Z § 402.10, the Applicant filed an affidavit attesting that it had maintained the posting of the notice on the Property. (Ex. 19.)

### **THE PROPERTY**

8. The Property is located in the northwest quadrant of the District and consists of approximately 8,586 square feet of land area.
9. The Property is located in the Mount Vernon Square Historic District.
10. The square within which the Property lies is generally bounded by M Street to the north, 7<sup>th</sup> Street to the west, L Street to the south, and 6<sup>th</sup> Street to the west.
11. The Property has approximately 81 linear feet of frontage along 6th Street, and approximately 106 linear feet of frontage along L Street. The Property abuts a private property to the north and abuts a private property to the west.
12. The Property is improved with a vacant building which was previously used for commercial purposes.
13. The Property is located approximately two-tenths of a mile (0.2 mi.) from the Mount Vernon Square-Convention Center Metro Station.

14. The properties to the north of the Property are Zoned RA-2; the property directly west of the Property is zoned RA-2, but beyond that the properties to the west are zoned MU-6. The properties to the south, across L Street, NW, are zoned D-4-R; and the properties to the east, across 11<sup>th</sup> Street, NW, are zoned RA-2.

### **CURRENT ZONING**

15. The Property is in the RA-2 zone. The RA-2 zone permits predominately moderate density residential development. (F § 300.3)
16. The RA-2 zone imposes the following limits for matter-of-right developments:
  - A maximum permitted Floor Area Ratio (“FAR”) of 1.8 is permitted, or 2.16 for an Inclusionary Zoning Development (Subtitle F § 302.1);
  - A maximum height of 50 feet with no limit on the number of stories (Subtitle F § 303.1.)
  - A maximum lot occupancy of 60%; (Subtitle F § 304.1.)
  - The uses permitted in RA-2 zone are generally limited with respect to non-residential uses. (Subtitle U § 401).

### **COMPREHENSIVE PLAN (TITLE 10A OF THE DCMR, THE “CP”)**

#### **Equity and the Comprehensive Plan**

17. Pursuant to Subtitle X § 500.3, the Zoning Commission shall find that the Map Amendment is not inconsistent with the CP and with other adopted public policies and active programs related to the Property.
18. In applying the standard of review applicable to the Map Amendment, the CP requires the Commission to do so through a racial equity lens. (CP § 2501.8.) Consideration of equity is intended to be based on the policies of the CP, and part of the Commission’s considerations of whether the Map Amendment is “not inconsistent” with the CP, rather than a separate determination about a zoning action’s equitable impact.
19. The CP Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities, but is not the same as equality. (CP § 213.6.) Further, “[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development, and employment opportunities.” (CP § 213.7.) The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions. (CP § 213.9.)
20. The CP Implementation Element provides guidance to help the Commission in

applying a racial equity lens to its decision making. Specifically, the Implementation Element states “[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of different areas of the District.” (CP § 2501.6.)

### **Generalized Policy Map (the “GPM”)**

21. The CP’s GPM designates the Property as a Neighborhood Conservation Area. The Neighborhood Conservation Area is defined as:

*“[N]eighborhoods . . . that are generally residential in character. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public facilities, and institutional uses. Major changes in density overcurrent (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map. [...] Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map and Comprehensive Plan policies. Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated.” (CP§ 225.4-225.5)*

### **Future Land Use Map (the “FLUM”)**

22. The CP’s FLUM Designates the Property as Mixed-Use - Medium Density Commercial and Medium Density Residential.

Medium Density Residential – *“This designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent Low Density Residential open space. Pockets of low and moderate density housing may exist within these areas. Density typically ranges from 1.8 to 4.0 FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-3 Zone District is consistent with the Medium Density Residential category, and other zones may also apply.” (CP § 227.7.)*

Medium Density Commercial – *“This designation is used to define shopping and service areas that are somewhat greater in scale and intensity than the Moderate Density Commercial areas. Retail, office, and service businesses are the*

