



## Executive Director's Recommendation

Commission Meeting: May 3, 2018

<b>PROJECT</b> <b>Map Amendment from Unzoned to MU-5-B, MIRV Holdings, LLC</b> Irving Street, NE & Michigan Avenue, NE Washington, DC	<b>NCPC FILE NUMBER</b> ZC 17-26
	<b>NCPC MAP FILE NUMBER</b> 51.10(06.00)44748
<b>SUBMITTED BY</b> Zoning Commission of the District of Columbia	<b>APPLICANT'S REQUEST</b> Approval of report to the Zoning Commission of the District of Columbia
<b>REVIEW AUTHORITY</b> Approval of Comments on Zoning Map & Regulations Amendments per 40 U.S.C. § 8724(a) and DC Code § 2-1006(a)	<b>PROPOSED ACTION</b> Approve report to the Zoning Commission of the District of Columbia
	<b>ACTION ITEM TYPE</b> Consent Calendar

### PROJECT SUMMARY

The Zoning Commission of the District of Columbia has taken a proposed action to approve a map amendment to rezone Parcel 121/31 at the intersection of Irving Street, NE and Michigan Avenue, NE from “unzoned” to “MU-5-B.” The subject property is 5.48 acres, and is currently owned by the federal government through the U.S. General Services Administration (GSA); however, the District of Columbia government has retained administrative jurisdiction over the property since 1959. ~~The property was the subject of a land swap where GSA received fee simple ownership of a similarly sized piece of property located to the north across Irving Street, NE.~~ Land uses in the vicinity of the site are predominately institutional and residential, including The Catholic University of American, Trinity College, MedStar Washington Hospital Center, Veterans Affairs Medical Center, and the Armed Forces Retirement Home. The site is currently improved with a 400-space parking lot, commonly known as the “fringe parking lot,” which was established for commuters who took buses prior to the opening of Metrorail.

In an effort to put the site back to productive use, the District has explored several potential uses over the years, many of which have gone before the Zoning Commission and been reviewed by NCPC as referrals. For a majority of that time, the prevailing proposal has been the development of a conference facility. Since the federal government held the title to the Parcel 121/31, the District sought an agreement with GSA to ensure that this use would be allowed. The District and GSA entered into a Statement of Non-Disturbance on March 7, 1990, which provided the District with the assurance that, as long as the parcel was used as a conference center and associated uses, GSA would not seek to revoke the transfer of jurisdiction of the parcel. This use was approved by the

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Zoning Commission as a Planned Unit Development (PUD) and map amendment in 1991, which was granted six approval extensions over the next nine years.

After this approval expired, the developer filed a new PUD application that included residential uses, which was reviewed by NCPC in September 2009. GSA indicated that it was not prepared to state that this new proposal was compatible with the agreement, nor prepared to conclude that the proposal would have no adverse effect on this particular federally owned site or those located nearby. GSA was of the opinion that that inclusion of dwelling units as part of the proposed PUD was inconsistent with the language of the Statement of Non-Disturbance, and that such a use was not contemplated at the time the agreement was established. Accordingly, NCPC advised the Zoning Commission that the proposed residential uses were inconsistent with the Statement of Non-Disturbance. This proposal was ultimately approved by the Zoning Commission in December 2009, and was granted a series of extensions that are set to expire in December 2018.

The developer has indicated that it intends to let that approval expire, and is currently seeking a map amendment to a mixed-use zone (MU-5-B) that would allow greater flexibility in matter-of-right uses. This zone would allow for medium-density, compact mixed-use development with an emphasis on residential use, as well as facilities for shopping and business needs.

## KEY INFORMATION

- The Zoning Commission of the District of Columbia has taken a proposed action to approve a map amendment to rezone Parcel 121/31 at the intersection of Irving Street, NE and Michigan Avenue, NE from “unzoned” to “MU-5-B.”
  - The 5.48-acre property is currently owned by the federal government (GSA), but the District government has administrative jurisdiction.
  - The District government and GSA entered into a Statement of Non-Disturbance on March 7, 1990, which assured that that GSA would not seek to revoke the transfer of jurisdiction if the parcel was used as a conference center and associated uses.
  - A conference center was approved as part of a PUD in 1991, which was granted approval extensions for nine years.
  - A new PUD application was filed in 2009 that included the conference center, along with residential uses. GSA believed that the residential uses were inconsistent with the language of the agreement with the District. NCPC advised the Zoning Commission of this inconsistency, though the PUD was eventually approved.
  - The current map amendment proposal would allow for medium-density, compact mixed-use development, with an emphasis on residential use.
  - GSA is still of the opinion that the inclusion of dwelling units in any proposal for the site is inconsistent with the language of the Statement of Non-Disturbance, and that such a use was not contemplated.
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## RECOMMENDATION

**Notes** that the proposed map amendment to rezone Parcel 121/31, located at the intersection of Irving Street, NE and Michigan Avenue, NE in Washington, DC, from “unzoned” to “MU-5-B” would allow for medium-density, compact mixed-use development with an emphasis on residential use, as well as facilities for shopping and business needs.

