

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :  
: :  
McDonald's Corporation : Case No. 22-19  
Map Amendment from MU-3A :  
To MU-7B, 4950 S. Dakota :  
Ave., NE (Sq. 3786, Lot 1) :  
Ward 5 :  
----- :

MONDAY

NOVEMBER 28, 2022

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The Public Hearing of the District of Columbia Zoning Commission convened via videoconference, pursuant to notice, at 4:00 p.m. EDT, Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
ROBERT MILLER, Vice Chairperson  
PETER MAY, Commissioner  
JOSEPH IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary  
PAUL YOUNG, Zoning Data Specialist

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OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS  
JENNIFER STEINGASSER

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, ESQUIRE

The transcript constitutes the minutes from the  
Public Hearing held on November 28, 2022.

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## PRESENTATION:

Case No. 22-19: McDonald's Corporation Map Amendment  
from MU-3A to MU-7B, 4950 S. Dakota Avenue, N.E.,  
(Sq. 3786, Lot 1) - Ward 5

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P-R-O-C-E-E-D-I-N-G-S

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. Today's date is November the 28th, 2022. We are convening and broadcasting this public hearing by videoconferencing. My name is Anthony Hood, and I'm joined by Vice Chair Miller. Well, I saw him one time, I thought. Well, anyway, Vice Chair Miller will be joining us shortly. I'm joined by Commissioner May and Commissioner Imamura, as well as our Office of Zoning staff, Ms. Sharon Schellin, and Mr. Paul Young who will be handling all of our virtual operations. Also, our Office of Zoning Legal Division, Mr. Ritting. I would ask all other to introduce themselves at the appropriate time.

The virtual public hearing notice is available on our Office of Zoning's website. This proceeding is being recorded by a court reporter. The platforms used are webcast live, Webex and YouTube Live. The video will be available on the Office of Zoning's website after the hearing.

All persons planning to testify should have signed up in advance and will be called by name at the appropriate time. At the time of sign-up, all participants will complete the oath or affirmation required by Subtitle Z, 408.7.

Accordingly, all those listening on Webex or by phone were muted during the hearing and only those who have signed up to participate will testify will be unmuted at the appropriate

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1 time.

2 When we call you, please state your name and home  
3 address before providing your testimony. When you are finished  
4 speaking, please mute your audio. If you experience difficulty  
5 accessing Webex or with your telephone call-in, or have not signed  
6 up, then please call our OZ hotline number. It's 202-727-0789.  
7 Again, that's 202-727-0789.

8 If you wish to file written testimony or additional  
9 supporting documents during the hearing, then please be prepared  
10 to describe and discuss it at the time of your testimony.

11 The hearing will be conducted in accordance with the  
12 provisions of 11-Z DCMR, Chapter 4 as follows:

13 We have preliminary matters. The Applicant's case.  
14 The Applicant has up to 60 minutes. I definitely don't believe  
15 they need 60 minutes for this map amendment. I think they can  
16 do it in 20. I do know that there is some opposition and there  
17 is some support. So I will ask the Applicant to deal with it  
18 accordingly and hit the highlights and the issues. The report  
19 of the Office of Planning; the report of the Department of  
20 Transportation; the report of other government agencies; the  
21 report of the ANC. In this case it's ANC 5A. Testimony of  
22 organizations and individuals: organizations, five minutes.  
23 individuals, three minutes. And we will here in the order who  
24 are in support, opposition, and undeclared. Then we will have  
25 rebuttal and closing by the Applicant.

1           The subject of tonight's hearing is Zoning Commission  
2 Case No. 22-19. This is the McDonald's Corporation, map amendment  
3 at Square 3786, Lot 1, 4950 South Capitol. I mean, I'm sorry.  
4 I used to doing stuff on South Capitol. 4950 South Dakota Avenue,  
5 Northeast.

6           Again, today's date is November the 28th, 2022. So  
7 with that, at this time the Commission will consider any  
8 preliminary matters. Does the staff have any preliminary  
9 matters?

10           MS. SCHELLIN: Yes, sir. The Applicant submitted a  
11 motion to accept the late filing identifying their expert  
12 witness. It's one that the Commission has accepted before,  
13 Brandice Elliott. So we'd ask the Commission to consider the  
14 motion for the late submittal and to accept her as an expert  
15 witness in this case.

16           CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin.  
17 Commissioners, we've done it previously. They have submitted a  
18 late filing. First -- and I can take them both. Support -- any  
19 objections to accept a late filing? Any objections to Ms. Elliott  
20 being -- did I get her name right? Yeah, Ms. Elliott being an  
21 expert witness. I've messed up so many years, I don't want to  
22 mess up anymore.

23           Okay. So we will accept all of that, Ms. Schellin.  
24 Anything else?

25           MS. SCHELLIN: Okay. So, Mr. Batties and her team will

1 take 15 minutes to present this evening. And we have Maxine  
2 Brown-Roberts for OP. I don't believe there's anyone for DDOT.  
3 We have Emily Singer-Lucio for the ANC. She will be in and out  
4 in the beginning. She has a job -- a commitment with her job,  
5 but if she has to take off, she'll be back. So other than that,  
6 they are ready to go.

7 CHAIRPERSON HOOD: Okay. Let me first do a disclosure,  
8 which I think I did previously, but I want to do this to be safe.  
9 I sat on cases all over the City. This happens to be in the  
10 neighborhood I was born and raised in. I spent a lot of time.  
11 I own property in this area, so I don't think that makes me to  
12 the point I can't participate. I participate -- and we all  
13 participate in things that are in our neighborhoods. Unless I  
14 hear an objection from my colleagues, I'm going to continue.