*predominant uses, although residential uses are common. Areas with this designation generally draw from a citywide market area. Buildings are larger and/or taller than those in Moderate Density Commercial areas. Density typically ranges between a FAR of 4.0 and 6.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-8 and MU-10 Zone Districts are consistent with the Medium Density category, and other zones may also apply.” (CP § 227.12.)*

### Mixed Use

- The FLUM indicates areas where the mixing of two or more land uses is encouraged, and generally applies in established, pedestrian-oriented areas, commercial corridors where more housing is desired, large sites, and development that includes residential uses, particularly affordable housing; (CP § 227.20.)
- The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. The CP Area Elements may also provide detail on the specific mix of uses envisioned; (CP § 227.21.)
- The “Mixed Use” designation is intended primarily for larger areas where no single use predominates today, or areas where multiple uses are specifically encouraged in the future; and (CP § 227.22.)
- A variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities. (CP § 227.23.)

### **Near Northwest Area Element**

23. The Property falls within the Near Northwest Area Element that encourages using the historic preservation design review process to promote high quality architecture and urban design in Near Northwest’s designated historic districts, including the Mt. Vernon Historic District. 2109.9

## **II. THE APPLICATION**

### **PROPOSED ZONING**

24. The Application proposes to rezone the Property from the RA-2 zone to the MU-8A zone.
25. The MU-8A zone is intended to:
- Permit medium-density mixed-use development, with a focus on employment and residential use;
  - Be located in uptown locations, where a large component of development will be office-retail and non-residential uses; and
  - Be located in or near the Central Employment Area, on arterial streets, in uptown and regional centers, and at rapid transit stops. (Subtitle G § 400.7.)
26. As a matter of right, the MU-8 zone permits/requires:

- A maximum FAR of 5.0 (6.0 with IZ bonus density) (1.0 maximum non-residential uses); (Subtitle G § 402.1.)
- A 70-foot maximum building height, not including the penthouse; (Subtitle G § 403.1.)
- No limitations on lot occupancy (Subtitle G § 404.1); and
- The uses permitted in MU-Use Group F. (Subtitle U § 500.2; *see also* Subtitle U § 515.)

**APPLICANT’S JUSTIFICATION OF RELIEF**

**Not Inconsistent with the CP**

27. The Application asserted that it was not inconsistent with the CP and with other adopted public policies and active programs applicable to the Property, as detailed below.

**GPM**

28. The Application asserted that the Map Amendment would not be inconsistent with the GPM because:

- The Map Amendment will allow for the development of the Property with a mixed-use building that will be consistent with the heights and densities contemplated by the GPM;
- The additional density will allow for the Property to support a range of uses; and
- The development of the Property will allow for an opportunity to redevelop an underutilized and long-vacant site which will be subject to HPRB approval and therefore compatible with the existing scale and architectural character.

**FLUM**

29. The Application asserted that the Map Amendment would not be inconsistent with the FLUM because:

- The CP expressly states that the MU-8 zone is consistent with the Medium Density Commercial component of the Property’s Mixed Use FLUM designation;
- The MU-8A zone’s maximum 5.0 FAR (6.0 with IZ bonus density) falls within the FAR contemplated by the Medium Density Residential FLUM category because the category states density greater than 4.0 FAR may be possible when complying with Inclusionary Zoning; and
- The Property is located in an area where the mixing of two or more land uses is encouraged and is located in an area where no single use predominates today.

**Racial Equity**

30. The Application asserted that the Map Amendment will further the goals around racial equity. Specifically, the change in zoning will facilitate additional density and a mix of uses that could result in additional market-rate and affordable housing. It also opens the door for additional commercial uses. Even though the property has had commercial uses in the past, due to its location in the RA-2 zone, most changes of the commercial

use require BZA approval. The change in zoning will facilitate the ability to provide new commercial uses without requiring a BZA use variance. The use variance process adds significant time, expense, and uncertainty to the process of opening a business in this location. Accordingly, the Map Amendment will lower the barrier to entry and open the door to business owners who do not have the resources or financial backing to pursue a use variance. Greater commercial uses provide the opportunity for additional employment opportunities in extremely close proximity to a metro station. The Map Amendment is not inconsistent with the Comprehensive Plan, including the Comprehensive Plan's racial equity goals. Therefore, as detailed above, the Commission's approval of the rezoning would further actions that would increase racial equity.