**Advises** the Zoning Commission that certain matter-of-right uses in this district, such as residential, shopping, and business uses, are inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance established on March 7, 1990 between the District of Columbia government and the U.S. General Services Administration.

## PROJECT REVIEW TIMELINE

<b>Previous actions</b>	<p><b>March 1991</b> – PUD and related map amendment to construct conference facility.</p> <p><b>September 2009</b> – PUD and related map amendment to construct conference facility with residential uses.</p> <p><b>November 2015</b> – Modification of PUD to construct conference facility with residential uses.</p>
<b>Remaining actions (anticipated)</b>	– None

## PROJECT ANALYSIS

Staff has evaluated the referral from the Zoning Commission of the District of Columbia and finds that the proposed map amendment would not be inconsistent with the Federal Elements of the *Comprehensive Plan for the National Capital*, but that uses allowed in this zone designation would have an adverse effect on an identified federal interest, which is reflected in a Statement of Non-Disturbance developed between the District and GSA. The Statement of Non-Disturbance for this site provided assurance to the District that “as long as the parcel is used as a conference, training and/or exhibit center, overnight accommodations facility and ancillary uses, such as restaurant, recreational facilities and/or gift shop, and/or compatible use...GSA will not seek to revoke the transfer of jurisdiction of this parcel to the District, nor will it take other action to prohibit construction, development, maintenance, operation, restoration and/or repair of the facility.”

The “MU-5-B” zone designation permits the development of multifamily residential, hotel, office, retail, and service uses, with a stated emphasis on residential use. As was the case in September

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2009, GSA is still of the opinion that the inclusion of dwelling units in any proposal for the site is inconsistent with the language of the Statement of Non-Disturbance, and that such a use was not contemplated. Further, GSA has indicated that it has continued to reiterate its position on the property to the District government and the District's ground lessee, MIRV Holdings, LLC throughout the various PUD applications and amendments. Accordingly, staff recommends that the Commission **advise the Zoning Commission that certain matter-of-right uses in this district, such as residential, shopping, and business uses, are inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance established on March 7, 1990 between the District of Columbia government and the U.S. General Services Administration.**

### **ONLINE REFERENCE**

The following supporting documents for this project are available online:

- ZC 17-26 Information Summary

Prepared by John Gerbich  
04/17/2018

### **POWERPOINT (ATTACHED)**

**NCPC File #: ZC 17-26**  
**Map Amendment from “Unzoned” to “MU-5-B”**  
**MIRV Holdings, LLC**

Irving Street, NE and Michigan Avenue, NE  
Washington, DC

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Zoning Commission of the District of Columbia

Approval of a Report to the Zoning Commission

**Commission meeting date:** May 3, 2018

**NCPC review authority:** 40 U.S.C. 8724(a) and DC Code §2-1006(a)

**Applicant request:** Approval of report to the Zoning Commission of the District of Columbia

**Delegated / consent / open / executive session:** Consent Calendar

**NCPC review officer:** Gerbich

**NCPC File number:** ZC 17-26

**Project summary:**

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In an effort to put the site back to productive use, the District has explored several potential uses over the years, many of which have gone before the Zoning Commission and been reviewed by NCPC as referrals. For a majority of that time, the prevailing proposal has been the development of a conference facility. Since the federal government held the title to the Parcel 121/31, the District sought an agreement with GSA to ensure that this use would be allowed. The District and GSA entered into a Statement of Non-Disturbance on March 7, 1990, which provided the District with the assurance that, as long as the parcel was used as a conference center and associated uses, GSA would not seek to revoke the transfer of jurisdiction of the parcel. This use was approved by the Zoning Commission as a Planned Unit Development (PUD) and map amendment in 1991, which was granted six approval extensions over the next nine years.

### Project summary, continued:

After this approval expired, the developer filed a new PUD application that included residential uses, which was reviewed by NCPC in September 2009. GSA indicated that it was not prepared to state that this new proposal was compatible with the agreement, nor prepared to conclude that the proposal would have no adverse effect on this particular federally owned site or those located nearby. GSA was of the opinion that that inclusion of dwelling units as part of the proposed PUD was inconsistent with the language of the Statement of Non-Disturbance, and that such a use was not contemplated at the time the agreement was established. Accordingly, NCPC advised the Zoning Commission that the proposed residential uses were inconsistent with the Statement of Non-Disturbance. This proposal was ultimately approved by the Zoning Commission in December 2009, and was granted a series of extensions that are set to expire in December 2018.

The developer has indicated that it intends to let that approval expire, and is currently seeking a map amendment to a mixed-use zone (MU-5-B) that would allow greater flexibility in matter-of-right uses. This zone would allow for medium-density, compact mixed-use development with an emphasis on residential use, as well as facilities for shopping and business needs.







