

**BEFORE THE DISTRICT OF COLUMBIA  
ZONING COMMISSION**

**APPLICATION FOR A ZONING MAP AMENDMENT  
FROM THE MU-3A ZONE DISTRICT TO THE  
MU-7A ZONE DISTRICT**

**\*\*\***

**SQUARE 2819, LOT 813  
4411 14<sup>th</sup> Street, NW**

**\*\*\***

**Mid-Atlantic Neighborhood Development Corporation**

**Applicant's Statement in Support**

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**March 15, 2022**

Respectfully submitted by:

**HOLLAND & KNIGHT LLP**  
800 17<sup>th</sup> Street, NW  
Washington, D.C. 20006  
(202) 955-3500  
Leila M. Jackson Batties, Esq.  
Christopher S. Cohen, Esq.  
*Counsel for the Applicant*

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<b>Exhibit</b>	<b>Description</b>
A	Plat of Property from the D.C. Surveyor's Office
B	Relevant portion of the 2016 Zoning Map showing existing zoning of the Property
C	Relevant portion of the 2016 Zoning Map showing proposed zoning of the Property
D	Relevant portion of the Comprehensive Plan Future Land Use Map
E	Relevant portion of the Comprehensive Plan Generalized Policy Map
F	Name and mailing address of the owner of the property to be rezoned
G	Form 100 – Zoning Commission Application Signature Form
H	Letter of Authorization from Alpha Kappa Alpha Sorority, Incorporated / Property Owner
I	Letter of Authorization from Mid-Atlantic Neighborhood Development Corporation / Applicant
J	Notice of Intent, Certificate of Notice, and List of Addresses of Owners of Property within 200 feet of the Subject Property
K	Letter in Support for Zoning Map Amendment from Advisory Neighborhood Commission 4C, dated February 9, 2022

## I. INTRODUCTION

On behalf of Mid-Atlantic Neighborhood Development Corporation (the “Applicant”), the designated representative of the Xi Omega Chapter of Alpha Kappa Alpha Sorority, the owner of the subject property, we hereby submit the Applicant’s Statement in Support (the “Statement”) for an amendment to the Zoning Map of the District of Columbia (the “Zoning Map”) pursuant to 11-X DCMR § 501.1 and 11-Z DCMR §§ 201.2(e) and 304 of the 2016 Zoning Regulations of the District of Columbia (the “Zoning Regulations”). Specifically, the Applicant is seeking to rezone property located at 4411 14th Street, NW, which is more particularly known as Lot 813 in Square 2819 (the “Property”), from the Mixed-Use (MU)-3A zone to the MU-7A (the “Application”). A building plat showing the lot to be rezoned is attached as Exhibit A.

As required pursuant to 11-X DCMR § 500.1, the requested Zoning Map amendment is not inconsistent with the Comprehensive Plan (“Comp Plan”) and with other adopted public policies and active programs related to the Property when analyzed through a racial equity lens. The requested rezoning is also consistent with the purposes of the Zoning Act, as it will create conditions that are favorable to public health, safety, welfare, and convenience. As discussed herein, the current MU-3A zoning of the Property permits significantly less development than is contemplated by the Property’s designation on the Comp Plan Future Land Use Map (“FLUM”), which is Mixed Use – Medium Density Residential / Moderate Density Commercial, and with applicable Comp Plan policies. The proposed Zoning Map amendment to MU-7A will bring the Property into greater consistency with the Comprehensive Plan, and enable future redevelopment of the site that substantially advances District planning objectives, particularly as related to housing.

As demonstrated below, the requested rezoning from the MU-3A to MU-7A zone will result in positive outcomes for the Subject Property and the city at-large. The proposed MU-7A zone is not inconsistent with the Comp Plan, as it will advance numerous goals of the Rock Creek East Area Element, particularly the Central 14<sup>th</sup> Street NW Policy Focus Area, other citywide elements, and the Central 14<sup>th</sup> Street Vision Plan and Revitalization Strategy – the applicable Small Area Plan (hereinafter referred to as the “14<sup>th</sup> Street Vision Plan”). The proposed rezoning will specifically achieve the following:

- Establish zoning on the Property that is not inconsistent with the Comp Plan, as required under the Home Rule Charter;
- Establish zoning on the Property that will allow moderate- to medium-density mixed use development as supported by the Property’s FLUM designation of Mixed Use -- Medium Density Residential / Moderate Density Commercial.
- Permit an increase in allowable residential density at the Property that is currently not permitted, and facilitate the future redevelopment of an underutilized site consistent with the Property’s GPM designation as a Neighborhood Conservation Area.

- Provide opportunities to redevelop the Property with new multifamily housing, where such housing is lacking and desired in the Rock Creek East Area.
- Advance the goals and objectives of the 14<sup>th</sup> Street Vision Plan, namely by enabling the development of a new, high-quality mixed-use building that will attract an influx of residents that can support ground-floor retail, thus strengthening Node Two of the Central 14<sup>th</sup> Street corridor as a viable, but balanced, neighborhood-serving commercial area.
- Facilitate progress towards achieving racial equity by advancing numerous Comp Plan policies geared towards fostering an inclusive city, and by providing new housing opportunities and access to other desirable neighborhood amenities to households that may not otherwise be able to afford to live in the 16<sup>th</sup> Street Heights neighborhood.

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

The property included in the application is located in the 16<sup>th</sup> Street Heights neighborhood at 4411 14th Street, NW, which is more particularly known as Lot 813 in Square 2819 (the “Property”). The Property consists of approximately 11,877 square feet of land area, and is generally bounded by 14th Street to the west, Arkansas Avenue to the east, and private property along 14<sup>th</sup> Street to the north and south. Square 2819 is also generally bounded by 14th Street and Arkansas Avenue to the east and west, respectively, Allison Street to the north, and Webster Street to the south; and is within the boundaries of Advisory Neighborhood Commission (“ANC” 4C).