#### **Near Northwest Area Element**

31. The Application asserted that the Map Amendment will balance the goals of the Near Northwest Area Element as the existing building is a contributing building and any additions will go through the Historic Preservation Review Board design process. (Ex. 2).

#### **Land Use Element**

32. The Application asserted that the Map Amendment is not inconsistent with the policies of the Land Use Element because the Map Amendment will encourage mixed-use development near a metro station where there is an existing commercial building that has been grandfathered in rather than permitted by-right in this zone.. (Ex. 2; 10A DCMR §§ 307.9, 307.14 and 307.20).

#### **Housing Element**

33. The Application asserted that the Map Amendment is not inconsistent with the policies of the Housing Element because the Map Amendment will encourage new development on underutilized land. This will help meet the need for higher-density and affordable housing in the area (Ex. 2; 10A DCMR 503.3, 503.5, 504.17, 504.29).

#### **Transportation Element**

34. The Application asserted that the Map Amendment is not inconsistent with the policies of the Transportation Element because the Map Amendment will produce transit-oriented development around a major transportation corridor, as it is located a block and a half from the metro. This will naturally incentivize investment into surrounding infrastructure. It will also allow for additional job opportunities near a metro station. (Ex. 2; 10A DCMR 403.10, 405.7)

#### **Environmental Protection Element**

35. The Application asserted that the Map Amendment is not inconsistent with the policies of the Environmental Protection Element because the Map Amendment would allow for the development of new buildings compliant with the Green Energy codes, which could include green roofs and other planting elements currently not on site. (Ex. 2; 10A DCMR 615.3-4).

#### **Economic Development Element**

36. The Application asserted that the Map Amendment is not inconsistent with the policies of the Economic Development Element because the Map Amendment will lower the barrier to entry and open the door to business owners who do not have the resources or financial backing to pursue a use variance. Greater commercial uses provide the opportunity for additional employment opportunities in extremely close proximity to a metro station. (Ex. 2; 10A DCMR 703.5, 703.15-16).

### **Community Outreach**

37. The Applicant met with ANC 6E numerous times for both its HPRB Application and to discuss the Map Amendment and obtained support for the Map Amendment at the duly noticed public meeting of ANC 6E on June 7, 2022.

### **Public Hearing Testimony**

38. At the December 19, 2022, public hearing, the Applicant presented its case, including testimony from:
- Alexandra Wilson, Senior Associate Attorney, Sullivan & Barros, LLP, and;
  - Aydin Hayri, Representative of the Applicant.
- (Transcript [“Tr.”] from December 19, 2022, hearing at pp. \_\_\_\_)

## **III. RESPONSES TO THE APPLICATION**

### **OP REPORTS AND TESTIMONY**

39. OP submitted a report, dated July 18, 2022, recommending the Commission set down for a public hearing the Applicant’s request for a Zoning Map amendment (the “OP Setdown Report”) and concluding that the Map Amendment would not be inconsistent with the CP because: (Ex. 6)
- **GPM** – Neighborhood Conservation Areas are defined as those that are generally residential in character. Change is anticipated to be “modest in scale and will consist primarily of infill housing, public facilities, and institutional uses.” Therefore, the proposed MU-8 zone for the subject property would be consistent with Comprehensive Plan.
  - **FLUM** – The subject property is designated for mixed-use on the Future Land Use Map for a combination of Medium Density Residential and Medium Commercial, consistent with the proposed MU-8 zoning. Pursuant to Subtitle G § 400.7, the MU-8 zone is intended to “permit medium-density mixed-use development with a focus on employment and residential use,” consistent with the Comprehensive Plan designation.
  - **Near Northwest Area Element** – The requested map amendment for the site could facilitate the construction of new affordable and market rate housing on an existing underutilized site. Any new development on the site would be subject to the inclusionary zoning regulations.
  - **Land Use Element** – The proposed rezoning would permit an increase in uses permitted, including commercial and office uses and an increase in the number of potential housing units, including affordable housing units under IZ Plus at a



location within a census tract with a high poverty rate that would also take advantage of the investment in Metrorail. Although the applicant is unable to consolidate the subject property with adjacent lots to improve the development potential of this long vacant site, as those lots are all currently developed and in active use, the rezoning of the subject property would increase the potential that the site would be put back to active use. As a long vacant site for which a PUD had been approved but never constructed, the proposed rezoning has the potential to revitalize this underutilized corner property.

