

**BEFORE THE DISTRICT OF COLUMBIA  
ZONING COMMISSION**

**STATEMENT IN SUPPORT OF  
AN APPLICATION FOR A ZONING MAP AMENDMENT  
FROM THE MU-3A ZONE DISTRICT TO THE  
MU-7B ZONE DISTRICT**

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**SQUARE 3786, LOT 0001  
4950 South Dakota Avenue, NE**

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**MCDONALD'S CORPORATION**

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**April 26, 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	Certificate of Occupancy B68093
C	Relevant portion of the Comprehensive Plan Future Land Use Map
D	Relevant portion of the Comprehensive Plan Generalized Policy Map
E	Relevant portion of the 2016 Zoning Map showing existing and the proposed zoning of the Subject Property
F	Names and mailing addresses of the owners of the property to be rezoned
G	Form 100 – Zoning Commission Application Signature Form
H	Letters of Authorization
I	Certificate of Proficiency
J	Notice of Intent, Certificate of Notice, and List of Addresses of Owners of Property within 200 feet of the Subject Property

## **I. INTRODUCTION**

The McDonald's Corporation (the "Applicant")<sup>1</sup> 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) and 304 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 4950 South Dakota Avenue, NE, and more particularly known as Lot 1, in Square 3786 (the "Subject Property"), from Mixed-Use ("MU")-3A to MU-7B (the "Application"). A building plat showing the lot be rezoned is attached as Exhibit A.

As required pursuant to 11-X DCMR § 500.1, the proposed Zoning Map amendment is not inconsistent with the Comprehensive Plan (the "Comp Plan"), including the Subject 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 Upper Northeast Planning Area. The proposed map amendment 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 Subject Property is located at the southwest corner of the intersection of South Dakota Avenue, NE, and Delafield Street, NE, and consists of approximately 21,000 square feet of land area. It is improved with a 3,100 square foot eating and drinking establishment that was constructed in 1968. *See* Certificate of Occupancy B68093 attached as Exhibit B.

The Subject Property is within the boundaries of Advisory Neighborhood Commission ("ANC") 5A-03. There is a mix of residential and non-residential uses in the immediate area surrounding the Subject Property. North on South Dakota Avenue are detached single family homes. Across the street, on the east side of South Dakota Avenue are a convenience store and gas station. Adjacent to the Subject Property to the south is a small commercial strip center. To the west, to the rear of the Subject Property, is a residential area with detached single family homes.

As shown of the portion of the FLUM attached hereto as Exhibit C, the land use designation for the Subject Property is Moderate Density Commercial. A detailed discussion of the Subject Property's FLUM designation is offered below. As shown on the portion of the Comp Plan Generalized Policy Map ("GPM") attached hereto as Exhibit D, the Property is located within a Neighborhood Commercial Center. According to the Framework Element, Neighborhood

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<sup>1</sup> The D.C. records show the Property as being owned by Golden Arch Realty Corporation. Golden Arch Realty Corporation no longer exists and was merged into McDonald's Corporation pursuant to that certain Merger Certification filed with the Secretary of State for the State of Delaware on September 29, 1997, and identified as file number 619321 by the State of Delaware Division of Corporations.

Commercial Centers meet the day-to-day needs of residents and workers in the adjacent neighborhoods.

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

The Applicant proposes to rezone the Subject Property from MU-3A to MU-7B. 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 D, the Subject Property is zoned MU-3A, which is described in the Zoning Regulations as a low density commercial zone. The MU-3A zone is intended to permit low-density mixed-use development and is 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, and 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. 10-A DCMR § 227.10.

The Subject Property’s current zoning is inconsistent with the Comp Plan, particularly because the MU-3A Zone is intended to act as a low density commercial zone and the FLUM designates the Subject Property as Moderate Density Commercial. *See* 11-G DCMR § 400.2 and 10-A DCMR § 225.9.

