

**BEFORE THE DISTRICT OF COLUMBIA  
ZONING COMMISSION**

**STATEMENT IN SUPPORT OF  
AN APPLICATION FOR A ZONING MAP AMENDMENT  
FROM THE RF-1 ZONE DISTRICT TO THE  
RA-2 ZONE DISTRICT**

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**SQUARE 2991, LOT 77  
924 MADISON STREET, NW**

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**BEREAN BAPTIST CHURCH**

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**November 11, 2022**

Respectfully submitted by:

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**List of Exhibits**

<b>Exhibit</b>	<b>Description</b>
A	Plat of Subject Property from the D.C. Surveyor's Office
B	Relevant portion of the Comprehensive Plan Future Land Use Map
C	Relevant portion of the Comprehensive Plan Generalized Policy Map
D	Relevant portion of the 2016 Zoning Map showing existing zoning of the Subject Property
E	Names and mailing addresses of the owners of the property to be rezoned
F	Form 100 – Zoning Commission Application Signature Form
G	Letters of Authorization
H	Certificate of Proficiency
I	Certificate of Notice, Notice of Intent, and List of Addresses of Owners of Property within 200 feet of the Subject Property

## **I. INTRODUCTION**

The Berean Baptist Church (the “Applicant”) submits this Statement in Support of an amendment to the Zoning Map of the District of Columbia (the “Zoning Map”) pursuant to 11-X DCMR § 501.1 and to 11-Z DCMR §§ 201.2(e), 304.(1)–304.(8) of the 2016 Zoning Regulations of the District of Columbia (the “Zoning Regulations”). More specifically, the Applicant is seeking to rezone the property located at 924 Madison Street, NW, and more particularly known as Lot 77, in Square 2991 (the “Property”), from the RF-1 zone to the RA-2 zone (the “Application”). A building plat showing the lot be rezoned is attached hereto.

As required pursuant to 11-X DCMR § 500.1, the Application is not inconsistent with the Comprehensive Plan (the “Comp Plan”), including the Property’s designation on the Comp Plan’s Future Land Use Map (“FLUM”) and Generalized Policy Map (“GPM”), and advances the objectives and recommendations of the Rock Creek East Planning Area. The Application is also consistent with the purposes of the Zoning Act in that it will create conditions that are favorable to public health, safety, welfare, and convenience.

## **II. DESCRIPTION OF THE SUBJECT PROPERTY AND THE SURROUNDING AREA**

The Property is located east of the southeast corner of Georgia Avenue, NW and Madison Street, NW, and consists of approximately 14,000 square feet. The Property is currently improved with the Berean Baptist Church.

The Property is within the boundaries of Advisory Neighborhood Commission (“ANC”) 4B (ANC 4D as of 01/01/2023). There is a mix of residential and mixed-retail uses in the immediate area surrounding the Property. The Emery Heights Community Center and the Emery Heights Park are located north of the Property. Light commercial uses, such as an AutoZone Auto Parts and Dollar Tree store, are located west of the Property on Georgia Avenue. The Bright Woods Gardens Co-Op and single family residences are located to the south and to the east of the Property, respectively.

As shown on the portion of the FLUM attached hereto, the Property is designated Moderate Density Residential. As shown on the portion of the GPM attached hereto, the Property is designated as Neighborhood Conversation Area on the GPM. A detailed discussion of the Property’s FLUM and GPM designation is below.

## **III. EXISTING AND PROPOSED ZONING**

The Applicant proposes to rezone the Property from RF-1 to RA-2. The RA zones are intended to permit urban residential development and compatible institutional and semi-public buildings and are designed to be mapped in areas identified as moderate- or high-density residential areas suitable for multiple dwelling unit development and supporting uses. 11-F DCMR §§ 100.1, 100.2. The purposes of the RA zones are to, among other things: (i) provide for the

orderly development and use of land and structures in areas characterized by predominately moderate- to high-density residential uses; (ii) permit flexibility by allowing all types of residential development; (iii) promote stable residential areas while permitting a variety of types of urban residential neighborhoods; and (iv) encourage compatibility between the location of new buildings or construction and the existing neighborhood. *See* 11-F DCMR § 100.3.

**A. Existing RF-1 Zoning**

The Property is zoned RF-1. The RF-1 zone is intended to provide for areas predominantly developed with row houses on small lots within which no more than two dwelling units are permitted. 11-E DCMR § 300.1. In the RF-1 zone, two dwelling units may be located within the principal structure or one dwelling unit may be located in the principal structure and one in an accessory structure. 11-E DCMR § 302.1. Generally speaking, the maximum permitted height of residential buildings or structures and any additions thereto not including the penthouse or rooftop structure, shall not exceed 35 feet and three stories in the RF-1 zone. 11-E DCMR § 303.1. The maximum permitted building height for a place of worship, not including the penthouse or rooftop structure, in the RF-1 zone is 60 feet and three stories. 11-E DCMR § 303.4. Depending on the use, the maximum permitted lot occupancy in the RF-1 zone is 40%–60%. 11-E DCMR § 304.1. Residential buildings in the RF-1 zone must have a front yard setback which is similar to the existing front setbacks of structures on the same side of the street in the block where the building is proposed. 11-E DCMR § 305.1. A minimum rear yard of 20 feet is required in the RF-1 zone. 11-E DCMR § 306.1.