15 And the other issue is, this is a map amendment case.  
16 And I know -- I say this all the time, but it actually goes  
17 nowhere. So this is a map amendment case. We're not talking  
18 about a specific project. Even though I know there was a -- we  
19 (indiscernible) in McDonald's Corporation, they alluded to some  
20 of the uses that they wanted to try to do. When I look at the  
21 writings as business needs or whatever the case is, I know a lot  
22 of people are opposing to whatever -- whatever may be coming on  
23 now, but that's not before this Commission. The Commission does  
24 not deal with specific projects when it's a map amendment. We  
25 may get there, but I'm not going to let -- I don't want to go

1 too far into that because I've been lectured many times by legal  
2 counsel over the past 20 years about that proceeding. So I'll  
3 ask my colleagues to govern themselves accordingly. We know  
4 what's in the record, but let's govern ourselves accordingly.

5 Anything else? Any comments from my colleagues? Okay.

6 All right. Ms. Schellin, let's bring everybody up and  
7 we can get started.

8 MS. BATTIES: Good evening, Mr. Chair. Can you hear  
9 me?

10 CHAIRPERSON HOOD: Good evening, Ms. Batties. Are you  
11 all in the same room, because I couldn't hear. I can't hear you.  
12 Maybe, I don't know what it is.

13 MS. BATTIES: Can you hear me?

14 CHAIRPERSON HOOD: I can hear you now. So you all  
15 can -- unless, when you are ready, you all may begin.

16 MS. BATTIES: Okay. Good afternoon. Leila Batties  
17 along with John Oliver from Holland & Knight on behalf of the  
18 Applicant, McDonald's Corporation, which is the owner of the  
19 subject property located at 4950 South Dakota Avenue, Northeast.  
20 McDonald's seeks approval of the Applicant's request to rezone  
21 the property. I'm sorry. McDonald's seeks approval to rezone  
22 the property from MU-3A to MU-7D, because the proposed zone is  
23 not inconsistent with the Comprehensive Plan.

24 McDonald's Corporation, I know that there's some people  
25 here on the call, is represented by Mr. Armen Parker who is the



1 regional construction manager, and Mr. Raoul Alvarez whose family  
2 has been the franchise owner and operator of this establishment  
3 since 1991, and they are truly community stakeholders.

4 Mr. Young, if you can pull up slide 2, please, on our  
5 PowerPoint.

6 The property consists of approximately 21 -- the  
7 subject property consists of approximately 21,000 square feet of  
8 land area, and as noted, is improved with an existing restaurant  
9 that was constructed in 1968. The property is currently zoned  
10 MU-3A, but the property's designation on the Future Land Use Map  
11 is moderate density commercial.

12 The Comprehensive Plan expressly states that MU-7 is  
13 consistent with the moderate-density commercial land use  
14 designation. The Generalized Policy Map designates the property  
15 as neighborhood commercial center, which is described as meeting  
16 the day-to-day needs of residents and workers in adjacent  
17 neighborhoods.

18 If you are familiar with the immediate neighborhood and  
19 this establishment, you know that it is frequented by many long-  
20 term -- long-time residents and is the place where they come to  
21 gather.

22 And, Mr. Young, if you can pull that slide 4, please.

23 Slide 4 just highlights some of the ways that this  
24 owner and operator serves the immediate neighborhood. They  
25 provide employment opportunities. They support community events,

1 and -- as well as recreational and academic programs for people  
2 in the immediate neighborhood.

3 As noted in the statement filed by the Applicant on  
4 August 8th, we presented this application at numerous community  
5 meetings, single member district community meetings for ANC 5A03.  
6 We went before the full ANC twice and the North Michigan Park  
7 Civic Association. The community was overwhelmingly supportive  
8 of the application -- of the Applicant's request.

9 ANC 5A's letter of support from this summer, which is  
10 marked at Exhibit 17 of the record, included or attached their  
11 letter from October of 2017, and the ANC voted to support a change  
12 on the land use designation, a change on the Comprehensive Plan  
13 for this property from low-density commercial to moderate-density  
14 commercial as part of the most recent amendments approved by the  
15 City Council.

16 The truth is this Applicant has been working with  
17 neighborhood stakeholders and the Office of Planning for more  
18 than a decade, probably closer to two decades, in order to be in  
19 a position where the property could be rezoned and redeveloped.

20 We appreciate that ANC 5A has affirmed its support with  
21 a letter filed today, marked at Exhibit 36 of the record. And  
22 in addition to support from the ANC, the Office of Planning has  
23 recommended approval of the application on the basis that it is  
24 not inconsistent with the Comprehensive Plan.

25 That concludes my opening remarks. I'm going to turn

1 the presentation over now to Brandice Elliott who will testify  
2 on behalf of the Applicant as to why the requested rezoning is  
3 not inconsistent with the Comprehensive Plan.

4 MS. ELLIOTT: Good evening, Mr. Chair, and members of  
5 the Commission. It's so nice to see everyone because it's been  
6 a while. I'm Brandice Elliott with the law firm of Holland &  
7 Knight. And I just want to say, Mr. Chair, that you do get my  
8 name correct, even if you meant to get it wrong this time.

9 If we could go to the next slide, Mr. Young. Thank  
10 you.

11 The standard of review for a map amendment is that the  
12 map amendment cannot be inconsistent with the Comprehensive Plan  
13 or other adopted policies. And as we have cited in the following  
14 slides, the proposed map amendment is not inconsistent with the  
15 Future Land Use Map and Generalized Policy Map designations and  
16 the intent of the Comprehensive Plan.