The Property is presently improved with a one-story brick building known as the “Xi Omega Center” and an associated surface parking lot. According to District of Columbia records, the existing structure was originally constructed in or about 1941. Access to the Property is made available via curb cuts along 14<sup>th</sup> Street and Arkansas Avenue.

The Property abuts a one-story retail use to the north (grocery and delicatessen) and the four-story Prince Albert apartment building to the south. To the west, across 14th Street, are a block of row houses; and to the east, across Arkansas Avenue, is the Upshur Pool and park facilities and Dorothy Height Elementary School. The immediate neighborhood can be characterized as primarily residential with a mix of neighborhood-serving uses. Further north along 14th Street is a four-story apartment house, a filling station, and a religious use. The WMATA Northern Bus Garage and 14<sup>th</sup> Street neighborhood commercial node are located approximately 0.15 miles to the north of the Property.

The relevant portion of the 2016 Zoning Map depicting the existing MU-3A zoning for the Property and the surrounding area is attached hereto as Exhibit B. As shown by this map, the Property is located amongst a stretch of lots between the 14th Street/Arkansas Avenue intersection to the south and the 14th Street/Iowa Avenue intersection to the north that are in mixed-use and PDR zones. The lots within the same square as the Property are zoned MU-3A; and the lots to the north are zoned PDR-1, including the WMATA bus garage. The properties to the east and west of the Property are zoned RF-1.

As shown on the portion of the FLUM attached hereto as Exhibit D, the land use designation for the Property is Mixed Use -- Medium Density Residential / Moderate Density Commercial. A detailed discussion of the Property's FLUM designation is provided below in Section V.A.3.

As shown on the portion of the Comprehensive Plan Generalized Policy Map ("GPM") attached hereto as Exhibit E, the Property is located within a Neighborhood Conservation Area. According to the Framework Element, 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. Limited development and redevelopment opportunities do exist within these areas, and densities are guided by the FLUM and Comp Plan policies, particularly the applicable Area Element. 10A DCMR § 225.4. A detailed discussion of the Property's GPM designation is provided in Section V.A.4. below.

The Property is located within the boundary of the Central 14<sup>th</sup> Street Vision Plan and Revitalization Strategy, a small area plan adopted by the D.C. Council in July 2012 (the "Central 14<sup>th</sup> Street Plan"). A discussion of the proposed map amendment's consistency with the Central 14<sup>th</sup> Street Plan recommendations is provided in Section V.C. below.

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

The MU zones are designed to provide facilities for housing, shopping, and business needs, including residential, office, service, and employment centers. 11-G DCMR § 100.2. The purposes of the MU zones are to, among other things: (i) provide for a varied mix of residential, employment, retail, service, and other related uses at appropriate densities and scale throughout the city; (ii) reflect a variety of building types, including shop-front buildings that may include a vertical mixture of residential and non-residential uses, or buildings containing all residential or non-residential uses; and (iii) ensure that infill development is compatible with the development pattern within the zone and surrounding areas. 11-G DCMR § 100.3.

The discussion below details the specific purposes and distinctions between the existing and proposed zoning for the Property.

#### **A. EXISTING MU-3A ZONING**

As shown in Exhibit B, the Property is presently zoned MU-3A, which is described in the Zoning Regulations as permitting low-density mixed-use development intended to provide convenient retail and personal service establishments for the day-to-day needs of a local neighborhood, as well as residential and limited community facilities with a minimum impact upon surrounding residential development. 11-G DCMR § 400.2. The maximum permitted density in the MU-3A is 1.0 FAR (1.2 FAR w/ Inclusionary Zoning ("IZ")), of which up to 1.0 FAR may be devoted to non-residential uses. 11-G DCMR § 402.1. The maximum permitted height in the MU-3A zone, not including the penthouse, is 40 feet and 3 stories. 11-G DCMR § 403.1. The Comp Plan Framework Element describes the MU-3 zones as being consistent with the Low Density Commercial FLUM designation. 10A DCMR § 227.10.

**B. PROPOSED MU-7A ZONING**

Pursuant to 11-Z DCMR § 201.2(e), the Applicant requests a Zoning Map amendment to rezone the Property to the MU-7A Zone District. The MU-7 zones are specifically intended to permit medium-density mixed-use development and be located on arterial streets, in uptown and regional centers, and at rapid transit stops. 11-G DCMR § 400.6. The MU-7A zone was recently established by the Zoning Commission (“Commission”) pursuant to Z.C. Order No. 21-08, which created a series of housing-focused mixed-use zones, namely by limiting the maximum non-residential density to 1.0 FAR regardless of the maximum overall FAR. These new housing-focused zones, including the MU-7A zone, encourage more residential use in areas where housing is a priority, or where IZ Plus is applied. Accordingly, the maximum permitted density in the MU-7A zone is 4.0 FAR (4.8 FAR w/ IZ), of which no more than 1.0 FAR may be devoted to non-residential use. 11-G DCMR § 402.1. The MU-7A zone permits a maximum building height of 65 feet, not including penthouse, with no limit on the number of stories. 11-G DCMR § 403.1.