- **Housing Element** – Through an increase in the permitted density, the requested map amendment would permit an increase in the amount of market rate and affordable housing on the subject property than currently could be constructed under the existing zoning. Although the site provides for market rate and affordable apartments, due to the small size of the subject property and the requested mixed-use zoning, it is not likely to result in a larger mix of housing types, such as single-family homes or duplexes. However, the IZ regulations have incentives for providing larger family-size units with more than two bedrooms.
- **Urban Design Element** – Although the requested rezoning of the subject property does not include a specific development proposal, the property has an existing historic building and will accommodate additional infill housing and consequently affordable housing. Adjacent to a rowhouse neighborhood directly to the north, the requested rezoning to an MU zone would not be expected to result in the construction of new row houses but would allow for residential development and a building height that could bridge the difference between the row house neighborhood and the larger mixed-use office and commercial buildings to the south, across L Street.
- **Historic Preservation Element** – The requested map amendment would have the potential to facilitate the redevelopment of the subject property, including the renovation of the existing vacant historic structure on the property and its expansion.
- **Racial Equity** – A key piece of this map amendment is the potential to create additional affordable housing through an IZ Plus set-aside requirement. It is likely that the rezoning will require a 20 percent set-aside requirement resulting in 7 to 9 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-8 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.

40. The OP Setdown Report also stated that an IZ Plus set-aside requirement was appropriate for the Map Amendment, pursuant to Subtitle X § 502, noting that:

- The map amendment would rezone the property to MU-8, which allows a higher maximum permitted FAR than the existing RA-2 zone; and
- The 2019 Housing Equity Report<sup>1</sup> prepared by the Office of Planning and the Department of Housing and Community Affairs reports that:

- ANC 6E, within which the subject property is located, only had 0.4 percent of the District’s total number of affordable housing units as of 2018; and
  - Ward 6 had a median rent of \$2,143 in 2019, in excess of the Districtwide median of \$1,603.
41. OP submitted a hearing report, dated December 9, 2022, that largely reiterated the OP Setdown Report’s conclusions, and recommended approval of the Map Amendment. (Ex. 17.)
42. At the December 19, 2022, public hearing, OP reiterated its support for the Application as detailed in its reports.

**DDOT REPORT**

43. DDOT submitted a December 9, 2022, report (the “DDOT Report”) stating that it had no objection to the Application because: (Ex. 18.)
- The rezoning would allow for approximately double the number of residential units, and more retail square footage;
  - The rezoning could generate an additional 5AM peak hour trips and 9 PM peak hour person trips vehicle trips, as compared to a matter-of-right development in the RA-2;
  - The additional trips generated by the site are expected to have a minimal impact on the transportation network;
  - DDOT concurs with the proposed zoning change to further support nearby transit and generate additional foot traffic to support nearby businesses. This is consistent with DDOT’s approach to transit-oriented sites which should be dense, compact, and improve the public realm;
  - Since the site is within ¼ mile of WMATA Priority Corridor Network Metrobus Routes and ½ mile of the Mount Vernon Square 7th Street Convention Center Metrorail station, DDOT encourages the Applicant to minimize the amount of off-street parking provided with any future redevelopment proposals. Per DDOT’s January 2022 Guidance for Comprehensive Transportation Review, ideally no more than 0.35 vehicle spaces per unit (1 per 3 units);
  - DDOT expects any on-site loading and trash pick-up take place with head-in and head-out maneuvers;
  - The site does not have access to a public alley. As such, DDOT recommends the Applicant explore vehicle parking and loading relief as part of redevelopment to minimize curb cuts needed to serve the site; and
  - Any redevelopment proposals for the site will need to account for a long-term bicycle parking storage room, either below- or at-grade in an easily accessible location from the lobby, as well as short-term bicycle parking, as required by 11 DCMR 801 and 18 DCMR 1214.
44. DDOT did not provide testimony at the public hearing.