17 Next slide, please.

18 The Future Land Use Map designates the property as  
19 moderate-density resident -- I'm sorry, moderate-density  
20 commercial. The framework in the case of this designation is  
21 intended for shopping and service areas. That includes retail  
22 office, service businesses, and it also indicates that the MU-7  
23 zone is compatible with this designation.

24 The Comprehensive Plan designation was revised in the  
25 2021 Comp plan from low-density commercial to moderate-density

1 commercial for the purpose of redeveloping this site.

2 The Generalized Policy Map designates the property as  
3 a neighborhood commercial center, which is intended to meet the  
4 day-to-day needs of residents and workers in the area, and that  
5 does include McDonald's.

6 Next slide, please.

7 When (audio interference) to the proposed MU-7B zone,  
8 the most distinguishable differences are an FAR and height.  
9 Where non-residential FAR would increase from 1.0 to 2.5, the  
10 height would go from 40 feet to 65 feet.

11 (Audio interference) would provide a racial equity  
12 analysis, and you'll find that in Exhibit 3 of the record.

13 The Comprehensive Plan discusses equity as both an  
14 outcome and a process, and in terms of process, this map  
15 Amendment has been presented to the community on several  
16 occasions as outlined by Ms. Batties. That includes meeting  
17 with the ANC and the North Michigan Park Civic Association.

18 It has been the goal of the Applicant to involve the  
19 community in this process so that those who are most impacted  
20 would be meaningfully involved. The outreach has resulted in  
21 some changes to this request, and that includes limiting the  
22 land area that would be rezoned to include only the McDonald's  
23 restaurant.

24 Next Slide, please.

25 We have also identified how the proposed zone would

1 provide a more equitable outcome using the Zoning Commission's  
2 Racial Equity Analysis Tool. An analysis against the policies  
3 of several elements in the Comprehensive Plan has been provided  
4 and the expected outcomes of the proposed rezoning have also  
5 been evaluated.

6 Next slide.

7 So there is a lot of small text on this slide that I  
8 will try to summarize here. The proposed rezoning would result  
9 in several positive outcomes. Most importantly, it would not  
10 result in the direct displacement of residents. There are  
11 currently no residential dwelling units on the property. It is  
12 only used for a (audio interference). Because the non-  
13 residential FAR would be permitted a small increase, it could  
14 improve economic opportunities in the area. And while there are  
15 no immediate plans to provide housing on the property, there  
16 would certainly be an opportunity to provide it at some point in  
17 the future, and if that happens, it would be required to set  
18 aside 20 percent of the residential gross floor area for IZ units.  
19 The property is a half mile from the Fort Totten Metro Station  
20 and it does have access to a bus stop at the front of the property,  
21 which makes it transit-accessible, and being transit-accessible  
22 also allows residents to have greater access to jobs throughout  
23 the District. In this case, the Applicant has indicated that a  
24 new restaurant will generate an additional 13 jobs at this  
25 location and approximately half of those would be District

1 residents -- would be filled by District residents.

2           Redevelopment also results in enhancements to the  
3 pedestrian network, which could include improved sidewalks and  
4 landscape. It would also benefit the environment with improved  
5 stormwater infrastructure, and since the original building was  
6 constructed in the 1960's, a new building would be far more energy  
7 efficient than (indiscernible.) Additionally, the map amendment  
8 will permit the development of (indiscernible) commercial uses,  
9 providing residents with more access to day-to-day needs.

10           Next slide, please.

11           The proposed map amendment will also advance several  
12 goals in the Upper Northeast Area Element, which would include  
13 improving neighborhood shopping areas, increasing economic  
14 development potential, and would generate jobs and also provides  
15 new shopping opportunities, and doing this all while respecting  
16 the existing neighborhood character as the surrounding low-  
17 density residential areas.

18           Next slide, please.

19           So the map amendment is not inconsistent with the plan  
20 when read as a whole and this is in line with the guidance that  
21 has been provided in the Implementation Element of the  
22 Comprehensive Plan and by the Board.

23           In our evaluation, we did identify a few policies where  
24 the map amendment may be viewed as inconsistent, but these  
25 inconsistencies are outweighed by the proposal's consistency with

1 the Future Land Use Map and numerous other competing  
2 (indiscernible) relating to land use, transportation, economic  
3 development, the environment, and urban design.

4 The Comp Plan encourages mixed-use development  
5 consisting of housing near Metro rail stations, but in our  
6 analysis, these policies are outweighed by the Generalized Policy  
7 Map and Future Land Use Map designation, which supports the MU-  
8 7B zone that is being requested. These maps carry the same legal  
9 weight as the text of the Comp Plan, and the map amendment would  
10 facilitate infill development along the corridor that respects  
11 the adjacent low-density neighborhoods. The site will  
12 incorporate design elements that will improve pedestrian safety  
13 and environmental conditions. And, finally, the redevelopment  
14 of the site would result in new jobs. We'd also point out that  
15 the map amendment has the support of the ANC and OP.

16 Next slide, please.

17 So in summary, the proposed map amendment is not  
18 inconsistent with the Comprehensive Plan when evaluated through  
19 a racial equity lens. And then any of those potential  
20 inconsistencies of the Comp Plan policies are outweighed by the  
21 consistency with the Future Land Use Map and Generalized Policy  
22 Map, and then the other policies in the Comprehensive Plan in the  
23 land use, transportation, environmental protection, economic  
24 development, and urban design elements.

25 That concludes my testimony, and I will turn it back

1 over to Ms. Batties. Thank you.