**C. COMPARISON OF DEVELOPMENT STANDARDS**

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

	<b>EXISTING ZONING: MU-3A</b>	<b>PROPOSED ZONING: MU-7A</b>
	<b>Allowed / Required as Matter-of-Right</b>	<b>Allowed / Required as Matter-of-Right</b>
<b>Height</b>	40 ft. and 3 stories	65 ft. (no limit on stories)
<b>Penthouse Height</b>	12 ft. and 1 story; except 15 ft. and second story permitted for penthouse mechanical space	12 ft. and 1 story; except 18 ft., 6 in. and second story permitted for penthouse mechanical space
<b>Density (FAR)</b>	1.0 (1.2 w/ IZ), 1.0 max. for non-residential use	4.0 (4.8 w/ IZ), 1.0 max. for non-residential use
<b>Lot Occupancy</b>	60% for residential use	75% for residential use; 80% for residential use w/ IZ
<b>Rear Yard</b>	20 ft. min.	2.5 inches per 1 ft. of height; 12 feet min.
<b>Side Yard</b>	None required, but if provided: 2 in. per 1 ft. of building height, but no less than 5 ft.	None required, but if provided: 2 in. per 1 ft. of building height, but no less than 5 ft.
<b>Green Area Ratio</b>	0.30	0.25

<b>Open Court (width)</b>	Residential, more than 3 units: 4 in./ft. of height of court; 10 ft. min.  Non-Residential and Lodging: 2.5 in./ft. of height of court; 6 ft. min.	Residential, more than 3 units: 4 in./ft. of height of court; 10 ft. min.  Non-Residential and Lodging: 2.5 in./ft. of height of court; 6 ft. min.
<b>Closed Court</b>	<u>Residential, more than 3 units</u> Width - 4 in./ft. of height of court; 15 ft. min. Area - 2x the square of the req'd width of court dimension; 350 sq. ft. min.  <u>Non-Residential and Lodging</u> Width - 2.5 in./ft. of height of court; 12 ft. min. Area - 2x the square of the req'd width of court dimension; 250 sq. ft. min.	<u>Residential, more than 3 units</u> Width - 4 in./ft. of height of court; 15 ft. min. Area - 2x the square of the req'd width of court dimension; 350 sq. ft. min.  <u>Non-Residential and Lodging</u> Width - 2.5 in./ft. of height of court; 12 ft. min. Area - 2x the square of the req'd width of court dimension; 250 sq. ft. min.
<b>Uses</b>	MU-Use Group D	MU-Use Group F

#### IV. STANDARDS APPLICABLE TO ZONING MAP AMENDMENT APPLICATION

The requested Zoning Map amendment is submitted as a contested case pursuant to 11-Z DCMR § 202.1(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 various criteria that must be applied by the Commission in adopting and amending the Zoning Regulations and Zoning Map. The Zoning Act states that the Zoning Regulations are designed to “promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital ....” The Zoning Act further provides that:

“[z]oning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.” D.C. Code § 6-641.02.

Furthermore, in all cases, the Commission shall find that the amendment is not inconsistent with the Comprehensive 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 set forth below, the proposed map amendment is not inconsistent with the Comprehensive 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), including the Generalized Policy Map (“GPM”) and Future Land Use Map (“FLUM”) (D.C. Resolution R24-0292), collectively referred to herein as the “Comp Plan”.<sup>1</sup>

#### **1. Overview and Application**

The Comp Plan guides the District’s development, both broadly and in detail, through maps and policies that address the physical development of the District. 10A DCMR § 103.2. The Comp Plan also addresses social and economic issues that affect and are linked to the physical development of the city and the well-being of its citizens. The Comp Plan provides the “big picture” of how change will be managed in the years ahead and, thus, is intended to be interpreted broadly. 10A 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 overall direction and shapes all other physical plans that the District government adopts. 10A 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 and are linked to the development of the city and its citizens. The Comp Plan allows the District to ensure that its resources are used wisely and efficiently and that public investment is focused in the areas where it is needed most. 10A DCMR § 100.13. Subsection 228.1(d) of the Comp Plan provides that the “zoning of any given area should be guided by the [FLUM], interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements, as well as approved Small Area Plans.”

Pursuant to the Home Rule Charter, zoning shall not be inconsistent with the Comp Plan. D.C. Code §6-641.02. As stated in the Framework Element, “[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 requirements of the zone districts. It is the responsibility of the [Commission] to consider and balance those policies relevant

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<sup>1</sup> D.C. Law L23-0217 took effect on August 27, 2020, and included amendments to the Comprehensive Plan Framework Element. D.C. Law L24-0020 took effect on August 21, 2021, and included amendments to the Comprehensive Plan general, citywide, area elements, and the Generalized Policy Map and Future Land Use Map. The Generalized Policy Map and Future Land Use Map were formally approved on November 16, 2021, pursuant to Resolution No. R24-0292.

and material to the individual case ... and clearly explain its decision-making rationale.” 10A DCMR § 224.8. Thus, 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 Comp Plan when read as a whole. 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).

## **2. 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.” 10A DCMR § 213.7. Indeed, the importance of equity to District residents was made abundantly clear when the DC Office of Planning (OP) conducted its DC Values survey in Spring 2019. In addition to equity, city 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. 10A DCMR §§ 107.17 – 107.22.

As stated in the Framework Element and as further discussed below, equity is both an outcome and a process. 10A 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, 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 states; 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.” 10A 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 states that “[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.” 10A 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. 10A DCMR § 213.7. The Applicant believes in inclusive, community engagement, and thus far has worked closely with the community through Advisory Neighborhood Commission (“ANC”) 4C, as evidenced by its letter of support attached hereto as Exhibit K. Consistent with the Comp Plan, the ANC’s letter of support conveys the priorities of the community (e.g., senior housing) and reflects the meaningful participation that is necessary to cultivate a more inclusive city.

