

July 23, 2018

Anthony Hood, Chairman
DC Zoning Commission
441 4th Street, NW, Suite 210
Washington, DC 20001

RE: Comments Regarding Zoning Case No. 18-06 (OP Text Amendment to Subtitle G Creating a New MU-4A Zone and Renaming MU-4 to MU-4B)

Dear Chairman Hood and members of the Zoning Commission:

Please accept these comments on behalf of the Coalition for Smarter Growth. The Coalition for Smarter Growth is the leading organization in the Washington, DC region dedicated to making the case for smart growth. Our mission is to promote walkable, inclusive, and transit-oriented communities, and the land use and transportation policies and investments needed to make those communities flourish.

We believe that more research, analysis, and public engagement is warranted to create a new city-wide zone in order to understand how it is applicable in different cases. That said, if the Commission decides to adopt the proposed text amendment, we recommend that eligibility for the new zone be restricted to rezonings of R and MU-3 zoned lots.

Further discussion

We recommend that the eligibility for conversion to MU-4A zone be limited to existing R and MU-3 zoned lots in order to replicate the circumstances of the case that inspired this new proposed zone. Other sites that are similar to Zoning Case 17-11, where a square contains both R-1-B and MU-3, might be particularly well-suited for conversion to this new zone. In these cases, the new zone would increase development potential above existing zoning in order to support citywide and local goals such as attracting desired retail, and providing a viable number of mixed income housing units. This might be appropriate given the needs of a neighborhood, its level of transit access, and Comprehensive Plan goals.

Why not a Planned Unit Development?

The origin of this new citywide zone warrants some consideration. The idea of a custom zone started with Zoning Case No. 17-11, the Penn-Branch Shopping Center. In this case, a Planned Unit Development (PUD) would seem like the right tool for the site with its mixed low density residential and commercial zoning. However, it appears the developer ruled out a PUD because PUDs have long time lines, and are highly vulnerable to further delays due to Court appeals. These delays and uncertainties could doom a project altogether. This uncertainty was cited as a major problem for attracting desirable retailers that the developer is pursuing and the community is eager to bring in.

We note that a PUD would be a better process for engaging the public, civic groups and ANCs. It would also be the tool for establishing public benefits, and Transportation Demand Management (TDM) plans and vehicle trip mitigation such as expansion of Capital Bikeshare facilities. Further examination of the large surface parking lot in front of the new strip center would also be enabled by a PUD. But without a PUD, we do not have access to a TDM Plan, or other public benefits. DDOT recommended a TDM Plan and expansion of the Capital Bikeshare station at the ZC No. 17-11 site, but it's unclear that the developer will implement these recommendations with a rezoning rather than PUD order.

Zoning Text Amendment to MU-4

The proposed change for ZC No. 17-11 was to upzone the property that is zoned R-1-B and MU-3 to MU-4. There appeared to be fairly broad agreement that this works given the designation of the site in the Small Area Plan. But the concerns raised by the abutting neighbors caused the Commission to seek out another way to support the planned mixed uses for the site (especially a grocery store), while addressing the concerns of the neighbors abutting the property that are in an R-1-B zone.

From the Commission's discussion with the applicant, the idea of a customized zone was proposed. The customized zone would be MU-4A (and MU-4B, which would be the old MU-4). This zone is created to address transition setback concerns specific to the site for moderate density mixed use development and its R-1-B neighbors. The concern by abutting neighborhoods is not only about scale but also about steep slopes. MU-4A would have a lower FAR than MU-4, but higher than MU-3.

Does this one case make for a good city-wide application?

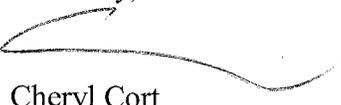
Without further research and analysis, it is hard to say if this zone is ready for citywide application. This new zone seems to have been conceived of apart from a broader public awareness that the customized zone for this site would be applicable throughout the city. My experience with customized zones is with conversion of overlay zones into base zone, and the R-19 and R-20, which are only in Georgetown. My experience with the R-19 and R-20 zones are to make it much more difficult to build accessory apartments, unlike how they are treated in other similar R zones. In both overlay conversions and Georgetown zones to exclude certain uses allows in the same type of zone elsewhere, these cases tie custom zones to geographic locations, modifying general zones into ones tailored to a specific, limited area. The proposed new zone in this case, seems to do the opposite -- extrapolating the experience for ZC No. 17-11 site to the rest of the city. Given this, more analysis of this proposed new zone and its application across the city seems warranted.

To make a decision to create a citywide custom zone, rather than a limited geographic custom zone, we recommend that OP provide an analysis of such sites in the city. We need to know how this new zone would enhance the Comprehensive Plan, small area plan goals and Fair Housing Act (and moral) obligations to affirmatively further fair housing. We are most interested in how sites, like Penn-Branch Shopping Center, that are located on a major transit route, could be better served with new housing and retail development opportunities that would in turn take advantage of major public transit investments.

If the Commission is moving forward with the MU-4A zone, we recommend it be amended to establish that the only lots eligible for rezonings are current R zones and MU-3, or other lower density zones.

Thank for your consideration.

Sincerely,



Cheryl Cort
Policy Director