**B. Proposed RA-2 Zoning**

Pursuant to 11-Z DCMR § 201.2(e), the Applicant requests a map amendment to rezone the Property to the RA-2 zoning district. The purposes of the RA zones are to permit flexibility of design by permitting all types of urban residential development, so long as it conforms to the relevant height, density, and area requirements, and to permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive residential zones. 11-F DCMR § 300.1. More specifically, the RA-2 zone is intended to provide for areas developed with predominately moderate-density residential uses. 11-F DCMR § 300.3. The maximum permitted density in the RA-2 zone is 1.8 FAR and 2.16 FAR when adhering to the Inclusionary Zoning requirements of the Zoning Regulations. 11-F DCMR § 302.1. The maximum permitted height in the RA-2 zone, not including the penthouse, is 50 feet. 11-F DCMR § 303.1. The maximum permitted height of the penthouse is 12 feet and 15 feet for penthouse mechanical space. 11-F DCMR § 303.2. The penthouse may be two stories, but the second story can only be used for penthouse mechanical space. *Id.* The maximum permitted lot occupancy is 60% in the RA-2 zone. The minimum rear yard in the RA-2 zone is a distance equal to 4 inches per 1 foot of principal building height, but not less than 15 feet. 11-F DCMR § 305.1. No side yard is required in the RA-2 zone, however, if one is provided, the

side yard must be no less than four feet. 11-F DCMR § 306.2(b). The Comp Plan Framework Element describes the RA-2 zone as being consistent with the Moderate Density Residential FLUM designation. See 10-A DCMR § 227.6.

**C. Comparison of Development Standards**

The table below compares the development standards of the existing and the proposed zoning for the Property:

	<b>EXISTING ZONING: RF-1</b>	<b>PROPOSED ZONING: RA-2</b>
	<b>Allowed / Required as Matter-of-Right</b>	<b>Allowed / Required as Matter-of-Right</b>
<b>Height</b>	Varies based on use. Residential, 35 ft. (3 stories)	50 ft. (no limit on stories)
<b>Penthouse Height</b>	12 ft. and 1 story	12 ft. and 1 story; except 15 ft. and second story permitted for penthouse mechanical space
<b>Density (FAR)</b>	Two dwelling units may be located within the principal structure or one dwelling unit may be located in the principal structure and one in an accessory structure.	1.8 (2.16 w. IZ)
<b>Lot Occupancy</b>	Varies based on use. Between 40%–60%	60%
<b>Rear Yard</b>	20 ft. min.	4 inches per 1 ft. of height; 15 feet min.
<b>Side Yard</b>	None required.	None required, but if provided: No less than 4 feet.
<b>Green Area Ratio</b>	Not required.	0.4

**IV. STANDARDS APPLICABLE TO APPLICATION FOR ZONING MAP AMENDMENT**

The Application is submitted as a contested case pursuant to 11-Z DCMR § 201.2(e). 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 when adopting and amending the Zoning

Regulations and the Zoning Map. The Zoning Act states 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:

“[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.

Furthermore, in all cases, the Commission shall find that the amendment is not inconsistent with the Comp Plan and with other adopted public policies and active programs related to the subject site. 11-X DCMR § 500.3.

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

### **A. Comprehensive Plan**

As discussed below, the proposed Zoning Map amendment is not inconsistent with the Comp Plan, as recently adopted by the D.C. Council pursuant to D.C. Law L23-0217 (Comprehensive Plan Amendment Act of 2017) and D.C. Law 24-0020 (Comprehensive Plan Amendment Act of 2020).

#### **i. Overview and Application**

The Comp Plan guides the development in the District, both broadly and in detail, through maps and policies that address the physical development of the District. 10-A DCMR § 103.2. The Comp Plan also addresses social and economic issues that affect and are linked to the physical development of the District and the well-being of its citizens. The Comp Plan provides the general overview of how change will be managed in the years ahead and, thus, is intended to be interpreted broadly. 10-A DCMR § 103.5.

Because the Comp Plan is the one plan that guides the District's development, it carries special importance in that it provides an overall direction and shapes all other physical plans the District may adopt. 10-A DCMR § 103.2. The Comp Plan includes detailed maps and policies for the physical development of the District, and addresses social and economic issues that affect the District and its citizens. The Comp Plan allows the District to ensure its resources are used wisely and efficiently and that public investment is focused in areas where it is needed most. 10-A DCMR § 100.13. The Comp Plan reads, in relevant part, the “zoning of any given area should be guided by the [FLUM] interpreted in conjunction with the text of the Comprehensive Plan, including Citywide Elements and the Area Elements, as well as approved Small Area Plans.” 10-A DCMR § 228.1(d).

According to the Home Rule Charter, zoning cannot be inconsistent with the Comp Plan. D.C. Code § 6-641.02. As stated in the Framework Element of the Comp Plan, “[i]n its decision-making, the [Commission] must make a finding of not inconsistent with the [Comp Plan]. To do so, the [Commission] must consider the many competing, and sometimes conflicting, policies of the [Comp Plan], along with the various uses, development standards and the requirements of the zone districts. It is the responsibility of the [Commission] to consider and balance those policies relevant and material to the individual case . . . and clearly explain its decision-making rationale.” 10-A DCMR § 224.8. Therefore, to approve the proposed rezoning, the Commission must consider and balance potential Comp Plan consistencies and inconsistencies to make an overall determination as to whether the request is “not inconsistent” with the totality of the Comp Plan. If the Application arguably “conflicts with one or more individual policies associated with the [Comp] Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.” *Durant v. District of Columbia Zoning Comm'n*, 65 A.3d 1161, 168 (D.C. 2013).