*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” 10A DCMR 213.6. As stated above, under the recently adopted Comp Plan, the Commission shall carry out its Comp Plan evaluation for the Project 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 Rock Creek East (“RCE”) residents 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>Substantial increase in amount of housing permitted on Property.</li> <li>No increase in permitted amount of non-residential density on the Property, thus all density gained will be devoted to residential use.</li> <li>Increased IZ set aside through applicability of IZ+.</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>Density gained for residential use and expanded IZ set aside increases potential for RCE residents to remain in the neighborhood and senior residents to age in place.</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>Substantial increase in amount of housing permitted on Property.</li> <li>No increase in permitted amount of non-residential density on the</li> </ul>

		<p>Property, thus all density gained will be devoted to residential use.</p> <ul style="list-style-type: none"> <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>Substantial 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>0.5 miles to Metrorail.</li> <li>0.25 miles to priority bus corridors and other modes of public transportation.</li> </ul>	<ul style="list-style-type: none"> <li>Proximity to priority bus corridors.</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>Reconstruction of adjacent streetscape.</li> </ul>
<b>Employment</b>		
New Jobs		<ul style="list-style-type: none"> <li>Building maintenance / management jobs.</li> </ul>
Access to Jobs		<ul style="list-style-type: none"> <li>Resident proximity to public transit.</li> <li>Resident proximity to other employment opportunities at nearby retail, service, and neighborhood-serving uses.</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>Proximity to Upshur Recreation Center</li> <li>Proximity to Dorothy I. Height Elementary School.</li> <li>Proximity to Theodore Roosevelt High School.</li> <li>Proximity to Petworth Neighborhood Library.</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> </ul>
<b>Access to Amenities</b>	<ul style="list-style-type: none"> <li>Availability of building amenities.</li> </ul>	<ul style="list-style-type: none"> <li>High-quality resident amenities.</li> </ul>

	<ul style="list-style-type: none"> <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>· Proximity to nearby retail, service, and neighborhood-serving uses.</li> <li>· Proximity to parks, open space, recreation.</li> <li>· Proximity to Dorothy I. Height Elementary School.</li> <li>· Proximity to Theodore Roosevelt High School.</li> <li>· Proximity to Petworth Neighborhood Library.</li> </ul>
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### 3. Future Land Use Map

The FLUM shows the general character and distribution of recommended and planned uses across the city, and, along with the GPM, is intended to provide generalized guidance on whether areas are designated for conservation, enhancement, or change. 10A 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 heights that exceed those typical ranges stated in the land use category descriptions. 10A 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.” 10A 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. 10A DCMR § 2504.5.

As shown in Exhibit D, the FLUM designates the Property as **Mixed Use (Medium Density Residential / Moderate Density Commercial)**. According to the Framework Element, the Medium Density Residential designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation may also apply to taller residential buildings surrounded by large areas of permanent 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 IZ. The RA-3 Zone District, which permits a maximum 3.6 FAR w/ IZ, is consistent with the Medium Density Residential category, and other zones may apply. 10A DCMR § 227.7.

The Moderate Density Commercial FLUM category is used to define shopping and service areas that are somewhat greater in scale and intensity than the Low-Density Commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger

business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in Low Density Commercial areas. Density typically ranges between a 2.5 FAR and 4.0 FAR, with greater density possible when complying with IZ. The Framework Element describes the MU-5 and MU-7 zones as being consistent with the Moderate Density Commercial FLUM designation. 10A DCMR § 227.11. As stated above, the proposed MU-7A zone permits a maximum overall density of 4.8 FAR w/ IZ.

The preceding discussion focuses on the individual land use categories that comprise the Subject Property's Mixed Use FLUM designation. However, a "Mixed Use" designation on the FLUM is not intended to be interpreted according to its separate land use categories. Rather, "Mixed Use" on the FLUM is a specific land use category, and is primarily intended for larger areas where no single use predominates, or areas where a diverse mix of uses are envisioned. The Mixed Use designation indicates where the mixing of two or more land uses is especially encouraged, but should not be confused with the Mixed-Use (MU) zoning district, although they frequently apply to the same area or parcel of land. The Mixed Use Category generally applies in the following circumstances: (i) established, pedestrian-oriented commercial areas that also include substantial amounts of housing, typically on the upper stories of buildings with ground floor retail or office uses; (ii) commercial corridors or districts which may not contain substantial amounts of housing today, but where more housing is desired in the future. The pattern envisioned for such areas is typically one of pedestrian-oriented streets, with ground floor retail or office uses and upper story housing; (iii) large sites (generally greater than 10 acres in size), where opportunities for multiple uses exist, but a plan depicting the precise location of these uses has yet to be prepared; and (iv) development that includes residential uses, particularly affordable housing, and residentially compatible industrial uses, typically achieved ... in a zone district that allows such a mix of uses. 10A DCMR § 227.20. (Emphasis added.)

The Property is consistent with the locational characteristics of areas typically assigned a Mixed Use designation. It is located in a pedestrian-oriented commercial block between 14th Street and Arkansas Avenue that is primarily surrounded by residential uses. However, additional opportunities for development that provide new housing and affordable housing are possible. The Property is also well-positioned to provide opportunities for multiple uses, as the east side of 14th Street includes a mix of multifamily buildings and neighborhood-serving retail.

A variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities. 10A DCMR § 227.23. The Framework Element states that the general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other, the [FLUM] may note the dominant use by showing it at a slightly higher density than the other use in the mix. 10A DCMR § 227.21. In this case, the FLUM indicates a preference for the residential category, as it is assigned to medium density, whereas the commercial category is assigned to moderate density. Thus, the Applicant's request to rezone the Property to the MU-7A zone is consistent with the Property's Mixed Use FLUM designation since the MU-7A zone permits mixed-use development with an emphasis on residential use. Specifically, the MU-7A zone favors residential use over commercial use by allow an overall density of 4.8 FAR w/ IZ, while capping non-residential density at 1.0 FAR. *See* 11-G DCMR § 402.1. Furthermore, while the MU-7A zone is categorized as a mixed-use zone, the maximum overall density of 4.8 FAR is

consistent with the Framework Element individual descriptions of the Medium Density Residential and Moderate Density Commercial FLUM designations.

Moreover, the proposed rezoning to MU-7A enables a mix of residential and non-residential uses at appropriate densities, as directed by the Property's FLUM designation. Indeed, as mentioned above, the Framework Element expressly identifies the MU-7 zone district as being consistent with the "Moderate Density Commercial" FLUM designation. In contrast, the MU-3 the Framework Element considers the MU-3 zone to be appropriate for a "Low Density Commercial" designation. 10A DCMR § 227.10. Thus, although, the MU-3A zone does permit a mix of uses, development under existing zoning cannot utilize the Property's development potential as contemplated under the FLUM. The proposed MU-7A zone will bring the Property into greater conformance with the Comp Plan overall.