### **ANC REPORTS AND TESTIMONY**

45. ANC 6E submitted a resolution in Support of the Setdown on June 13, 2022. (Ex. 4).
46. ANC 6E submitted a resolution in support of the Map Amendment on June 17, 2022 (Ex. 5), noting “this property has been blighted for decades which has been a site for criminal activity. Redevelopment will activate this corner and be positive for this area of the neighborhood.”
47. The ANC did not provide testimony at the public hearing.

### **PERSONS IN SUPPORT**

48. No letters in support were submitted to the record.
49. No persons in support testified at the hearing.

### **PERSONS IN OPPOSITION**

50. The Zoning Commission reopened the record to allow in testimony from Mr. Leroy Thorpe on behalf of the Shaw East Central Civic Association (Ex. 23, 23A). Mr. Thorpe’s testimony cited concerns over the lack of notice of the Map Amendment by ANC 2E.
51. The Commission left the record open until January 23, 2022 in order for the Applicant to provide more information regarding outreach to civic associations in the area. After the hearing, on December 20, 2022, the Applicant submitted an email from Rachelle Nigro, SMD 6E04, the SMD for the Property, noting that there are no civic associations in the area. (Ex. 24, 24A).
52. The Applicant submitted further testimony in response to Mr. Thorpe’s testimony in order to clarify that the Property is located in the Mt. Vernon Historic District, not the Shaw Historic District, and it is located in ANC 6E (now 2G), not 2E, as the testimony suggested.

### **NATIONAL CAPITAL PLANNING COMMISSION (“NCPC”)**

53. The Commission referred the Application to the National Capital Planning Commission (“NCPC”) on December 20, 2022, for the 30-day review period required by § 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2); D.C. Official Code 6-641.05).) (Ex. 26.)
54. On January 6, 2023, NCPC staff filed a letter stating the Map Amendment “is not inconsistent with the Comprehensive Plan for the National Capital and would not adversely impact any other identified federal interests.

### **CONCLUSIONS OF LAW**

1. Section 1 of the Zoning Act of 1938 (effective June 20, 1938, as amended, 52 Stat. 797 ch. 534; D.C. Official Code § 6-641.01 *et seq.* (2012 Repl.)) (the “Zoning Act”) authorizes the Commission to create zones within which the Commission may regulate the construction and use of property in order 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.”

2. Section 2 of the Zoning Act (D.C. Official Code § 6-641.02) further provides that:

*Zoning 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 on 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 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.*

3. Pursuant to Subtitle X § 500.3, the Commission shall find that the map amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property.

**NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN (SUBTITLE X § 500.3)**

4. The Commission concludes, based on the filings and testimony of the Applicant and OP, that the Map Amendment from the RA-2 zone to the MU-8A zone is not inconsistent with the CP in its entirety, including all CP maps and elements, and will advance a number of CP Elements as discussed below.

5. Even if the Map Amendment conflicts with one or more individual policies associated with the CP, this does not, in and of itself, preclude the Commission from concluding that the Map Amendment would be consistent with the CP as a whole. (*Durant v. District of Columbia Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013).) In this case, the Commission concludes that any inconsistencies with CP policies are outweighed by the Map Amendment’s overall consistency with the CP Maps and Citywide and Area Element policies, which support, among other things, increasing density to permit more mixed-use and housing, including affordable housing, in proximity to transit on a long-time blighted property.

## **Racial Equity**

6. The Commission concludes that the Map Amendment is not inconsistent with the CP when evaluated through a racial equity lens because:
- The Map Amendment would increase the allowable density to medium density levels and would permit a mix of uses that will enhance the Property's opportunity for development with affordable housing, and an IZ Plus set-aside requirement will apply to the Map Amendment to further increase the affordable housing supply; and
  - The increase in allowable density permitted by the Map Amendment would help to balance supply and demand of housing which could help mitigate increases in housing prices and costs.
  - The new commercial uses could provide access to opportunities near a metro station.