## **ii. Racial Equity Lens**

A primary focus of the Comp Plan, as reflected throughout its various policies, is achieving racial equity. The Framework Element of the Comp Plan defines racial equity as the moment when “race can no longer be used to predict life outcomes and outcomes for all groups are improved.” 10-A DCMR § 213.7. Indeed, the importance of racial equity to District residents was made abundantly clear when the DC Office of Planning (“OP”) conducted its DC Values survey in Spring 2019 and again when the Zoning Commission conducted its roundtable on racial equity in Fall 2022. In addition to racial equity, District residents also expressed concerns about rising costs and inequitable access to opportunities for housing, businesses, employment, and other necessities. Overall livability, equity, and safety were considered the most critical values. 10-A DCMR §§ 107.17–107.22.

As stated in the Framework Element and as further discussed below, equity is both an outcome and a process. 10-A DCMR § 213.6. Equity exists where all people share equal rights, access, choice, opportunities, and outcomes, regardless of characteristics such as race, class, or

gender. It is achieved by targeted actions and investments to meet residents where they are, in order to create equitable opportunities. An important factor to advancing racial equity is to acknowledge that equity is not the same as equality. *Id.* “As an outcome, the District achieves racial equity when race no longer determines one's socioeconomic outcomes, when everyone has what they need to thrive, no matter where they live or their socioeconomic status; and when racial divides no longer exist between people of color and their white counterparts. As a process, we apply a racial equity lens when those most impacted by structural racism are meaningfully involved in the creation and implementation of the institutional policies and practices that impact their lives, particularly people of color.” 10-A DCMR § 213.9

Equity is conveyed through the Comp Plan, particularly in the context of zoning, where certain priorities stand out, including affordable housing, displacement, and access to opportunity. To help guide the Commission in applying a racial equity lens to its decision making, the Implementation Element reads, in relevant part, “[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 in the District.” 10-A DCMR § 2501.6.

As related to zoning actions, racial equity is not a separate consideration from the normal legal standard of review. Rather, the Commission properly considers equity as an integral part of its analysis as to whether a proposed zoning action is “not inconsistent” with the Comp Plan. The scope of the racial equity review and the extent to which Comp Plan policies apply depend upon the nature of the proposed zoning action. In this case, the Commission shall evaluate the requested Zoning Map amendment through a racial equity lens to make its determination as to whether the requested rezoning is not inconsistent with the Comp Plan as a whole.

a. *Racial Equity as a Process*

The Framework Element states that racial equity is a process, and that as the District grows and changes, it must do so in a way that builds the capacity of vulnerable, marginalized, and low-income communities to fully and substantively participate in decision-making processes. 10-A DCMR § 213.7. The Applicant believes in inclusive, community engagement, and will work closely with the community through ANC 4B (4D as of 01/01/2023).

b. *Racial Equity as an Outcome*

The Framework Element states that “equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities. Equity is not the same as equality.” 10-A DCMR § 213.6. As stated above, under the recently adopted Comp Plan, the Commission shall carry out its Comp Plan evaluation for the Application through a racial equity lens. The following table correlates the proposed map amendment with a number of equitable development indicators, in general terms. As the table shows, the map amendment has the potential

to address a number of equity issues that residents in the Rock Creek East Planning Area are experiencing.

<b>Evaluation of Equitable Development Indicators</b>		
<b>Indicator</b>	<b>Measure</b>	<b>Outcome / Applicable Public Benefit</b>
<b>Displacement</b>		
Physical	<ul style="list-style-type: none"> <li>Displacement due to redevelopment.</li> </ul>	<ul style="list-style-type: none"> <li>No physical displacement of residents.</li> </ul>
Economic	<ul style="list-style-type: none"> <li>Displacement due to housing cost increases.</li> </ul>	<ul style="list-style-type: none"> <li>Increase in permitted amount of non-residential density that can increase economic opportunity in the Planning Area.</li> </ul>
Cultural	<ul style="list-style-type: none"> <li>Loss of sense of belonging or shared identity in neighborhood.</li> </ul>	<ul style="list-style-type: none"> <li>Residential density gained provides an opportunity for more residents to reside in and gather in the area.</li> </ul>
<b>Housing</b>		
	<ul style="list-style-type: none"> <li>Number of new market rate and dedicated affordable units (per 2019 Housing Equity Report).</li> </ul>	<ul style="list-style-type: none"> <li>Increase in amount of housing permitted on Property.</li> <li>Increased IZ set aside through applicability of IZ+.</li> </ul>
Housing Burden	<ul style="list-style-type: none"> <li>Households that pay more than 30% of income (burdened), or 50% of income (severely burdened) on housing.</li> </ul>	<ul style="list-style-type: none"> <li>Increase in amount of housing that can be provided to households earning no more than 60% (rental) or 80% (ownership) MFI (50% MFI for any IZ set aside generated by penthouse habitable space).</li> </ul>
Family-sized Units	<ul style="list-style-type: none"> <li>Dwelling units with 3 or more bedrooms.</li> </ul>	<ul style="list-style-type: none"> <li>Increased potential for larger units due to gain in overall permitted density.</li> </ul>
<b>Transportation</b>		
Access to Transit	<ul style="list-style-type: none"> <li>0.25 miles to priority bus corridors and other modes of public transportation.</li> </ul>	<ul style="list-style-type: none"> <li>Georgia Avenue and Madison Street bus stop is located directly west of the Property.</li> <li>Georgia Avenue and Kennedy Street bus stop is located less than 0.25 miles south of the Property.</li> </ul>