#### **4. 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. 10A 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. 10A DCMR § 225.2.

As shown in Exhibit E, the GPM designates the Property as a Neighborhood Conservation Area. The Comp Plan's Framework Element describes Neighborhood Conservation Areas as follows:

"Neighborhood Conservation areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. 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 over current (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. Neighborhood Conservation Areas that are designated "PDR" on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided." 10A 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. 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. Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. 10A DCMR § 225.5. 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. 10A DCMR § 225.8.

The proposed map amendment is not inconsistent with the Property's designation as a Neighborhood Conservation Area. As the Framework Element states, the Neighborhood Conservation Area designation is not intended to preclude development. Accordingly, the proposed MU-7A zone will support future redevelopment of the Property with a mixed-use building, inclusive of affordable housing in accordance with the set aside requirements of IZ+, that will address critical city-wide housing needs. Moreover, the proposed rezoning will expand opportunities to revitalize the Property in a manner that remains compatible with the moderate- to lower-scale uses surrounding the Property, thus being compatible with the existing neighborhood character. The proposed rezoning also has the potential to attract "complementary new uses and services that better serve the needs of existing and future residents" along and near this segment of the 14<sup>th</sup> Street corridor. Furthermore, any future redevelopment of the Property is likely to involve streetscape improvements that will enhance the pedestrian experience within the immediate block. As recommended for Neighborhood Conservation Areas, the Property presents an excellent opportunity for a change 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 MU-7A is not inconsistent with the GPM.

## **5. Rock Creek East - Area Element**

The Property is located within the Rock Creek East Area Element of the Comp Plan. *See* 10A DCMR § 2210.3, *et seq.* Rock Creek East is a sought-after residential community containing many low- and moderate-density neighborhoods, which are known for their park-like ambiance, sense of community, open spaces, and family atmosphere. Row house and semi-detached neighborhoods such as 16<sup>th</sup> Street Heights, in this case, have similar qualities. The major planning objective throughout the community is to conserve these traits as the housing stock matures and infill development occurs. 10A DCMR § 2200.2.

### *Evaluation*

The proposed map amendment advances the major planning objective of the RCE Area Element, particularly in area surrounding the Property along the 14<sup>th</sup> Street corridor. The proposed rezoning to MU-7A will provide new housing opportunities at a scale and density that is compatible with adjacent properties. (RCE-1.1.1 and RCE-1.1.2). The increase in overall density provided through the map amendment will also lead to the production of more affordable housing through compliance with IZ+ set aside requirements, which is consistent with several of RCE Area Element policies. (RCE-1.1.6.). As explained above, the MU-7A places an emphasis on housing by limiting non-residential uses to 1.0 FAR. However, this limitation on non-residential uses does not preclude certain ground-floor retail and other neighborhood-serving uses that align with specific policies under the RCE Area Element. (RCE-1.1.13 and 1.2.5). Thus, the MU-7A zone will serve to conserve and enhance a residential community, but enable other opportunities that are desired by the Area Element.

The proposed map amendment specifically advances the following Rock Creek East Area Element policies:

RCE-1.1 Guiding Growth and Neighborhood Conservation

- RCE-1.1.1: Strengthening Lower Density Neighborhoods
- RCE-1.1.2.: Design Compatibility
- RCE-1.1.3: Directing Growth
- RCE-1.1.4: Neighborhood Shopping Areas
- RCE-1.1.6: Development of New Housing
- RCE-1.1.13: Vibrant Local Shopping Streets
- RCE-1.1.14: Livability in Rock Creek East
- RCE-1.1.15: Sustainable Development

RCE-1.2 Conserving and Enhancing Community Resources

- RCE 1.2.5: Small and Local Businesses

**6. Central 14th Street NW Policy Focus Area**

The Comp Plan identifies eight areas in Rock Creek East as Policy Focus Areas, indicating that they require a level of direction and guidance above that given in the general policies applicable to the Area Element and in the Citywide Elements. 10A DCMR § 2210.1. The Property falls within the Central 14th Street NW Policy Focus Area (hereinafter the “Focus Area”). 10A DCMR § 2210.3. Importantly, many of the policies outlined under the Focus Area derive from the Central 14<sup>th</sup> Street Plan, which, as discussed above, is the small area plan applicable to the Property. The Central 14<sup>th</sup> Street Plan was adopted prior to the most recent update to the Comp Plan. As such, the policies under the Focus Area capture and/or reiterate many of the themes of the Central 14<sup>th</sup> Street Plan. As discussed below, the map amendment is not inconsistent with the policies of the Focus Area.

*Evaluation*

The proposed rezoning to MU-7A will enable redevelopment that will revitalize the Property and the surrounding area along the 14<sup>th</sup> Street corridor. The MU-7A zone will permit the construction of a new, high-quality mixed-use building, providing the surrounding neighborhood with new residential units, including affordable units, with potential ground-floor retail. Such redevelopment will facilitate improvements to the streetscape and provide opportunities for local businesses to serve existing and new residents. (RCE-2.7.2 and RCE-2.7.4). Indeed, the Comp Plan encourages this type of mixed-use redevelopment along this segment of 14<sup>th</sup> Street between Webster and Decatur Streets NW. (RCE-2.7.A.)

The map amendment is not inconsistent with the specific policies of the Focus Area that are listed below:

- RCE 2.7.1: Central 14<sup>th</sup> Street NW Nodal Development

- Intermediary Node Two (Webster to Decatur Streets NW) can become a neighborhood-serving retail area with potential for additional uses in conjunction with the reconstruction of the existing bus barn.
- RCE-2.7.2: Public Realm
- RCE-2.7.4: Small Business Opportunities
- RCE-2.7.A: Land Use Change

## **7. 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 compatibility issues. The element describes the range of considerations involved in accommodating an array of land uses within Washington, D.C. 10A 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;
- 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.