## **GPM**

7. The Commission concludes that the Map Amendment is not inconsistent with the GPM's designation of the Property as a Neighborhood Enhancement Area because:
- The Map Amendment will facilitate the development of the Property with a mixed-use building that will positively impact the surrounding area and that will further the CP's goals for the Neighborhood Enhancement Area designation;
  - The development permitted by the Map Amendment will enhance the character of the surrounding neighborhood by facilitating a mixed-use residential and commercial development;
  - New development under the MU-8A zone will support neighborhood and citywide housing needs and attract complementary new ground-floor retail and service uses that better serve the needs of existing and future residents; and
  - The provision of ground-floor retail and service uses near transit options will encourage pedestrian traffic and facilitate improvements to the pedestrian space surrounding the Property.

## **FLUM**

8. The Commission concludes that the Map Amendment is not inconsistent with the Property's Mixed Use – Medium Density Residential / Medium Density Commercial FLUM designation because:
- The MU-8 zone is intended to permit medium-density mixed-use development, with a focus on employment and residential use; be located in uptown locations, where a large component of development will be office-retail and non-residential uses; and be located in or near the Central Employment Area, on arterial streets, in uptown and regional centers, and at rapid transit stops;
  - The MU-8A zone's maximum 5.0 FAR (6.0 with IZ) falls within the FAR contemplated by the Medium Density Residential FLUM category because the category states density greater than 4.0 FAR may be possible when complying with Inclusionary Zoning; and
  - The Medium Density Commercial FLUM category identifies the MU-8 zone as

being “consistent” with the Medium Density Commercial FLUM designation.

### **Near Northwest Area Element**

9. The Commission concludes that the Map Amendment furthers the policies of the area element because it will:
- Use the historic preservation design review process to promote high quality architecture and urban design in Near Northwest’s designated historic districts, including Mount Vernon Square; and
  - Encourage mixed-income residential development with underground parking adjacent to the Shaw/Howard and Mount Vernon Square Metro stations, particularly on existing surface parking lots and Metro station entrances.

### **Land Use Element**

10. The Commission concludes that the Map Amendment furthers this element because it will:
- Encourage the development of Metro stations as anchors for residential, economic, and civic development and to accommodate population growth with new nodes of residential development, especially affordable housing, in all areas of the District in order to create great new walkable places and enhance access and opportunities for all District residents. The establishment and growth of mixed-use centers at Metrorail stations should be supported as a way to provide access to housing opportunities at all income levels and emphasize affordable housing, improve air quality, increase jobs, provide a range of retail goods and services, reduce reliance on the automobile, enhance neighborhood stability, create a stronger sense of place, provide civic gathering places, and capitalize on the development and public transportation opportunities that the stations provide. Station area development should have population and employment densities guided, but not dictated, by desired levels of transit service. This policy should be balanced with other land use policies, which include conserving neighborhoods. The Future Land Use Map expresses the desired intensity and mix of uses around each station, and the Area Elements (and in some cases Small Area Plans) provide more detailed direction for each station area; and
  - Encourage growth and development along major corridors, particularly priority transit and multimodal corridors. Plan and design development adjacent to Metrorail stations and corridors to respect the character, scale, and integrity of adjacent neighborhoods, using approaches such as building design, transitions, or buffers, while balancing against the District’s broader need for housing.

### **Housing Element**

11. The Commission concludes that the Map Amendment furthers this element because it will:
- Encourage or require the private sector to provide both new market rate and affordable housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives; and
  - Strongly encourage the development of new housing, including affordable housing, on surplus, vacant, and underused land in all parts of Washington, DC. Ensure that a

sufficient supply of land is planned and zoned to enable the District 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.