Transportation Improvements / Pedestrian Safety	<ul style="list-style-type: none"> <li>· Gaps in pedestrian network.</li> <li>· Lack of pedestrian facilities (crosswalks, lighting, seating, etc.).</li> </ul>	<ul style="list-style-type: none"> <li>· Improvement of pedestrian connectivity.</li> </ul>
<b>Employment</b>		
Access to Jobs		<ul style="list-style-type: none"> <li>· Property is in close proximity to public transportation options.</li> <li>· Property is in close proximity to potential employers.</li> </ul>
<b>Education / Health / Wellness</b>	<p>Access to quality public services.  Access to safe, clean public gathering spaces, open spaces, and recreation.  Healthy natural environment.</p>	<ul style="list-style-type: none"> <li>· Property is adjacent to Emery Heights Community Center</li> <li>· Proximity to Fort Slocum Park</li> <li>· Proximity to Hamilton Recreation Center</li> <li>· Proximity to Brightwood Recreation Area</li> <li>· Proximity to multiple educational facilities</li> </ul>
<b>Environmental</b>	<ul style="list-style-type: none"> <li>· LEED rating.</li> <li>· Use of renewable energy sources.</li> <li>· Storm water management.</li> <li>· Placement of unwanted / high-impact land uses</li> </ul>	<ul style="list-style-type: none"> <li>· Improved storm water infrastructure.</li> <li>· Improved roadway circulation on the Property.</li> </ul>
<b>Access to Amenities</b>	<ul style="list-style-type: none"> <li>· Availability of building amenities.</li> <li>· Proximity/availability of uses that meet day-to-day needs (grocery, retail, service, eating and drinking).</li> </ul>	<ul style="list-style-type: none"> <li>· Map amendment will permit the development of increased residential units, therefore increasing the supply of residents to surrounding area.</li> <li>· Proximity to nearby retail, service, and neighborhood-servicing uses.</li> <li>· Property is adjacent to Emery Heights Community Center</li> <li>· Proximity to Fort Slocum Park</li> <li>· Proximity to Hamilton Recreation Center</li> <li>· Proximity to Brightwood Recreation Area</li> <li>· Proximity to multiple educational facilities</li> </ul>

In addition, the Applicant has engaged with the community, and has community support for the Application.

**iii. Future Land Use Map**

The FLUM shows the general character and distribution of recommended and planned uses across the city, and is intended to provide generalized guidance on whether areas are designated for conservation, enhancement, or change. 10-A DCMR §§ 200.5 and 224.4. The land use category descriptions on the FLUM describe the general character of development in each area, citing typical Floor Area Ratios as appropriate. However, the granting of density bonuses may result in densities that exceed those typical ranges stated in the land use category descriptions. 10-A DCMR § 228.1(c).

The Comp Plan does not require that each block “strictly correspond” with the general description of the associated land use designation on the FLUM. *See* Z.C. Order No. 08-15, Finding of Fact No. 74(a). Further, the “Future Land Use Map is not a zoning map. Whereas zoning maps are parcel-specific, and establish detailed requirements for setbacks, height, use, parking, and other attributes, the Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. By definition, the FLUM is to be interpreted broadly and the land use categories identify desired objectives. 10-A DCMR § 228.1(a). Decisions on requests for rezoning shall be guided by the FLUM read in conjunction with the text of the Comp Plan (Citywide and Area Elements) as well as Small Area Plans pertaining to the area proposed for rezoning. 10-A DCMR § 2504.5.

The FLUM designates the Property as Moderate Density Residential. According to the Framework Element, the Moderate Density Residential designation is used to define neighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. 10-A DCMR § 227.6. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and *low-rise apartment buildings*. *Id.* (emphasis added). The RA-2 zone district is specifically listed as being consistent with the Moderate Density Residential category. *Id.* Indeed, the Zoning Commission has rezoned other property designated as Moderate Density Residential on the FLUM to the RA-2 zone. *See* Z.C. Order No. 18-10.

**iv. Generalized Policy Map**

The purpose of the GPM is to categorize how different parts of the District may change between 2005 and 2025. It highlights areas where more detailed policies are necessary, both within the Comp Plan and in follow-up plans, to manage this change. 10-A DCMR § 225.1. The GPM is intended to “guide land use decision-making in conjunction with the Comp Plan text, the FLUM, and other Comp Plan maps. Boundaries on the map are to be interpreted in concert with these other sources as well as the context of each location. 10-A DCMR § 225.2.

The GPM designates the Property within a Neighborhood Conservation Area, which encompasses substantial portions of the Rock Creek East Planning Area including, but not limited to, low- to moderate-density residential neighborhoods. According to the Framework Element, areas within a Neighborhood Conservation Area designation “have little vacant or underutilized land and are generally residential in character.” 10-A DCMR § 225.4. The Framework Element further provides that “[m]ajor changes in density over current (2017) conditions are not expected [within a Neighborhood Conservation Area] but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by [Comp Plan] policies and the [FLUM]. 10-A DCMR § 225.4.