[10A 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 District Elements. 10A 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 that “because the Land Use Element integrates the policies of all other District Elements, it should be given greater weight than the other elements.” 10A DCMR § 2504.6.

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

- Meet long-term neighborhood, District-wide, and regional needs;
- To address past and current inequalities disproportionately impacting communities of color;
- Sustain, restore, and improve the affordability and equity of all neighborhoods;
- Provide for additional housing and employment opportunities; and
- Effectively balance the competing demands for land.

[10A DCMR § 302.1.]

## *Evaluation*

The map amendment will help achieve the above-described goals through its consistency with several Land Use Element policies. The proposed rezoning to MU-7A will facilitate redevelopment of an underutilized parcel with a mix of uses at a Property site that is well-positioned to enhance the character of the block and the viability of the 14<sup>th</sup> Street Corridor. Perhaps the most compelling aspect of the proposed MU-7A zone is that it 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) The Property's existing MU-3A zoning only permits a residential density of up to 1.2 FAR w/ IZ. In contrast, and in greater consistency with the FLUM, the proposed MU-7A zone permits a residential density of up to 4.8 FAR w/ IZ. The Comp Plan, and particularly the Land Use Element, contain numerous policies that advocate for the cultivation of mixed-income neighborhoods and increasing the housing supply, and particularly affordable housing. The proposed map amendment to MU-7A advances these important goals, but balances parallel District goals to protect neighborhood character and ensure compatibility of residential use. (LU-2.1.3, LU-2.1.7, and LU-2.1.8).

While the proposed rezoning does not provide for an increase in non-residential density, the proposed map amendment remains consistent with several Land Use Element policies. If the Property is rezoned to MU-7A, the Property could be redeveloped with a new mixed-use building that contains neighborhood-serving retail at the ground floor that could cultivate a pedestrian-oriented node of commercial activity along this area of the 14<sup>th</sup> Street corridor. (LU-2.4.5). Thus, the proposed map amendment will also increase access to important retail and service uses for existing and future residents of the surrounding neighborhood.

In light of the foregoing evaluation, the Applicant finds that the proposed rezoning to MU-7A is not inconsistent with the Land Use Element overall, as it will provide for new housing and affordable housing opportunities at the Property while simultaneously advancing other important District objectives. The proposed map amendment advances the specific Land Use Element policies listed below:

### LU-1.5 Neighborhood Infill Development

- LU-1.5.1: Infill Development

### LU-2.1 A District of Neighborhoods

- LU-2.1.1: Variety of Neighborhood Types
- LU-2.1.2: Neighborhood Revitalization
- LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods
- LU-2.1.5: Support Low-Density Neighborhoods
- LU-2.1.7: Row House Neighborhood Character
- LU-2.1.8: Explore Approaches to Additional Density in Low- and Moderate-Density Neighborhoods

### LU-2.3 Residential Land Use Compatibility

- LU-2.3.1: Managing Non-Residential Uses in Residential Areas
- LU-2.3.2: Mitigation of Commercial Development Impacts
- LU-2.3.4: Transitional and Buffer Zone Districts

### LU-2.4 Neighborhood Commercial Districts and Centers

- LU 2.4.5: Encouraging Nodal Development
- LU-2.4.12 Commercial Uses Outside Designated Centers

## **8. Housing Element**

The Housing Element describes the importance of housing to neighborhood quality in the District, and the importance of providing housing opportunities for all segments of the population throughout the city. 10A 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. 10A 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. 10A 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. 10A DCMR § 502.5.

### *Evaluation*

The proposed map amendment will help meet the housing needs of present and future District residents at a location that is consistent with District land use and housing policies and objectives. The map amendment will provide for a substantial increase in permitted density for residential use, thereby expanding the District's housing and affordable housing supply. This is entirely consistent with the District's housing and affordable housing goals set forth in the 2019 Housing Equity Report. (H-1.1.1, H-1.1.3, H-1.2.1, H-1.2.2, H-1.2.3, H-1.2.5). The Housing Equity Report sets an affordable housing goal of 1,500 units in the Rock Creek East area. The proposed map amendment will enable the redevelopment of the Property with a mixed-use building that contains affordable housing, thus helping the District to achieve this benchmark.

The map amendment also will enable the Applicant, which is a non-profit entity, to lead a future redevelopment of the Property with a high-quality project that consists of new housing and affordable housing. This is consistent with the specific policy under the Housing Element that contemplates collaboration with the nonprofit sector to expand the District's affordable housing (H-1.2.6). Future multifamily housing at the Property might also be devoted to seniors, thus providing more housing choices for the elderly and/or physically disabled population, thus creating

opportunities for these particular populations to remain in their preferred neighborhood, continue to maintain connections with fellow residents and neighbors, and reduce their home maintenance costs and obligations. (H-4.3.2, H-4.3.3, H-4.3.4).

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

#### H-1.1 Expanding Housing Supply

- Policy H-1.1.1: Private Sector Support
- Policy H-1.1.3: Balanced Growth
- Policy H-1.1.5: Housing Quality
- Policy H-1.1.9: Housing for Families

#### H-1.2 Ensuring Housing Affordability

- Policy H-1.2.1: Low- and Moderate-Income Housing Production as a Civic Priority
- Policy H-1.2.2: Production Targets
- Policy H-1.2.3: Affordable and Mixed-Income Housing
- Policy H-1.2.5: Moderate-Income Housing
- Policy H-1.2.6: Build Nonprofit Sector Capacity

#### H-1.3 Diversity of Housing Types

- Policy H-1.3.1: Housing for Larger Households

#### H-4.3 Meeting the Needs of Specific Groups

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

### **9. 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. 10A DCMR § 400.1.

The overarching goal for transportation is the District is to “[c]reate as 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.” 10A DCMR § 401.1.