#### **B. Proposed MU-7B Zoning**

Pursuant to 11-Z DCMR § 201.2(e), the Applicant requests a Zoning Map amendment to rezone the Property to the MU-7B zoning 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 maximum permitted density

in the MU-7B is 4.0 FAR, and 4.8 FAR w/ IZ, of which up to 2.5 FAR may be devoted to non-residential uses. 11-G DCMR § 402.1. The maximum permitted height in the MU-7B zone, not including the penthouse, is 65 feet. 11-G DCMR § 403.1. The Comp Plan Framework Element describes the MU-7 zones as being consistent with the Moderate Density Commercial FLUM designation. 10-A DCMR § 227.11.

### C. Comparison of Development Standards

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

	EXISTING ZONING: MU-3A	PROPOSED ZONING: MU-7B
	Allowed / Required as Matter-of-Right	Allowed / Required as Matter-of-Right
<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), 2.5 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>	<u>Residential, more than 3 units</u> 4 in./ft. of height of court; 10 ft. min.  <u>Non-Residential and Lodging</u> 2.5 in./ft. of height of court; 6 ft. min.	<u>Residential, more than 3 units</u> 4 in./ft. of height of court; 10 ft. min.  <u>Non-Residential and Lodging</u> 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.	<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.	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 APPLICATION FOR ZONING MAP AMENDMENT**

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 a number of criteria that must be applied by the Zoning Commission in 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 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 discussed below, the proposed Zoning 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 FLUM and the GPM (D.C. Resolution R24-0292), collectively referred to herein as the “Comp Plan”.<sup>2</sup>

#### **i. 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. 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 most needed. 10-A DCMR § 100.13. Subsection 228.1(d) of 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."

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, "[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 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

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<sup>2</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.



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 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. 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, 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 5A.

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 Upper Northeast 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	· Displacement due to redevelopment.	· No physical displacement of residents.
Economic	· Displacement due to housing cost increases.	· Increase in permitted amount of non-residential density that can increase economic opportunity in the Planning Area. ·
Cultural	· Loss of sense of belonging or shared identity in neighborhood.	· Density gained increased commercial density provides an opportunity for residents to have a place to meet and gather.
<b>Housing</b>	· Number of new market rate and dedicated affordable units (per 2019 Housing Equity Report).	· Increase in amount of housing permitted on Property. · Increased IZ set aside through applicability of IZ+.
Housing Burden	· Households that pay more than 30% of income (burdened), or 50% of income (severely burdened) on housing.	· 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).

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>· .49 mile walk to Fort Totten metro station.</li> <li>· South Dakota Avenue and Delafield Street bus stop is located in front of the Subject 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>		
New Jobs		<ul style="list-style-type: none"> <li>· Increased commercial density can result in an increased number of jobs.</li> </ul>
Access to Jobs		<ul style="list-style-type: none"> <li>· Subject Property is in close proximity to transit centers.</li> <li>· Subject Property is in close proximity to residential 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 North Michigan Park Center</li> <li>· Proximity to Boys Town Washington DC</li> <li>· Proximity to St. Anselm's Abbey School</li> <li>· Proximity to Lamond-Riggs 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> <li>· Improved roadway circulation on the Subject 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 commercial uses, therefore granting residents more access to day-to-day needs.</li> <li>· Proximity to nearby retail, service, and neighborhood-servicing uses.</li> <li>· Proximity to parks, open space, recreation.</li> <li>· Proximity to North Michigan Park Center</li> </ul>

		<ul style="list-style-type: none"> <li>· Proximity to Boys Town Washington DC</li> <li>· Proximity to St. Anselm's Abbey School</li> <li>· Proximity to Lamond-Riggs Library</li> </ul>
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### iii. **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. 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 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.

As shown in Exhibit C, the FLUM designates the Subject Property as Moderate Density Commercial. According to the Framework Element, the Moderate Density Commercial designation 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 in Moderate Density Commercial areas. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger businesses districts uses that draw from a broader market area. The Framework Element states that the MU-5 and MU-7 zone districts are representative of zone districts consistent with the Moderate Density Commercial category. *See* 10-A DCMR § 227.12 (emphasis added).