The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs . . . Densities in Neighborhood Conservation Areas are guided by the [FLUM] and Comp Plan policies. 10-A DCMR § 225.5 (emphasis added). 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. *Id.* Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. *Id.* Furthermore, new development in Neighborhood Conservation Areas should support neighborhood and city-wide housing needs, reduce crime and blight, and attract complementary new uses and services that better serve the needs of existing and future residents. 10-A DCMR § 225.8.

The proposed map amendment is not inconsistent with the Property's designation as a Neighborhood Conservation Area. As the Framework Element implies, this designation is not intended to stifle development opportunities. Conversely, new development is welcome so long as it supports the existing neighborhood character and addresses city-wide priorities. The existing RF-1 zoning constrains potential development opportunities at the Property, whereas the proposed RA-2 zone has the capability of supporting additional density and enhanced development standards, ultimately strengthening the neighborhood. For example, the proposed RA-2 zone would permit the construction of a new residential building, including affordable housing, which would address critical District-wide housing needs. As recommended for Neighborhood Conservation Areas, the Property presents an excellent opportunity for redevelopment that will be moderate in scale and consist of housing, especially affordable housing; thus enabling the type of housing diversity encouraged by the District, and most recently by the Mayor's housing initiative. In light of the foregoing, the proposed amendment to RA-2 is not inconsistent with the GPM.

v. **Rock Creek East Area Element**

The Property is located within the Rock Creek East Area Element (“RCE”) of the Comp Plan. *See* 10-A DCMR § 2200.1. The Rock Creek East Planning Area encompasses the 7.4 square miles located east of Rock Creek Park, north of Spring Road, NW, and west of North Capitol Street and Riggs Road, NW. *Id.* Rock Creek East is a sought-after residential community containing many low- and moderate-density neighborhoods. 10-A DCMR § 2200.2. Additionally, Rock Creek East has a vibrant sense of community, due in part to a well-organized network of community associations, places of worship, and interest groups. 10-A DCMR § 2200.6. The Comp Plan states that the major planning objective throughout the Rock Creek East community is to conserve the traits of the existing communities as the housing stock matures and infill development occurs. *Id.*

The Application will advance a number of planning objectives of the Rock Creek East Area Element. The proposed rezoning to RA-2, which permits up to 1.8 FAR (2.16 FAR with IZ), will enhance the Property’s development potential, furthering strategic development and economic vitality within the surrounding area. RCE-1.1.1. The proposed map amendment will also lead to a more connected neighborhood and will provide new housing opportunities in the Brightwood Park Neighborhood. RCE 1.1.2. Further, not only does the proposed map amendment have the capability of developing new housing in the Brightwood Park Neighborhood, the proposed map amendment has the capability of developing new affordable housing in the Brightwood Park Neighborhood. RCE 1.1.6. Additionally, the potential increase in housing has the opportunity to bring sustainable, modern development to the area. RCE 1.1.15. Therefore, the proposed map amendment has the capability to further a multitude of the Comp Plan’s enumerated elements.

In light of the foregoing discussion, the proposed map amendment advances the specific policies listed within the Rock Creek East Area Element discussed below:

**RCE-1.1 Guiding Growth and Neighborhood Conservation**

- RCE-1.1.1: Strengthening Lower Density Neighborhoods
- RCE-1.1.2: Design Compatibility
- RCE-1.1.6: Development of New Housing
- RCE-1.1.15: Sustainable Development

vi. **Land Use Element**

The Land Use Element is the cornerstone of the Comp Plan. It establishes the basic policies guiding the physical form of the District, and provides direction on a range of development, preservation, and land use computability issues. The element describes the range of considerations involved in accommodating an array of land uses within the District. 10-A DCMR § 300.1.

Through its policies and actions, the Land Use Element addresses the numerous, challenging land use issues that are present in the District, including, among others:

- Providing adequate housing, particularly affordable housing;
- Conserving, creating, and maintaining inclusive neighborhoods, while allowing new growth that fosters equity, including racial equity, and accessibility;
- Enhancing neighborhood commercial districts and centers;
- Balancing competing demands for finite land resources;
- Directing growth and new development to achieve economic vitality and creating jobs while minimizing adverse impacts on residential areas and open spaces;
- Promoting transit-accessible, sustainable development; and
- Siting challenging land uses.

[10-A DCMR § 300.2]

More than any other part of the Comp Plan, the Land Use Element lays out the policies through which growth and change occur. The Land Use Element integrates and balances competing policies of all the other Comp Plan Elements. 10-A DCMR § 300.3. The Implementation Element further recognizes the “overlapping nature” of the [Comp Plan] elements, stating that “an element may be tempered by one or more of the other elements,” and further states, “because the Land Use Element integrates the policies of all other District Elements, it should be given greater weight than the other elements.” 10-A DCMR § 2504.6.

The policies and actions of the Land Use Element all aim to utilize land resources efficiently to achieve the following goals:

- Protect the health, safety, and welfare of District residents, institutions, and businesses;
- Address past and current inequalities disproportionately impacting communities of color;
- Provide for additional . . . employment opportunities; and
- Effectively balance the competing demands for land.

[10-A DCMR § 302.1]

The proposed map amendment will help achieve the goals described above through its consistency with several Land Use Element policies. The proposed rezoning to RA-2 will help the District meet long-term neighborhood and citywide demands for additional housing and affordable housing. LU-2.1.2 and LU-2.1.3. Additionally, the proposed rezoning would allow the Property to accommodate a modest increase in density and more diverse housing types in a moderate-density neighborhood, ultimately resulting in the production of additional housing and affordable housing. LU-2.1.8. Additionally, the Property is presently improved with the Berean Baptist Church. The proposed rezoning to RA-2 would facilitate the use of a semi-public building for continued use, including residential uses. LU-2.1.12.