#### *Evaluation*

The proposed Zoning Map amendment advances the overarching goal of the Transportation Element by enabling a new mixed-use development at the Property that is likely to involve

streetscape improvements and increase access to neighborhood-serving retail. The proposed rezoning would support redevelopment along the 14<sup>th</sup> Street corridor with new housing above pedestrian-oriented commercial uses and an improved pedestrian network. (T-2.4.1, T.4.2).

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

#### T-1.2 Transforming Corridors

- Policy T-1.2.1: Major Thoroughfare Improvements
- Policy T-1.2.3: Discouraging Auto-Oriented Uses

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

- Policy T-2.4.1: Pedestrian Network
- Policy T-2.4.2: Pedestrian Safety

### **10. Environmental Protection Element**

The Environmental Protection Element addresses the protection, conservation, and management of Washington, DC's '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. 10A 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. 10A DCMR § 601.1.

#### *Evaluation*

In accordance with the overarching goal for the Environmental Protection Element, future redevelopment of the Property enabled by the Zoning Map amendment will incorporate energy efficient systems to reduce energy use and potentially provide alternative energy sources to contribute to the District's energy efficiency goals. Redevelopment of the Property also could potentially trigger new landscaping and environmentally-friendly enhancements to the abutting streetscape. Moreover, any future development will be required to comply with the D.C. Green Building Act and the District's storm water management regulations.

Accordingly, the Zoning Map amendment is not inconsistent with the Sustainability 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 Zoning Map amendment would advance, an analysis of potential inconsistencies with the Comp Plan is also necessary to demonstrate that the MU-7A Zone “is not inconsistent with the Comprehensive Plan[.]” 11-X DCMR § 500.3. As established by DCCA, it is not sufficient to simply 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>2</sup>

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

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<sup>2</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 provide guidance to all executive and legislative decision making. Indeed, 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.” 10A DCMR § 2504.6.

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 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 Mixed Use (Medium Density Residential / Moderate Density Commercial). The Applicant has specifically analyzed the proposed zoning 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 are addressed below:

- *Policy LU-2.1.4: Rehabilitation Before Demolition*  
*In redeveloping areas characterized by vacant, abandoned, and underused older buildings, generally encourage rehabilitation and adaptive reuse of architecturally or historically significant buildings rather than demolition.* [10A DCMR § 310.11]

The Zoning Map amendment could be viewed as being inconsistent with this policy, as it would facilitate the complete redevelopment of an underutilized site that is improved with an older building that could potentially be refurbished. In accordance with this policy the city may desire, in some instances, the rehabilitation of the existing improvements. However, the policies discussed above, particularly those under the Land Use Element and the Housing Element, far outweigh any desire to maintain the Property in its current underutilized state. Furthermore, there are no improvements on the Property that are designated as historic landmarks, nor is the Property located within an historic district. Thus, full redevelopment of the Property that may result from the proposed map amendment would not impact a site of historical significance. For these reasons, the proposed map amendment, on balance, is not inconsistent with the Comp Plan.

- *Policy LU-2.1.6: Row House Neighborhood Character*  
*Respect the character of row house neighborhoods by ensuring that infill development is compatible with existing design patterns and maintains or expands the number of family-sized units. Upward and outward extension of row houses that compromise their design should be discouraged.* [10A DCMR § 310.14]

The Property is situated among a moderate-density area and confronts three-story row houses directly across 14<sup>th</sup> Street, which has a width of approximately 110 feet. While the proposed rezoning could potentially be viewed as being inconsistent with this policy, on balance, the Zoning

Map amendment does not undermine or compromise the surrounding neighborhood character. The Property is not necessarily embedded or nestled within the existing row house neighborhood, rather, it is situated on a block that is more appropriate for a moderate- to medium-density mixed-use development along the 14<sup>th</sup> Street corridor. Indeed, the immediate development pattern along the east side of 14th Street is quite varied with respect to densities and uses. A potential redevelopment of the Property under MU-7A parameters – which would provide additional housing compared to existing zoning– would fit this pattern and remain compatible with nearby row houses. Moreover, certain policies under the Land Use Element outweigh any inconsistency with this policy. For example, Policy LU-2.1.8 advocates for “explor[ing] approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types in low-density and moderate-density neighborhoods where it would result in the appropriate production of additional housing and particularly affordable housing.” Accordingly, the Zoning Map Amendment, on balance, is not inconsistent with the Comp Plan.

### C. CENTRAL 14<sup>TH</sup> STREET VISION PLAN AND REVITALIZATION STRATEGY

The Comp Plan requires zoning to be “interpreted in conjunction with . . . approved Small Area Plans pertaining to the area proposed for rezoning.” 10A DCMR § 2504.5 (*See* Policy IM-1.3.3, titled “Consultation of Comprehensive Plan in Zoning Decisions”). The Comp Plan also states that small area policies appear in “separately bound Small Area Plans for particular neighborhoods and business districts.” 10A DCMR § 104.2. As specified in the city’s municipal code, Small Area Plans provide supplemental guidance to the Zoning Commission and other District agencies in carrying out the policies of the Comp Plan. *See* D.C. Code § 1-306.03(c)(4).

The Property is located within the boundaries of the Central 14<sup>th</sup> Street Plan, the applicable Small Area Plan that was approved by the D.C. Council pursuant to the Central 14th Street Corridor Small Area Action Plan Approval Resolution of 2012 (P.R. 19-689). The two most recent amendments to the Comp Plan, in 2013 and in 2020, integrated many of the themes and policies outlined in the Central 14<sup>th</sup> Street Plan. *Supra*, Section V.A.6. Nevertheless, a discussion of some of the goals expressed in the Central 14<sup>th</sup> Street Plan, particularly those most applicable to the Property, is provided within the context of the proposed map amendment.