The Moderate Density Commercial FLUM category describes shopping and service areas that are somewhat greater in scale and intensity than the Low-Density Commercial areas and states retail, office, and service businesses are the predominate uses. Density typically ranges from 2.5

to 4.0 FAR, although greater density may be possible when incorporating Inclusionary Zoning. The MU-7B zoning district, which permits a maximum of 4.0 FAR (4.8 with IZ), is consistent with the Moderate Density Commercial category. 10-A DCMR § 227.11.

#### **iv. Generalized Policy Map**

The GPM highlights areas where more detailed policies are necessary, both within the Comp Plan and in follow-up plans, to most effectively chart the District's envisioned growth. 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.D

As shown in Exhibit C, the GPM designates the Property as a Neighborhood Commercial Center. The Comp Plan's Framework Element describes Neighborhood Commercial Centers as:

"Neighborhood Commercial Centers meet the day-to-day needs of residents and workers in adjacent neighborhoods. The area served by a Neighborhood Commercial Center is usually less than one mile. Typical uses include convenience stores, sundries, small food markets, supermarkets, branch banks, restaurants, and basic services such as dry cleaners, hair cutting, and childcare. Office space for small businesses, such as local real estate and insurance offices, doctors and dentists, and similar uses, also may be found in such locations. Many buildings have upper-story residential uses." 10-A DCMR § 225.15.

The guiding philosophy of the Neighborhood Commercial Center is to ensure new development and that redevelopment is managed to conserve the economic viability of the area while allowing additional development, including residential, that complements existing uses. Neighborhood Commercial Centers include auto-oriented centers and pedestrian-oriented shopping areas. According to the Framework Element, examples of Neighborhood Commercial Centers include Penn Branch Shopping Center on Pennsylvania Avenue, S.E. and the Spring Valley Shopping Center on Massachusetts Avenue, N.W. 10-A DCMR § 225.16.

The proposed map amendment is not inconsistent with the Subject Property's designation as a Neighborhood Commercial Center. As the Framework Element states, the Neighborhood Commercial Center designation is intended to allow additional development that complements existing uses. Accordingly, the proposed MU-7B zone will allow additional development on the Subject Property that can complement the existing commercial uses across South Dakota Avenue NE. Additionally, the proposed MU-7B zone will support additional neighborhood-serving commercial uses that can meet the day-to-day needs of nearby residents and workers by providing an enhanced commercial development. Moreover, the proposed map amendment will conserve the economic viability of the area by permitting additional commercial uses and by increasing the Subject Property's development potential. The additional commercial uses and increased

development potential will result in a more economically active use than that which already exists on the Subject Property.

**v. Upper Northeast Area Element**

The Subject Property is located within the Upper Northeast Area Element ("UNE") of the Comp Plan. *See* 10-A DCMR § 2400.1. The Upper Northeast is comprised of approximately 8.7 square miles and includes roughly two-thirds of the District's northeast quadrant. *Id.* The Northeast is principally known as a residential community with a spattering of row house neighborhoods and higher-density housing communities. *See* 10-A DCMR § 2400.2. The Comp Plan states, the greatest future challenge for the Upper Northeast Area will be to respond to change in a way that keeps the Upper Northeast a socially, culturally, and economically diverse community. 10-A DCMR § 2400.9.

The proposed map amendment advances a number of major planning objectives of the Upper Northeast Area Element. The proposed rezoning to MU-7B, which permits up to a 4.0 FAR (4.8 FAR with IZ), will provide enhanced commercial opportunities and increased development potential, furthering strategic development and economic vitality within the surrounding area. (UNE-1.1.1 and UNE-1.1.6). The proposed map amendment will also lead to a more connected neighborhood while simultaneously supporting the adjacent commercial uses. (UNE-1.1.6 and UNE-1.1.8). The subsequent economic opportunities resulting from the proposed map amendment will improve linkages between residents and jobs with the Upper Northeast Planning Area. (UNE-1.2.4 and UNE-1.2.5). Therefore, the proposed map amendment has the capability to serve the economic needs of the Upper Northeast Area while also furthering 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 Upper Northeast Area Element discussed below:

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

- UNE-1.1.1: Neighborhood Conservation
- UNE-1.1.6: Neighborhood Shopping
- UNE-1.1.8: Untapped Economic Development Potential

**UNE-1.2 Conserving and Enhancing Community Resources**

- UNE-1.2.4: Linking Residents to Jobs
- UNE-1.2.5: Increasing Economic Opportunity

**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 Washington, D.C. 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;
- 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 District 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 MU-7B will facilitate the redevelopment of an underperforming lot and will permit the development of a larger commercial structure due to the enhanced development standards. As stated in the Land Use Element, commercial uses are an essential part of the District's neighborhoods because commercial centers in neighborhoods provide amenities to residents, help to define public life, and provide community anchors and places for social interaction. 10-A DCMR §§ 313.1, 313.2. The proposed map amendment has the potential to result in an enhanced commercial use for the surrounding neighborhood. The Land Use Element states, "improving access to neighborhood commercial centers for pedestrians, transit riders, bicyclists, and drivers is an important factor for vibrant retail operations." 10-A DCMR § 313.5. As stated above, the Subject Property is closely situated to the Fort Totten metro station and is adjacent to a bus stop, therefore, transit riders will have easy access

to any future commercial development on the Subject Property. In brief, the proposed map amendment will enhance the commercial capability of Subject Property, ultimately positively impacting the surrounding neighborhood and supporting the adjacent commercial uses.

In light of the foregoing, the Applicant finds that the proposed map amendment to MU-7B is not inconsistent with the Land Use Element overall, as it will provide for new commercial development and enhanced connectivity at the Subject Property while advancing other important District objectives. More specifically, the proposed map amendment advances the following Land Use Element policies:

#### LU-2.4 Neighborhood Commercial Districts and Centers

- LU-2.4.1: Promotion of Commercial Centers
- LU-2.4.4: Heights and Densities in Regional Centers
- LU-2.4.6.: Scale and Design of New Commercial Uses

### **vii. 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.” 10A DCMR § 401.1.

The proposed map amendment advances the overarching goal of the Transportation Element by enabling a new commercial development at the Subject Property that is likely to involve streetscape improvements and increased access to neighborhood-serving commercial uses. 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-1.2 Transforming Corridors

- Policy T-1.2.1: Major Thoroughfare Improvements

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



- Policy T-2.4.1: Pedestrian Network

### **viii. Environmental Protection Element**

The Environmental Protection Element addresses the protection, conservation, and management of Washington, DC’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 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 Subject Property also could yield 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 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. 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-7B zone will allow the Subject Property to be put to more productive use, thus contributing to the ongoing revitalization of the adjacent commercial uses, and the neighborhoods located near the Subject Property. The map amendment will protect the health and safety of District residents by allowing for future redevelopment of the Subject Property with a height and density that is not inconsistent with the Comp Plan, including the FLUM and GPM.

### **C. No Adverse Consequences**

The proposed Zoning 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 high redevelopment portion of the District. Redevelopment will improve the Subject 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.

### **D. Proposed MU-7B Zone Would Create Favorable Conditions**

As described above, the proposed Zoning Map amendment will bring the zoning of the Property into conformance with the Moderate Density Commercial FLUM designation of the Subject Property. The proposed Zoning Map amendment will positively impact the surrounding Planning Area by supporting additional development, including neighborhood serving uses within a designated neighborhood commercial area. The Subject Property is well positioned as a transitional site between the R-2 zoned properties to its northeast and southeast and to the MU-3A zoned properties to its northwest and southwest of the Property. 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 Subject Property lies within the boundaries of ANC 5A-03. The Applicant had a preliminary meeting with Commissioner Emily Lucio, the single member district (“SMD”) representative for ANC 5A-03, and will present the application at an SMD community meeting on May 5<sup>th</sup>. The Subject Property lies within the boundaries of ANC 5A-03. The Applicant will appear at a duly noticed ANC public meeting to discuss their proposed map amendment with the impacted ANC.

## **VII. CONCLUSION**

For all of the reasons stated herein, the Applicant submits that the proposed rezoning of the Subject Property from MU-3A to MU-7B 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,

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*Bar admission pending*