

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
ZONING COMMISSION ORDER NO. 17-11
Z.C. Case No. 17-11
3200 Penn Ave PJV, LLC
(Zoning Map Amendment @ Square 5539, Lots 835 and 840)
September 17, 2018

The Zoning Commission for the District of Columbia (Zoning Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2016 Repl.)), hereby amends the Zoning Map to rezone Lots 835 and 840 in Square 5539 from R-1-B to the MU-3B zone.

A notice of final rulemaking containing the text amendment that creates the MU-3B zone is being published concurrently with this notice.

The subject site is approximately 1.98 acres. The site is bordered by Branch Avenue, S.E., to the west, and the Penn Branch shopping center to the south. To the north and east of the subject site are single family houses along O Street, S.E., and a laundromat with surface parking lot on Pennsylvania Avenue. The subject site is currently the associated parking lot for the Penn Branch shopping center., which the Petitioner hopes to redevelop with retail and residential uses.

The Petitioner originally requested that the lots being rezoned to MU3B, as well as Lots 838 and 839 (zoned MU-3), be rezoned to the MU-4 district.

Advisory Neighborhood Commission (ANC) 7B submitted a report dated September 20, 2017. The report stated that ANC 7B supported limiting development of the subject site to certain height, density, and lot occupancy requirements.

During the October 2, 2017 public hearing, the Commission heard similar concerns over the additional height, density, and lot occupancy that would be available from the rezoning requested. In response, the Commission inquired whether the process established under the Zoning Regulations of 2016 (ZR 16) for the creation of a new zone could potentially address the concerns over the impact of development on the site, while still allowing the height and density needed to permit the successful mixed-use redevelopment of the site.

On October 30, 2017, the Petitioner submitted, and the Commission granted, a request to defer consideration of Case No. 17-11 to allow the Petitioner to work with the community to resolve the

concerns expressed. Through a letter dated April 23, 2018, the Petitioner informed the Commission that it had reached consensus with community stakeholders on the parameters of a new zone, which the Petitioner communicated to the Office of Planning (OP). The letter further stated that OP soon would request the Commission to set down for hearing the text needed to establish the new zone. If the Commission set down the case, the Petitioner requested that its petition be deemed modified to request a map amendment to the new zone, and to eliminate Lots 838 and 839 from consideration.

On April 30, 2018, the Commission agreed to setdown for hearing Case No. 18-06 to create a new MU-4A zone and to change the name of the MU-4 zone to MU-4B. The petition filed in Case No. Case 17-11 was deemed to be modified as requested.

Separate hearings for Case Nos. 17-11 and 18-06 were held on July 23, 2018. At the end of each hearing, the Zoning Commission voted to refer the case to the National Capital Planning Commission for review pursuant the Home Rule Act and to publish a notice of proposed rulemaking as required by the District of Columbia Administrative Procedure Act. As part of its motion in Case No. 18-06, the Commission voted to change the proposed new zone name from MU-4A to MU-3B, to reflect that it is more restrictive than MU-4. This required that the MU-3 zone be renamed “MU-3A”.

A Notice of Proposed Rulemaking for this case was published in the *D.C. Register* on August 17, 2018, at 65 DCR 8573. In response, the Commission received no comments.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2016 Repl.)) to give great weight to the issues and concerns raised in an affected ANC’s written report. The Zoning Commission recognized the legitimacy of the concerns expressed by ANC 7B when it suggested the creation of a new zone, which became MU-3B, and to which it is now mapping the subject site.

The Commission therefore took final action at a public meeting on September 17, 2018, to adopt the map amendment as proposed.

The Zoning Map of the District of Columbia is amended as follows:

SQUARE	LOT(S)	Map Amendment
5539	835 and 840	R-1-B to MU-3B

This map amendment shall become final and effective upon publication of this notice in the *DC Register*.

On July 23, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Shapiro, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the petition at the

conclusion of the public hearing by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

On September 17, 2018, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the petition at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve; Peter A. Shapiro, not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on October 12, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.