The 14<sup>th</sup> Street Corridor has a history of being a family oriented and neighborhood-serving retail area in the District. *See* Central 14<sup>th</sup> Street Plan, pg. 2. The Central 14<sup>th</sup> Street Plan evaluates three distinct nodes along the corridor, with the Property being located within Node Two, which generally extends from Webster Street north to Decatur Street. Node Two is described as “a major anchor institution with a large daytime population that supports businesses[.]” *Id.* at pg. 4. Predominantly characterized by one-story commercial storefronts and the WMATA Northern Bus Barn / Garage, Node Two has great potential as a future neighborhood hub on 14<sup>th</sup> Street. *Id.* at pg. 31. According to the Central 14<sup>th</sup> Street Plan, “[w]ide sidewalks, attractive streetscape, an active business community, and the catalytic [WMATA] Bus Barn site will help this node realize its economic potential.” *Id.* at pg. 31.

The overarching development goal for Node Two is to: “[p]ursue land use change and infill development that is designed with contextual sensitivity and attract a medium-scale grocery store anchor to support existing businesses and spur increased foot traffic.” *Id.* at pg. 32. The Central

14<sup>th</sup> Street Plan indicates that potential development in Node Two could include ± 130 units and approximately 2,500 – 5,000 square feet of retail. *Id.*

Although there are no development recommendations provided in the Central 14<sup>th</sup> Street Plan that are specific to the Property, the proposed map amendment aligns with the goals for Node Two. For example, the Central 14<sup>th</sup> Street Plan notes that “[i]ncreasing residential density [in Node Two] will help buoy current businesses and attract more diverse retailers to the node.” *Id.* Coupled with this objective is the idea that “Central 14<sup>th</sup> Street should attract retail that is outside of typical chain establishments, and is just a short walk or bike away.” *Id.* at pg. 33. The proposed rezoning to MU-7A is consistent with these goals, as it will provide for a desirable increase in residential density given the Property’s location.

Accordingly, the Zoning Map amendment to MU-7A is consistent with the overarching policies in the Central 14<sup>th</sup> Street Plan, and advances the specific goals related to Node Two along the central 14<sup>th</sup> Street corridor.

#### **D. HEALTH, SAFETY, AND GENERAL WELFARE**

The proposed Zoning Map amendment will further the public health, safety, and general welfare of the District of Columbia. The requested rezoning to the MU-7A zone will allow the Property to be put to more productive use, because it can accommodate greater residential density at the Property and the potential construction of a mixed-use building. Further, by permitting greater residential density and limiting non-residential density the proposed rezoning can facilitate redevelopment that will attract an influx of residents to support neighborhood retail, thus advancing the objectives of the Central 14<sup>th</sup> Street Plan. The Zoning 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 and GPM, and advances the goals outlined in the Central 14<sup>th</sup> Street Plan pertaining to Node Two, without causing adverse impacts on adjacent properties. The Zoning Map amendment will also promote the general welfare by enabling the provision of a substantial amount of new housing that would not otherwise be permitted on the Property under existing zoning.

#### **E. NO ADVERSE CONSEQUENCES**

The Zoning Map amendment will not result in adverse consequences. Conversely, the requested rezoning will result in positive outcomes and bring several important improvements to the neighborhood surrounding the Property and the District as a whole. The proposed map amendment to the MU-7A zone will facilitate the redevelopment of an underutilized site that has the potential to enliven this segment of the 14<sup>th</sup> Street corridor. Such redevelopment is desirable in this case as this would improve the Property’s current condition, thereby enhancing the quality of the entire community. The Zoning Map amendment will not generate any negative external effects, but will instead promote the efficient use land in a manner that will enhance the city’s image and increase the city’s affordable housing supply. Moreover, the Zoning 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.

## **F. PROPOSED MU-7A ZONE WOULD CREATE FAVORABLE CONDITIONS**

As described above, the Zoning Map amendment will bring the zoning of the Property into greater conformance with the FLUM, and the Comp Plan overall. The proposed rezoning will allow for an increase in residential density and height that is appropriate for the Property given its location along the 14<sup>th</sup> Street corridor, which includes a mix of residential and non-residential uses, including neighborhood-serving retail. The requested rezoning will advance a number of policies embodied in the various elements of the Comp Plan, and will further the recommendations of the 14<sup>th</sup> Street Vision Plan. Further, the Zoning Map amendment will foster a more inclusive city, and expand opportunities for persons of all socioeconomic levels. Overall, the rezoning will promote the efficient use of land in a manner that will, among other things, increase the city's housing and affordable housing stock and attract additional neighborhood-serving uses to this segment of the 14<sup>th</sup> Street corridor.

## **VI. COMMUNITY OUTREACH AND ANC COORDINATION**

The Property lies within the boundaries of ANC 4C. As discussed above in Section V.2.a, the Applicant has worked closely with the ANC regarding the subject request to rezone the Property to the MU-7A zone. At its duly noticed public meeting on February 9, 2022, ANC 4C voted in unanimous support of the proposed map amendment. A copy of the ANC's letter in support for the requested Zoning Map amendment is attached hereto as Exhibit K (the "ANC Report"). In the report ANC 4C acknowledged, among other things, that "[r]ezoning the Property to a higher zone district (MU-7A)" would enable future redevelopment of the Property that would fulfill multiple elements of the Comp Plan. *See Ex. K* at pg. 2.

## **VII. CONCLUSION**

For all of the reasons stated herein, the Applicant submits that the proposed rezoning of the Property from the MU-3A to the MU-7A zone meets all of the requirements for an amendment to the official Zoning Map of the District of Columbia. The proposed Zoning Map amendment is consistent with the District's plans and policies for the Subject Property and the surrounding area. Furthermore, the proposed rezoning is not inconsistent with the Comp Plan and will further each of the specific 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.