2 MS. BATTIES: Mr. Chairman, we have nothing further in  
3 terms of our presentation on direct. Thank you.

4 CHAIRPERSON HOOD: I want to thank you both, Ms.  
5 Batties, and Ms. Elliott. And, Ms. Elliott, I would tell you  
6 that I messed your name up so many years that when I say your  
7 name now, I always question myself that I say it right. So,  
8 again, it was never intended. It was -- as I mentioned  
9 previously, some years ago, there was another person named  
10 Brandice, and I never could get that out of my mind so. And I'm  
11 sure Commissioner May and others who were around at that time  
12 would remember that.

13 So anyway, (indiscernible). Thank you all for your  
14 presentation.

15 Let's see if we have any questions or comments.

16 We'll start with Commissioner May.

17 COMMISSIONER MAY: All right. Yeah, so I assume you  
18 see the DDOT report and there are letters that we've gotten into  
19 the record, you know, raising concerns about the -- a drive-thru  
20 use being a matter of right under the proposed zone. And the  
21 suggestion from DDOT was that there, you know, that we approve a  
22 different zone that would allow similar density because they  
23 support the density and they support the future redevelopment of  
24 the site into something of higher density, given its location and  
25 all sorts of good reasons, but they don't support the drive-thru



1 use. So is there another zone that would deliver that same level  
2 of density without the drive-thru use?

3 MS. BATTIES: No. The answer to your question is no.

4 COMMISSIONER MAY: There is no other zone? Is there  
5 anything that's close?

6 MS. BATTIES: Well, both MU-5 is also deemed consistent  
7 with the moderate-density commercial designation. I don't know  
8 if who have the comparison of those two, but that is the other  
9 zone that's deemed consistent with the MU-5.

10 COMMISSIONER MAY: MU-5?

11 MS. BATTIES: Yes.

12 COMMISSIONER MAY: Right.

13 And so, MU-5 would be consistent with the Comp Plan  
14 designation, but it would deliver less density?

15 MS. BATTIES: Yes, but I'm sorry, Mr. May. I don't  
16 -- we're going to pull up the numbers.

17 COMMISSIONER MAY: Okay.

18 MS. BATTIES: So for a non-residential use, the MU-5  
19 zone permits up to 1.5 FAR, and MU-7B permits 2.5 FAR, so it's  
20 less density under MU-5.

21 VICE CHAIR MILLER: And if I could just say, what is  
22 the density of this proposed development, even though the  
23 Chairman doesn't want us to get into the proposed development.

24 MS. BATTIES: We don't have it. We do not have a plan  
25 -- a development program for this site.

1 VICE CHAIR MILLER: Okay.

2 MS. BATTIES: Correct.

3 VICE CHAIR MILLER: Okay. Okay.

4 COMMISSIONER MAY: Yeah, I was not going to ask because

5 --

6 VICE CHAIR MILLER: So what's the density of the current  
7 McDonald's?

8 MS. BATTIES: The existing restaurant, I can look that  
9 up. One second.

10 COMMISSIONER MAY: Well, it's got to be less than one,  
11 right? It's a big parking lot.

12 MS. BATTIES: Yes.

13 CHAIRPERSON HOOD: Well, let me just say this. While  
14 you are you getting that Ms. Batties. Let me make sure I correct  
15 the record, Vice Chair.

16 It's not that the Chairman does not want us to get into  
17 (indiscernible). I know that sometimes we do. That's why I said  
18 it in my opening comments. I have been lectured because we have  
19 done that by our legal counsel, that I should not be allowing  
20 that and we should not be doing it. I have a whole dissertation.  
21 And you and I have talked about this, not just in this case. We  
22 have talked about it for months, years. So we will have a session  
23 where all of us can hear what I have been -- I'm not going to  
24 say admonished, where I have been brought back into the legality  
25 of what we have in front of us. So I'll leave it at that for

1 now.

2 MS. BATTIES: To answer the question, the existing site  
3 -- the existing restaurant is 3,100 square feet.

4 VICE CHAIR MILLER: And the FAR?

5 MS. BATTIES: Well, the site is 21,000 square feet, so.

6 COMMISSIONER MAY: .15 something like that.

7 VICE CHAIR MILLER: Sorry to interrupt, Commissioner  
8 May.

9 COMMISSIONER MAY: No, that's okay. Okay. I don't  
10 think I have other questions for you. I will have questions for  
11 the Office of Planning about it. Thank you.

12 CHAIRPERSON HOOD: Okay. Commissioner Imamura.

13 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

14 My connection's a bit spotty, so I heard Vice Chair  
15 Miller talk really fast and Ms. Batties, but -- so I don't have  
16 any questions right now, so I'll maybe perhaps reserve my time  
17 and would like to hear what Vice Chair Miller has to ask, and  
18 your thoughts, Mr. Chairman, that might prompt other questions  
19 for me to ask.

20 CHAIRPERSON HOOD: Okay. That's good. Okay.

21 Vice Chair Miller.

22 VICE CHAIR MILLER: Thank you, Mr. Chairman, and I will  
23 try to talk more slowly, which I often tell my family to do that  
24 as well, because, because, because.

25 Anyway, thank you, Ms. Batties and Ms. Elliott for your

1 presentation. It's good to see you in this new role.

2 I appreciate all the analysis that you provided, and I  
3 think I saw your handiwork in a case we saw last week on South  
4 Capitol Street, in terms of the Comprehensive Plan and racial  
5 equity analysis in a design review of case where you as part of  
6 the applicant's team didn't think compre -- that analysis was  
7 necessarily necessary, but you provided a lot of analysis, and I  
8 -- it was more comprehensive than I had seen previously in other  
9 cases, and I think that was your handiwork, and I appreciate  
10 that.

