

# Holland & Knight

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December 2, 2022

## **VIA IZIS**

Zoning Commission  
of the District of Columbia  
441 4th Street, NW, Suite 200  
Washington, DC 20001

**Re: ZC Case No. 22-19  
4950 South Dakota Ave., NE (Sq. 3786, Lot 1)  
Post-Hearing Submission**

Dear Members of the Commission:

At its November 28, 2022, public hearing, the Zoning Commission requested additional information from the Applicant concerning the proposed map amendment that would rezone the property located at 4950 South Dakota Avenue, N.E. ("Property") from MU-3A to MU-7B. Specifically, the Commission requested:

- (1) an explanation on the discrepancy between the MU-7 zones being classified as medium density in the Zoning Regulations and moderate density in the Comprehensive Plan (the "Comp Plan"); and
- (2) clarification on the number of seats permitted in a fast food restaurant.

Following are the responses to the Commission's requests.

### **Moderate Density Commercial**

The Zoning Regulations indicate that the "MU-7 zones are intended to . . . permit medium-density mixed-use development." 11-G DCMR § 400.6(a).

The Comp Plan defines Moderate Density Commercial as "shopping and service areas that are somewhat greater in scale and intensity than the Low-Density Commercial areas . . . Density typically ranges between a FAR of 2.5 and 4.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. **The MU-5 and MU-7 Zone Districts are representative of zone districts consistent with the Moderate**

**Density Commercial category, and other zones may also apply."** 10 DCMR § 227.11 (emphasis added.)

As a policy, both the Comp Plan and the Zoning Regulations provide that moderate density commercial typically has a density between a FAR of 2.5 and 4.0, with greater density possible for development providing Inclusionary Zoning or a Planned Unit Development. The zones that allow for density within this range include MU-4, MU-5, and MU-7. 10 DCMR § 227.11, 11-G DCMR § 402.1.

Under the Zoning Regulations, in the MU-7B zone, the maximum permitted non-residential density is 2.5 FAR and the maximum permitted residential density is 4.0 FAR, and 4.8 FAR with IZ. **These densities fall squarely within the Moderate Density Commercial thresholds provided in the Comp Plan; and therefore, the requested rezoning is not inconsistent with the Comp Plan.**

#### Seat Limitation in a Fast Food Restaurant

The Zoning Regulations do not limit the number of seats permitted in fast food establishments. Prepared food shops in certain zones<sup>1</sup> are limited to 18 seats, but this is not applicable in the MU-5 or MU-7 zones.

#### Conclusion

The information provided above, along with the complete record, demonstrates that the proposed MU-7B zone will not be inconsistent with the moderate density commercial Future Land Use Map designation, and the goals and policies in the Comp Plan as viewed through a racial equity lens. Therefore, the Applicant respectfully requests approval of the MU-7B zone.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: *Leila Batties*  
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<sup>1</sup> Pursuant to 11-U DCMR § 512.1(e)(3), a prepared food shop in a MU-4, MU-17, MU-24, MU-25, MU-26, and MU-27 zone shall be limited to eighteen (18) seats for patrons.

## **Certificate of Service**

**I hereby certify** that, on December 2, 2022, a copy of the foregoing was served upon the following:

1. **D.C. Office of Planning**  
Ms. Jennifer Steingasser  
Mr. Joel Lawson  
Ms. Maxine Brown Roberts  
via Email: [jennifer.steingasser@dc.gov](mailto:jennifer.steingasser@dc.gov)  
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2. **Advisory Neighborhood Commission 5A**  
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3. **Commissioner Emily Singer Lucio**  
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