As stated in the Land Use Element, the District’s recognizes places of worship and other religious facilities as an important fabric of the District’s neighborhoods. 10-A DCMR § 312.8. Therefore, the Land Use Element encourages the faith-based community, residents, ANCs, and neighborhood groups to work proactively to address issues associated with these facilities’ expansion needs so that existing facilities may be sustained as neighborhood anchors and as a source of spiritual guidance. *Id.* The proposed rezoning to RA-2 would allow an existing faith-based community the opportunity to expand and modernize their facilities, therefore furthering a fundamental principle of the Land Use Element. LU-2.3.6.

In light of the foregoing, the Applicant finds that the proposed map amendment to RA-2 is not inconsistent with the Land Use Element overall, as it will provide for new development and enhanced connectivity at the Property while advancing other important District objectives. More specifically, the proposed map amendment advances the following Land Use Element policies:

#### LU-2.1 A District of Neighborhoods

- LU-2.1.2: Neighborhood Revitalization
- LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods
- LU-2.1.8: Explore Approaches to Additional Density in Low- and Moderate-Density Neighborhoods
- LU-2.1.12: Reuse of Public Buildings

#### LU-2.3 Residential Land Use Compatibility

- LU-2.3.6: Places of Worship and Other Religious Facilities

#### **vii. Housing Element**

The Housing Element describes the importance of housing to neighborhood quality in Washington, DC and the importance of providing housing opportunities for all segments of the population throughout Washington, DC. 10-A DCMR § 500.1. The District continues to face significant demand for more housing, and—in particular—affordable housing across a range of income levels. Other critical housing issues that the District is facing include furthering fair housing opportunities, especially in high-cost areas; fostering housing production to improve affordability; promoting more housing near transit; maintaining healthy homes for residents; and providing housing integrated with supportive services for older adults, vulnerable populations, and residents with disabilities. 10-A DCMR § 500.2.

The overarching goal of the Housing Element is to develop and maintain new residential units to achieve a total of 36,000 new units by 2025, 12,000 of which are dedicated affordable, that provide a safe, decent, accessible, and affordable supply of housing for all current and future residents of the District. 10-A DCMR § 501.1. A multi-pronged strategy is needed to facilitate production, address regulatory and administrative constraints, and deliver a substantial number of

the new units that are affordable to District residents, particularly to moderate and lower income residents. 10-A DCMR § 502.5.

The Application will help the District meet the housing needs of present and future residents. The Application will provide a substantial increase in the permitted density for residential uses, ultimately expanding the District's housing and affordable housing supply. This increase in density is consistent with the District's housing and affordable housing goals set forth in the 2019 Housing Equity Report, which sets an affordable housing goal of 1,500 units in the Rock Creek East Planning Area. Additionally, the proposed rezoning will facilitate progress towards reaching the Housing Element's goal of achieving a minimum of 15% affordable units within each Planning Area by 2050. H-1.2.9, H-1.2.F. New housing, including affordable housing, at Property is a desired development given its current underutilized status. H-1.1.3, H-1.1.5.

Further, any future development of the Property that consists of affordable housing will be designed and constructed according to the same high-quality architectural design standards used for market rate units. H-1.1.5. Additionally, future multifamily housing at the Property could be devoted to seniors or other underserved populations, thus providing more housing choices for disadvantaged persons, and creating more opportunities for District residents to remain in their preferred neighborhood and maintain their connections to the District. H-4.3.2, H-4.3.3, H-4.3.4.

Faith-based institutions own nearly 6 million square feet of vacant land and an estimated 4 million square feet of land with improvement in the District. 10-A DCMR § 504.14. Accordingly, the Housing Element encourages the active involvement and coordination between the District and faith-based institutions to meet affordable housing needs, which includes the construction of new housing. *Id.* The District recognizes the affordable housing opportunities surrounding faith-based institutions and is committed to providing the technical support needed. *Id.* The proposed map amendment directly aligns with the goals and policies advanced by Policy H-1.2.6 of the Housing Element, which states faith-based institutions should be coordinated with to meet affordable housing needs, because the proposed map amendment would allow a faith-based institution to construct affordable housing on its property.

Accordingly, the proposed map amendment serves a multitude of the District's housing goals and advances several policies of the Housing Element, particularly those enumerated below:

#### H-1.1 Expanding Housing Supply

- H-1.1.1: Private Sector Support
- H-1.1.3: Balanced Growth
- H-1.4.4: Mixed-Use Development
- H-1.1.5: Housing Quality
- H-1.1.9: Housing for Families

### H-1.2 Ensuring Housing Affordability

- H-1.2.1: Low- and Moderate-Income Housing Production as a Civic Priority
- H-1.2.2: Production Targets
- H-1.2.3: Affordable and Mixed-Income Housing
- H-1.2.5: Moderate-Income Housing
- H-1.2.6: Build Nonprofit Sector Capacity
- H-1.2.9: Advancing Diversity and Equity of Planning Areas
- H-1.2.1:: Inclusive Mixed-Income Neighborhoods

### H-1.3 Diversity of Housing Types

- H-1.3.1: Housing for Larger Households

### H-1.4 Meeting the Needs of Specific Groups

- H-4.3.2: Housing Choice for Older Adults
- H-4.3.3: Neighborhood-Based Housing for Older Adults
- H-4.3.4: Housing for Persons with Disabilities

## **viii. Transportation Element**

The Transportation Element provides policies and actions that are devoted to maintaining and improving the District’s transportation system and enhancing the travel choices available to District residents, visitors, and workers. These transportation-related policies are integrally related to other Comp Plan policies that address land use, urban design, and environmental protection. The close interplay between these policy areas is necessary to improving safety, mobility, and accessibility in the District. 10-A DCMR § 400.1.