11 The question I have is that the MU-7 map amendment zone  
12 that this application is requesting, specifically in Subtitle G,  
13 400.7 as pointed out in the Office of Planning's report, and  
14 unfortunately, is not noted in your own potential inconsistencies  
15 as far as I saw in your presentation, but the Zoning Regulations  
16 say the "MU-7," which is what is being asked for here from MU-3,  
17 and that zoning regulation says "permit medium-density, mixed-  
18 used development," and the -- I realize that the Comprehensive  
19 Plan Land Use Map, which is what primarily we are evaluating this  
20 case about is consistency with the proposed zoning, has been  
21 changed in the most recent Comp Plan changes, I think from a low-  
22 density commercial to a moderate-density commercial at this site,  
23 I think. Correct me if I'm wrong, but I think -- and maybe to  
24 facilitate whatever development being contemplated here now or  
25 in the future, but if you could just address the potential

1 inconsistency that a moderate-density Future Land Use Map  
2 designation has currently, even though it got increased from low,  
3 to what the Zoning Regulations say with MU-7, which is what you're  
4 -- the Map amendment you're seeking, it specifically says,  
5 "permit medium-density," which is a higher density. So I just  
6 would like you to address that potential inconsistency with the  
7 Comprehensive Plan that this zoning map amendment is requesting.

8 MS. BATTIES: (Indiscernible) zone.

9 MS. ELLIOTT: Yes, the -- thank you, Mr. Vice Chair,  
10 for your question.

11 The Future Land Use Map in the Comprehensive Plan  
12 specifically called MU-7 as appropriate for a moderate density  
13 designation, and it does fall within the densities that are  
14 specified within moderate density, you know, from two to four  
15 FAR, and so, it is consistent with moderate density.

16 I do know that there are occasionally mismatches in the  
17 Zoning Regulations, but because we are relying on the  
18 Comprehensive Plan for this analysis, we would rely on the  
19 designations provided in the Plan.

20 VICE CHAIR MILLER: So, you don't think the Zoning  
21 regulation, which says that MU-7, which is what you're requesting  
22 here says "permit medium-density" has any relevance in this --  
23 in our consideration?

24 MS. ELLIOTT: But what I'm saying has relevance is the  
25 FAR that is called out in the Comprehensive Plan as being

1 appropriate for moderate density, and the MU-7 falls within the  
2 parameters that are provided in the Comprehensive Plan.

3 VICE CHAIR MILLER: Okay. Well, that's a very nuanced  
4 answer. Okay.

5 MS. BATTIES: Mr. Vice Chair --

6 VICE CHAIR MILLER: Let me contemplate that.

7 MS. BATTIES: Mr. Vice Chair, I'd also like to just  
8 note that as a non-residential use, the maximum FAR is 2. -- 2.5,  
9 so even if you were to say the Zoning Regulations permit medium-  
10 density development on the site, the most that can be developed  
11 for a non-residential use is 2.5 FAR under the MU-7 rezoning.

12 VICE CHAIR MILLER: Right. Right. And I realize the  
13 density is less than -- well less than both. I think it's well  
14 less than both, MU-7, and MU-5. Maybe, MU-3, the current, right?

15 MS. BATTIES: For the residential use. So we're limited  
16 non-residential because we're -- the McDonald's Corporation is  
17 the owner, but the residential uses would allow for more density  
18 than 2.5.

19 VICE CHAIR MILELR: I know the Chairman has admonished  
20 us, and he feels he's been lectured, but I don't feel I've been  
21 lectured. So if he wants to rule me out of order, he can do so.

22 But the zone you're requesting allows a Use Group,  
23 which is different from another Use Group. The zone MU-7 allows  
24 certain uses, which are different from the MU-5 zone, which seems  
25 to be, just off the top of my head, more appropriate as a

1 consistency zone for this type of map amendment. You don't get  
2 the -- so it's Use Groups that mainly distinguish those two  
3 zoning map -- the zoning map designations, which the Office of  
4 Planning pointed out in their -- in their report. So it's  
5 because-- it's the Use Group that is being sought here, and maybe  
6 not the density, because the density is -- you get whatever you  
7 need for what you're currently contemplating for this McDonald's  
8 renovation. It's just that you don't get any, maybe the drive-  
9 thru, which there's opposition to as a matter of right on that  
10 MU-7, and you're not getting, maybe the number of seats.

11           How many seats -- how many seats are currently in the  
12 existing McDonald's and what would be the seats in the, possibly,  
13 potentially renovated McDonald's. We won't get into the  
14 potentially new housing or whatever that might be developed there  
15 that this all will facilitate, which we were very well aware of  
16 based on your submissions and OP submissions, but what is --  
17 there are 18 seats I think that are currently -- what are the  
18 seats? What's the seating that's currently allowed under the  
19 MU-7 versus MU-5, because they have different Use Groups and  
20 that's what's happening here. I don't think we need to ignore  
21 reality; despite whatever admonishments we've gotten from  
22 previous legal counsel, who frankly did not always provide us  
23 with appropriate legal counsel.

24           MS. BATTIES: So, Mr. Vice Chair, I can promise you we  
25 don't have a development program for the new restaurant, right.

1 So this -- where we are right now is literally 15 to 20 years in  
2 the making. Any site plan design or whatever is really going to  
3 be given by DDOT, Public Space Committee, like a totally separate  
4 approval process, so we don't -- and we are in very preliminary  
5 stages. So DDOT's comments were generated by a PDRM meeting that  
6 we had with them on a very preliminary concept plan. I -- so  
7 -- and that thing that -- I've also heard the Chairman on many  
8 of occasions lecture people about talking about specific uses and  
9 development programs for a rezoning application, and so I  
10 promised the Applicant that we would all be very disciplined in  
11 that -- discussing that this evening.

