

Before the D.C. Zoning Commission  
Case 17-11 -- Establishment of new zone MU-4A at Square 5539  
Testimony of O Street Neighbors and Friends  
July 23, 2018

I am Laura M Richards, testifying on behalf of O Street Neighbors and Friends (OSNF) generally of ZC 17-17, providing for re-mapping the rear portions of the Penn-Branch shopping center site from R-1B to proposed new zone MU-4A.

The parameters of MU-4A were worked out in conjunction with the Office of Planning (OP), the developer and OSNF who were be most immediately affected by the proposed redevelopment of the Penn-Branch site. OP from the beginning of this process envisioned a new citywide buffer zone that could apply to commercial zones adjacent to residences.

The rezoning will result in an MU-4A lot sandwiched between one-story R-1B residences at the rear and an MU-3 lot fronting on Pennsylvania Avenue, SE. We realize this is somewhat counterintuitive: Higher, denser development usually fronts on a commercial street and lower density development is at the rear. This normal transition is called for in the relevant small area plan.

In this instance, however, the owner decided at the outset -- for its propriety business reasons -- to retain and restore the existing low-height, low-density building at the front of the site and erect a new, mixed-used building at the rear. The owner originally sought to rezone the entire site, even though it was not changing the Pennsylvania Avenue frontage. Pursuant to discussions, the owner amended its original plan and now seeks to rezone only the rear portion. For the foreseeable future, the front of the site will zoned and used as MU-3. The generous front setbacks will be maintained. Because this is a prominent corner on a special street, its scale should continue to set the standard for most of the east end of the avenue. OSNF regards this is as a significant benefit.

**Lot occupancy**

As we stated in our testimony in ZC 18-06, one provision of MU4-A respecting lot occupancy that applies only to Square 5539 should be applied citywide. The maximum lot occupancy for the lots at issue in Square 5539 is 60 percent, including any otherwise applicable bonuses for inclusionary zoning (IZ) or planned unit developments (PUDs). Everywhere else the base maximum lot occupancy is 60 percent adjustable up to 75 percent with IZ bonuses. The 60 percent maximum is a key factor leading OSNF to support this proposal. A higher lot occupancy, combined with the proposed height, would have rendered MU-4A unacceptable. OSNF believes all neighborhoods where MU-4A is mapped should enjoy the benefit of the lower maximum lot occupancy. In Square 5539, the MU-4A zone will abut an R-1B neighborhood, which has a maximum lot 40 percent lot occupancy and lower actual lot occupancy. Lot

occupancy of 75 percent would completely overwhelm the neighborhood. In a spirit of equity, please apply this provision wherever MU-4A is mapped.

### **Height and Setbacks**

The nominal height limit for MU-4A and MU-4B is 50 feet, but the penthouse rules in the zoning code allowing habitable penthouses raise the de facto height to 65 feet. The shadow studies performed at the behest of the Zoning Commission demonstrate that at certain times and seasons, the shadow effect of matter-of-right development will be significant under MU-4A or MU-4B. This is ameliorated, though not completely cured, by required setbacks at the 40-foot height as well as for the penthouse level. The setbacks also provide a needed level of privacy for neighboring residents. OSNF regards the lower lot occupancy as a tradeoff for the height. In addition, OSNF notes that the developer's plans call for rear setbacks significantly deeper, in places, than the 20-foot minimum requirement. While there are no guarantees, the deeper setbacks are a potential significant benefit.

### **MU-4A should apply when an alley separates R and MU zones**

We reiterate our testimony in ZC 18-06 that MU-4A should apply where an alley separates commercial and residential zones as well as where they share a lot line, as is the case in Square 5539. The buffering provisions in MU-4A are based on 11 DCMR J-207, which calls for buffering when a PDR zone is next to a residential zone. Those provisions expressly cover both situations.<sup>1</sup>

No sound reason exists for denying MU-4A relief to residents separated by an alley from a commercial use. Omitting these instances frees the commercial use to carry on storage, loading, etc. right up to the lot line, without the benefit landscaping and added distance.

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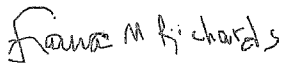
<sup>1</sup> Section J-207.2 states:

- (a) A twenty-five foot (25 ft.) setback shall be provided from each lot line that is directly abutting a lot in a residential zone or developed with a residential use;
- (b) A twenty-five foot (25 ft.) setback shall be provided from each lot line that is abutting an alley that serves as the zone boundary line between a PDR zone and a residential zone. The depth of setback shall be measured from property line of the PDR-zoned lot; and
- (c) A fifteen foot (15 ft.) setback shall be provided from each lot line, except a front lot line, that is abutting a street less than seventy feet (70 ft.) in right-of-way width that serves as the zone boundary line between a PDR zone and a residential zone.

**MU-4A should be mapped widely and immediately**

Although MU-4A was advertised citywide, it is proposed to be mapped immediately only in Square 5539. A number of other neighborhoods have expressed interest. We ask the Commission to propose mapping MU-4A across the city wherever low-density residential neighborhoods are located next to MU-4 commercial zones (irrespective of the presence of an alley) and, as state above, to lower the lot occupancy to 60 percent. Applying MU-4A to just one site raises the specter of spot zoning, which can be avoided by MU-4A's wider implementation. Requiring residents to petition for MU-4A imposes an unnecessary burden to achieve relatively modest benefits.

Submitted,



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