The overarching goal for transportation in the District is to “[c]reate a safe, sustainable, equitable, efficient, and multimodal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors; supports local and regional economic prosperity; and enhance the quality of life for District residents.” 10-A DCMR § 401.1.

The proposed map amendment advances the overarching goal of the Transportation Element by enabling a new residential development at the Property that is likely to involve streetscape improvements. The proposed map amendment has the potential to result in a development that stabilizes the streetscape with an improved pedestrian network.

Accordingly, the map amendment is not inconsistent with the Transportation Element and advances the specific policies listed below:

### T-2.4 Pedestrian Access, Facilities, and Safety

- T-2.4.1: Pedestrian Network

**ix. Environmental Protection Element**

The Environmental Protection Element addresses the protection, conservation, and management of the District’s land, air, water, energy, and biological resources. This Element provides policies and actions for addressing important issues such as climate change, drinking water safety, the restoration of the tree canopy, energy conservation, air quality, watershed protection, pollution prevention, waste management, the remediation of contaminated sites, and environmental justice. The biological, chemical, and hydrologic integrity of the environment are key indicators of the quality of life in the District. Furthermore, environmental sustainability is linked to resilience, population health, and community prosperity. Good environmental management and pollution prevention are essential to sustain all living things and to safeguard the welfare of future generations. 10-A DCMR § 600.1.

The overarching goal for the Environmental Protection Element is to protect, restore, and enhance the natural and human-made environment in Washington, DC, taking steps to improve environmental quality and resilience, adapt to and mitigate climate change, prevent and reduce pollution, improve human health, increase access to clean and renewable energy, conserve the value and functions of Washington, DC’s natural resources and ecosystem, and educate the public on ways to secure a sustainable future. 10-A DCMR § 601.1.

In accordance with the overarching goal for the Environmental Protection Element, future redevelopment of the Property enabled by the map amendment will incorporate energy efficient systems, therefore reducing energy use and providing alternative energy ultimately contributing to the District’s energy efficiency goals. Redevelopment of the Property could also result in new landscaping and environmentally friendly enhancements to the abutting streetscape. Moreover, any future development will be required to comply with the Green Building Act and the District’s storm water management regulations, and will be consistent with the Sustainable DC Plan.

Accordingly, the map amendment is not inconsistent with the Environmental Protection Element and advances the specific policies listed below:

E-1.1 Preparing for and Responding to Natural Hazards

- Policy E-1.1.2: Urban Heat Island Mitigation

E-2 Conserving Natural and Green Areas

- Policy E-2.1.2: Tree Requirements in New Development
- Policy E-2.1.3: Sustainable Landscaping Practices

E-3 Conserving Natural Resources

- Policy E-3.2.3: Renewable Energy
- Policy E-3.2.7: Energy-Efficiency Building and Site Planning

#### E-4 Promoting Environmental Sustainability

- Policy E-4.1.1: Maximizing Permeable Surfaces
- Policy E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff
- Policy E-4.2.1: Support for Green Building

#### **B. Analysis of Potential Inconsistencies with the Comprehensive Plan**

Notwithstanding the numerous policies across the Comp Plan’s various elements that the proposed map amendment would advance, an analysis of potential inconsistencies with the Comp Plan is also necessary to demonstrate that the RA-2 zone “is not inconsistent with the Comprehensive Plan.” 11-X DCMR § 500.3. The D.C. Court of Appeals has held that it is not sufficient to merely identify the policies that would be advanced when evaluating a proposal for consistency with the Comp Plan. Rather, because of the overlap within and between the elements, the evaluation must also recognize where there may be potential inconsistencies.<sup>1</sup>

In the event there are inconsistencies, an explanation must be provided as to why the inconsistencies are outweighed by the advancement of other policies and considerations. A “roadmap” for evaluating a proposal’s consistency with the Comp Plan can be found in the D.C. Court of Appeals’ initial review of the McMillian PUD:

The Comprehensive Plan is a “broad framework intended to guide the future land use planning decisions for the District.” *Wisconsin-Newark Neighborhood Coal. v. District of Columbia Zoning Comm’n*, 33 A.3d 382, 394 (D.C. 2011) (internal quotation marks omitted). “[E]ven if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.” *Durant v. District of Columbia Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013). The Comprehensive Plan reflects numerous “occasionally competing policies and goals,” and, “[e]xcept where specifically provided, the Plan is not binding.” *Id.* at 1167, 1168 (internal quotation marks omitted). Thus “the Commission may balance competing priorities in determining whether a PUD is consistent with the Comprehensive Plan as a whole.” *D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm’n*, 73 A.3d 107, 126 (D.C. 2013). “[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission must recognize these policies and explain [why] they are outweighed by other, competing considerations.” *Friends of McMillan Park v. District of Columbia*

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<sup>1</sup> Since first being adopted by the D.C. Council, the Comprehensive Plan has always recognized that there is intentional overlap between its individual components (elements), and that it is intended to be a policy framework that is to be interpreted broadly and is intended to provide guidance to all executive and legislative decision making. In fact, the first Comprehensive Plan adopted in 1984 stated “[t]he primary dynamic of the District elements of the Plan are the overlapping of its elements’ goals. This overlapping is intentional.” (Section 102, District of Columbia Comprehensive Plan Act of 1984). The current Implementation Element reflects the same language: “[r]ecognize the overlapping nature of the Comprehensive Plan elements as they are interpreted and applied. An element may be tempered by one or more of the other elements.” 10-A DCMR § 2504.6.