12 So I can find out. I know that the current -- the  
13 franchise operator is on the call and can talk to you about the  
14 existing restaurant. The size, right? We know it's 3,100 square  
15 feet, the number of seats, but we do not have a development  
16 program for the new restaurant. That's still in the works and  
17 will be informed a lot by how we get through this process and  
18 the other permit approval processes.

19 So, Raoul, if you're on -- if Mr. Young can pull up  
20 Raoul Alvarez. I know he probably didn't sign up to testify,  
21 but he can speak to the number of seats currently on the site.

22 MR. ALVAREZ: All right. Good afternoon, everyone.  
23 Can you hear me?

24 MS. BATTIES: Yes.

25 MR. ALVAREZ: Currently, the site has approximately 40



1 seats in it, not all are in use, but it has space for 40 seats.  
2 I think we're only using 34 to 36 currently, but if we use all  
3 the seating, it will go up to about 40.

4 MS. BATTIES: Thank you, Raoul.

5 MR. ALVAREZ: Absolutely.

6 VICE CHAIR MILLER: Thank you for that information.

7 So what would be your reaction if the Zoning Commission  
8 chose to upzone this site consistent with the Comprehensive Plan  
9 to an MU-5 zone versus MU-7?

10 MS. BATTIES: So the MU-5 zone will not allow us to  
11 maximize the density, even for a non-residential use on the site,  
12 and it would not allow for the maximum redevelopment potential  
13 for the site for a fast-food establishment.

14 VICE CHAIR MILLER: So getting to that Use Group that's  
15 permitted in the MU-7 zone, a drive-thru matter of right, fast-  
16 food restaurant, which some in the neighborhood oppose, and if  
17 it was an MU-5 zone instead of the MU-3, which is more of a low  
18 -- lower density zone, and MU-5 is more of a moderate-density  
19 zone, which is also consistent -- not inconsistent with the Comp  
20 Plan as MU-7 that you're requesting is, I acknowledge that, even  
21 though it says in our own Zoning Regulation that MU-7 is for  
22 medium-density. What -- what wouldn't you be able to do that  
23 you want to do? Or what -- no, no. The question is: In an  
24 MU-5 zone, if you wanted to have -- and the Chairman can rule me  
25 out of order -- if you wanted to have a drive-thru in an MU-5

1 zone, which it -- it wouldn't be -- which would not be a matter  
2 of right as it would be in an MU-7, would you have to go to the  
3 BZA for a use variance or a special exception? What do our Zoning  
4 Regulations -- our wonderful Zoning Regulations require in that  
5 circumstance?

6 MS. BATTIES: So, Mr. Chairman, it's a use variance.  
7 I will tell you the Applicant has been working -- when I tell  
8 you this is almost 20 years in the making -- the Applicant has  
9 worked with the Office of Planning on the appropriate strategies  
10 to maximize the redevelopment of the site plan. The Office of  
11 Planning could not support an application to the BZA for a drive-  
12 thru on the site under the current zoning. It is -- I mean, this  
13 has been --

14 VICE CHAIR MILLER: Because it would be a use  
15 variance --

16 MS. BATTIES: Right.

17 VICE CHAIR MILLER: -- which is a very high threshold.

18 MS. BATTIES: That's correct.

19 VICE CHAIR MILLER: Okay. I always seem to get tied  
20 up in our own processes. Thank you for the information. I  
21 appreciate your -- I appreciate the Applicants working with the  
22 community all the years. I saw the submissions about all the  
23 community efforts that the Applicant has done, family-owned  
24 franchise for so many years with the community -- surrounding  
25 community and plans for future benefits and -- which has nothing

1 to do with the map amendment, but I do appreciate and wanted to  
2 acknowledge that effort that has been made in the past and  
3 commitment in the future.

4 MS. BATTIES: Well, Mr. Vice Chair -- and I'll get to  
5 this more on my closing argument -- I do think the community,  
6 the Applicant standing in the community is relevant to a map  
7 amendment. I think a lot of it goes directly to racial equity.

8 VICE CHAIR MILLER: I appreciate that. Thank you.

9 CHAIRPERSON HOOD: Thank you. And I'm going to pick  
10 right up on the business needs, you know. You know, the office  
11 of the -- public transportation, DDOT had in their submission  
12 talking about a certain specific use and what was going to go on  
13 and what it was trying to prevent. And let me just say this to  
14 you, Ms. Batties, so you'll really understand. This conversation  
15 has probably been going on for about 35 years. It didn't just  
16 start.

17 Also, I want to -- I want to say something that I was  
18 taken back by the late -- lateness of the opposition in the  
19 record, but I -- then I looked at it again later on this  
20 afternoon, and I get another -- we got another letter, our exhibit  
21 -- what is it? Whatever the exhibit -- our last exhibit, I  
22 believe, and it starts off like this.

23 "Dear Chairman Hood and Members of the Zoning  
24 Commission. Today I write -- I am writing to express Advisory  
25 Neighborhood Commission 5A's continued support -- continued

1 support for the proposed development project. As such, we are  
2 adamantly opposed to any distractions being caused by newly  
3 incoming Commissioner-Elects."

4 I -- you know, being not just from this neighborhood,  
5 I say this about all neighborhoods. I think that's disrespectful  
6 to the current Commissioners, and I will -- hopefully, this  
7 person, whoever wrote this letter and started whatever is going  
8 on here, remember, you got to work with those Commissioners.