### **Transportation Element**

12. The Commission concludes that the Map Amendment furthers this element because it will:
- Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points. Encourage development projects to build or upgrade the pedestrian and bicycle infrastructure leading to the nearest transit stop to create last-mile connections. Pedestrian movements and safety should be prioritized around transit stations; and
  - Support more efficient use of the region’s transit infrastructure with land use strategies that encourage employment locations near underused transit stations. Work closely with the federal government and suburban jurisdictions to support transit-oriented and transit-accessible employment throughout the region. This would expand the use of major transit investments such as Metrorail. Encourage approaches that improve transit access to jobs for low-income residents.

### **Environmental Protection Element**

13. The Commission concludes that the Map Amendment furthers this element because it will:
- Encourage the use of permeable materials for parking lots, driveways, walkways, and other paved surfaces as a way to absorb stormwater and reduce runoff; and
  - Promote an increase in tree planting and vegetated spaces to reduce stormwater runoff and mitigate the urban heat island, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces. 615.4

### **Economic Development**

14. The Commission concludes that the Map Amendment furthers this element because it will:
- Develop an increasingly robust tourism and convention industry, which is underpinned by a broad base of arts, entertainment, restaurant, lodging, cultural and government services. Strive to increase the total number of visitors to the District, the number of visitors staying in the District, and longer visitor stays in the District. Promote the District not only as the preferred base for exploring Washington, DC’s attractions, but also the preferred overnight base for visiting regional attractions;
  - Support District residents, including women-owned businesses and equity impacts enterprises (small, resident-owned Black and Brown business) seeking entrepreneurship opportunities through layered programs, including technical assistance, promotion of District products and services, and market development; and
  - Focus on building capacity and opportunities to participate in core and growth industries for minority- and women-owned businesses. Ensure under-represented entrepreneurs have access to business opportunities created through public sector

spending, anchor institution spending, and corporate supply chains. Provide layered support through technical assistance, product promotion, and market development.

### **Historic Preservation**

15. The Commission concludes that the Map Amendment furthers this element because it will facilitate the redevelopment of the subject property, including the renovation of the existing vacant historic structure on the property and its expansion.

### **Urban Planning**

16. The Commission concludes that the Map Amendment furthers this element because the property has an existing historic building and will accommodate additional infill housing and consequently affordable housing. Adjacent to a rowhouse neighborhood directly to the north, the requested rezoning to an MU zone would not be expected to result in the construction of new row houses but would allow for residential development and a building height that could bridge the difference between the row house neighborhood and the larger mixed-use office and commercial buildings to the south, across L Street.

### **GREAT WEIGHT TO THE RECOMMENDATIONS OF OP**

17. The Commission must give “great weight” to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
18. The Commission concludes that OP’s reports, which provided an in-depth analysis of the Map Amendment, are persuasive and concurs with OP’s recommendation that the Property’s rezoning would not be inconsistent with the CP Maps, Citywide and Area Elements, and would advance the equity policies of the CP when evaluated through a racial equity lens, as discussed above. The Commission also concurs with OP that the proposed Map Amendment is appropriate for an IZ Plus set-aside requirement.

### **“GREAT WEIGHT” TO THE ANC REPORTS**

19. The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and



concerns.” (*Wheeler v. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted).)

- 20. The ANC 6E Report expressed the ANC’s recommendation of support for the Map Amendment. The Commission acknowledges the ANC’s support for the Map Amendment.

**DECISION**

In consideration of the record for Z.C. Case No. 22-22 and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application to amend the Zoning Map as follows:

| SQUARE | LOT(S) | MAP AMENDMENT |
|--------|--------|---------------|
| 49     | 64     | RA-2 to MU-8A |

On December 19, 2022, upon the motion of Commissioner Imamura, as seconded by Vice Chair Miller, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the Application at the close of the public hearing by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Joseph S. Imamura to approve; third Mayoral appointee seat vacant, not voting).

On January 26, 2023, upon the motion of \_\_\_\_\_, as seconded by \_\_\_\_\_, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of \_\_\_\_ (Anthony J. Hood, Robert E. Miller, Peter G. May, and Joseph S. Imamura to approve; third Mayoral appointee seat vacant, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 22-22 shall become final and effective upon publication in the *D.C. Register*, that is on \_\_\_\_\_.