*Zoning Comm'n*, 149 A.3d 1027, 1035 (D.C. 2016) (brackets and internal quotation marks omitted).

As discussed above, the FLUM designates the Property as Moderate Density Residential. The Applicant has specifically analyzed the proposed map amendment for potential inconsistencies with the Comp Plan. After a full review of the elements, the Applicant has found only a few areas of potential inconsistency. Those policies, their potential inconsistencies, and an explanation of how their potential inconsistencies are outweighed by the advancement of other policies and considerations are addressed.

**i. LU-2.1.5: Support Low Density Neighborhoods**

Policy LU-2.1.5 states, the Land Use Element should support and maintain the District's established low-density neighborhoods and related low-density zoning. 10-A DCMR § 310.12. However, the policy continues to state, in relevant part, the Land Use Element should carefully manage . . . alterations to existing structures to be compatible with the general design, character, and scale of the existing neighborhood and preserve civic and open space. *Id.*

While, at first glance, the proposed map amendment appears to be inconsistent with Policy LU-2.1.5 because the proposed map amendment would increase the Property's permitted density and align it more with moderate-density neighborhoods, such a conclusion is undermined by the policy's goal to carefully manage alterations to existing structures because the proposed map amendment would have the potential to alter an existing structure to accommodate additional dwelling units. Therefore, on balance, the proposed map amendment is not entirely inconsistent with Policy LU-2.1.5.

**ii. T-1.1.8: Minimize Off-Street Parking**

Policy T-1.1.8 of the Transportation Element states, "[a]n increase in vehicle parking has been shown to add vehicle trips to the transportation network. In light of this, excessive off-street vehicle parking should be discouraged." 10-A DCMR § 403.14. The proposed map amendment would increase the Property's permitted density. A subsequent increase in residential dwelling units has the capability of increasing off-street parking. However, such a potential increase in off-street parking and potential inconsistency is negated by the multiple other policies the proposed map amendment is aligned with. Additionally, any increase in off-street parking is solely hypothetical at this point in time, therefore the accuracy of any alleged inconsistency cannot be discerned. Thus, on balance, the proposed map amendment is not entirely inconsistent with Policy T-1.1.8.

**C. Health, Safety, and General Welfare**

The proposed map amendment will further the public health, safety, and general welfare of the District of Columbia. The requested rezoning to the RA-2 zone will allow the Property to be put to more productive use, thus contributing to the ongoing revitalization of the adjacent neighborhoods located near the Property. The map amendment will protect the health and safety of District residents by allowing for future redevelopment of the Property with a height and density that is not inconsistent with the Comp Plan, including the FLUM.

**D. No Adverse Consequences**

The proposed map amendment will not result in adverse consequences. Conversely, the requested rezoning will contribute to several positive and important benefits as it will facilitate the redevelopment of a significantly underutilized site located within a significant redevelopment portion of the District. Redevelopment will improve the Property's current condition, thereby enhancing the quality of the entire community and increasing revenue for the District. Further, the map amendment will not generate any negative external effects, but will instead promote the efficient use of high value land in a manner that will enhance the city's image. Moreover, the map amendment will facilitate progress towards achieving racial equity in the District, as it does not lend to predictable outcomes based on one's socioeconomic status.

**E. Proposed RA-2 Zone Would Create Favorable Conditions**

As described above, the proposed map amendment will bring the zoning of the Property into conformance with the Moderate Density Commercial FLUM designation of the Subject Property. The proposed map amendment will positively impact the surrounding Planning Area by supporting additional development, including neighborhood serving uses within a designated neighborhood commercial area. The requested rezoning will advance a number of policies embodied in the various elements of the Comp Plan. Overall, the rezoning will promote the efficient use of high value land in a manner that will, among other things, increase the city's commercial uses, and access to economic opportunity.

**VI. COMMUNITY OUTREACH AND ANC COORDINATION**

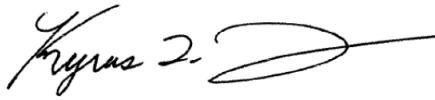
The Property lies within the boundaries of ANC 4B (4D as of 01/01/2023). The Applicant presented the Application at a duly noticed and scheduled ANC 4B public meeting on October 24, 2022. At the public meeting, ANC 4B voted to support the Application. More specifically, ANC 4B voted to support the Application because of the potential increase in senior affordable housing the Application could provide and because of the Berean Baptist Church's commitment to and engagement with the local community. The Applicant will provide an update of its community outreach to the Zoning Commission.

## VII. CONCLUSION

For all of the reasons stated herein, the Applicant submits that the proposed rezoning of the Property from RF-1 to RA-2 is not inconsistent with the Comp Plan and will further the objectives set forth in the Zoning Act. Accordingly, the Applicant respectfully requests that the Commission schedule a public hearing on this application and grant the requested Zoning Map amendment.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By:   
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