9 Is that the way you want to start it off? Because I,  
10 you know, I get my grassroots from 5A and 5B and 5C, and from  
11 North Michigan Park, because that's where my parents also were  
12 members of the associations. And I know when you get their  
13 approval, it ain't no small task. And I'm not saying that which  
14 way we want to go, because I hear my colleagues, but I also know  
15 from a racial equity standpoint, the business needs, and I know  
16 what we're trying to achieve. I'm not talking about a project,  
17 but I know what's trying to be achieved here, and I'm wondering  
18 (indiscernible) -- what I -- I thought about this long and hard  
19 this weekend as I saw during the Thanksgiving holiday, all this  
20 opposition showed up, because I thought this was going to be  
21 about a 15-minute hearing. That's the way I looked at it over  
22 the time we had, a 15-minute hearing.

23 We got a lot -- a lot of opposition that came in, I  
24 think around the time the 20 -- I think it might have been  
25 Thanksgiving Day, and I respect that. I've been -- I would love

1 to hear them, how long they've been in the neighborhood, what  
2 some of their issues are.

3 And I also have the issue with DDOT. So my first issue,  
4 a lot of things that we've done with pedestrian and traffic mixes,  
5 and how that mix in, we've done a lot worse, colleagues, we've  
6 done a lot worse. And I took the recommendation of DDOT. Because  
7 guess what? Some of the places that we've done, which I actually  
8 ride through as well, are a lot worse than what's in this  
9 neighborhood -- in this middle-class black neighborhood, where  
10 they need some of the basic needs like other neighborhoods have  
11 when you talk about racial equity. So I don't have a question.  
12 I'm very -- just -- just the way this thing is all coming into  
13 play.

14 I will ask this, though, Ms. Batties, from a racial  
15 equity standpoint, I know Ms. Elliott mentioned it -- from a  
16 racial equity standpoint, just talk to me a little bit more about  
17 the racial equity piece of how you're trying to get the business  
18 needs to this neighborhood, which at one time was predominantly  
19 black, and I believe it still is. We're getting a mixture, but  
20 what's the racial equity? Why does it take them 35 years to get  
21 to where other people get to in five minutes? I have an issue  
22 with that.

23 MS. BATTIES: I'm just going to say, as previously  
24 mentioned, the Applicant participated in numerous meetings with  
25 community stakeholders as part of this process. And from those

1 meetings, a couple of things were very clear. This is an  
2 establishment that is regularly frequented by many long-term  
3 residents, many of whom are senior citizens. And as noted on  
4 page 9 of the Office of Planning report, the residents in the  
5 neighborhood surrounding the subject property and who use this  
6 McDonald's are disproportionately black, and elderly, and have  
7 incomes lower than their white and Asian counterparts.

8           This restaurant is a place where the community gathers  
9 and the franchise operator-owner is a long-term community  
10 stakeholder who is well-regarded because of all that he does to  
11 support programs and initiatives that benefit the immediate  
12 neighborhood.

13           So you know, just taking all of this into  
14 consideration, observing the support, the long-term residents who  
15 have been part of the process over the past two, three decades  
16 have expressed their support for the entitlements that would best  
17 facilitate the redevelopment of this site, and those are -- these  
18 are, you know, Mr. Chairman, these are observations and things  
19 that I had felt suffered from the very kind of objective  
20 indicators that Ms. Elliott went through in her testimony, but  
21 I believe all of these other -- I'll just use it -- some soft  
22 factors, right -- really support the approval of the application,  
23 because in many ways it promotes racial equity. And so that's  
24 what I'm saying, Mr. Chairman, I think that all of this taken in  
25 context, this application and all of these factors directly

1 relate to the Comprehensive Plan analysis.

2 CHAIRPERSON HOOD: Okay. I appreciate that. I'm just  
3 looking at the record and I noticed that -- I also thought about  
4 what we did on South Dakota Avenue. And I'll be frank and honest,  
5 what we did further up, I didn't necessarily care for, but that's  
6 the way we do it all over the City. And why do we -- when it  
7 comes to certain neighborhoods, we're harder on certain  
8 neighborhoods and some we're not. That's just my opinion. That's  
9 the way I see it, and remember I've been here a while, so I've  
10 watched what went on.

11 Now, we're in the black neighborhood and we got all  
12 these -- and I figure out everybody's trying to make it work.  
13 OP, I know the City Council designated this, I understand all  
14 that, I see that. But then for me to get something from DDOT  
15 -- and you all have heard me talk about traffic consistently --  
16 and we get a planning issue from DDOT, I mean, there's another  
17 monkey wrench in a black neighborhood. So we're talking about  
18 racial equity. And I'm not saying everybody's black and I'm not  
19 saying everybody has to agree, but when I have some of the  
20 strongest -- one of the strongest ANC's -- I've said this for  
21 years, and check my record in the City, which was 5A, everybody  
22 always talked about Ward 3. I always talked about 5A, because  
23 5A was stronger. And then I'd talk about North Michigan Park.  
24 North Michigan Park's Civic Association, they don't take stuff  
25 lightly. So you know, this is where I am on this. I just hate

1 that we make it harder. And that of racial equity, I want to  
2 thank Councilman McDuffie and the City Council for putting that  
3 racial equity in place, because most of my questions are going  
4 to start there, because we've been downtrodden, pushed back,  
5 delayed for so many years about certain things.

6 And here's another thing, I would like -- hopefully,  
7 when the opposition that we spoke about -- because we have  
8 opposition, yes, but we also have quite a bit of support, and  
9 then I also know we have the regulations.

10 So I'm not going to get into any projects, and I  
11 appreciate you all. I don't think we over -- overkilled. I  
12 think we have a great legal division. They keep us out of Court  
13 lately. So -- but anyway, regardless of where we are, we are  
14 where we are and that's enough of my lecture on that. I'll wait  
15 to hear from the public. (Indiscernible.) This is very  
16 discouraging to me when I look at this in the neighborhood been  
17 working on something for 35 years and people walk in here and  
18 get stuff done in five minutes.

19 Okay. Any further questions?

20 (No audible response.)

21 Okay. Ms. Schellin, do we have anyone from the ANC  
22 who'd like to cross-examine?

23 MS. SCHELLIN: Let's see. Ms. Lucio --

24 CHAIRPERSON HOOD: Commissioner Lucio.

25 MS. SCHELLIN: -- was on here. Let's see if she's



1 here.

2 CHAIRPERSON HOOD: Commissioner Lucio, all we need --  
3 let me just say this. I think we only have -- Commissioner Lucio,  
4 I'm only going to ask for -- do you have any questions of what  
5 you heard from the Applicant, and we'll take your testimony at a  
6 later time.

7 COMMISSIONER LUCIO: Good afternoon, everyone. Thank  
8 you, Mr. Chair.

9 I do not have any additional questions. My stance is  
10 just to support what the ANC submitted to you in writing. And  
11 to share that we have worked very closely with the community and  
12 the developer in this plan, as presented by Ms. Batties, has the  
13 support of -- the full support of the full ANC 5A.

14 CHAIRPERSON HOOD: Well, Commissioner Lucio, we are  
15 going to come back to you. I've been noticed by staff that you  
16 do, you know -- we all have jobs, and I appreciate what you do.  
17 And if you're not ready when we come back, we will wait until  
18 you come back, but we should be to you shortly.

19 COMMISSIONER LUCIO: (Indiscernible) so I'll just  
20 (indiscernible).

21 CHAIRPERSON HOOD: Okay. Let's go to the Office of  
22 Planning and DDOT.

23 Ms. Brown-Roberts. You ready to --

24 MS. BROWN-ROBERTS: Good evening, Mr. Chairman.

25 CHAIRPERSON HOOD: Yes.

1 MS. BROWN-ROBERTS: Good evening, Mr. Chairman and  
2 Members of the Commission. Maxine Brown-Roberts with the Office  
3 of Planning in Case -- Zoning Commission Case No. 22-19 for the  
4 map amendment petition to rezone the property at 4950 South Dakota  
5 Avenue from the MU-3A to the MU-7B zone.

6 As part of the 2021 Comprehensive Plan Update, the  
7 Future Land Use Map designation for the site was changed from  
8 low-density commercial to moderate-density commercial.

9 The map amendment to MU-7B is not inconsistent with the  
10 Future Land Use Map designation for moderate-density commercial,  
11 given the property's location along a main arterial road on a bus  
12 route, which connects to the nearby Metrorail lines and would  
13 meet the goals of allowing more neighborhood serving uses close  
14 to and convenient to residents for their day-to-day needs.

15 The Generalized Policy Map designates the site as a  
16 Neighborhood Commercial Center. Again, the proposed zoning would  
17 facilitate redevelopment of the subject properties in the future  
18 with additional retail, service or residential uses.

19 The Zoning Regulation describes the MU-7 zone as a  
20 medium-density, while the Comprehensive Plan specifies that  
21 densities typically range between an FAR of 2.5 and 4.0 with  
22 greater density possible with IZ or with a PUD. And the MU-5  
23 and MU-7 zones are representative of zone districts consistent  
24 with a Moderate Density Commercial category, and other zones may  
25 also apply.

1 Both the MU-5 and MU-7 zones allow for mixed use with  
2 the heights of 65 to 75 feet and FARs of up to 4.0 with the  
3 MU-7B allowing for more non-residential use.

4 The main difference as outlined in our report between  
5 the MU-5 and the MU-7 zone is in the Use Group, where the MU-7  
6 Use Group F allows eating and drinking establishments without  
7 restrictions, while in the MU-5 Use Group E, an eating and  
8 drinking establishment may not have a drive-thru and a prepared  
9 food shop is limited to 18 seats in many zones.

10 The site is already developed with an existing fast-  
11 food establishment, and thus the MU-7 Use Group F is an  
12 appropriate zone.

13 Regarding IZ Plus, if the property were to be  
14 redeveloped with residential use, IZ Plus is recommended as the  
15 2019 Housing Equity Report shows that the Upper Northeast  
16 Planning Area having nine percent of the District's affordable  
17 housing units as of 2018, and is targeted to produce 1,300  
18 affordable units by 2025 to meet the affordable housing goals of  
19 the District. The IZ bonus density that could be realized would  
20 be between 14 to 18 percent or approximately 12 to 18 affordable  
21 units.

22 The Commission's Racial Equity Tool serves as a guide  
23 in analyzing the Comprehensive Plan and considers potential  
24 impacts of the proposal. The proposal would not result in any  
25 residential or commercial displacement, but would provide an

1 opportunity for residents to have a place to meet and gather and  
2 would facilitate the redevelopment of an under-utilized site with  
3 access to transit.

4           Although redevelopment of the site with residential use  
5 is not currently anticipated, the rezoning would provide future  
6 opportunities for additional housing options with transit access  
7 and the ability to reach major employment areas, either on transit  
8 or by walking or biking.

9           Proposed rezoning also has the potential to create  
10 additional retail jobs and is located close to other public  
11 facilities and gathering places. The proposal is generally not  
12 inconsistent with the policies of the Citywide Elements of the  
13 Comprehensive Plan. However, we note that the proposed zoning  
14 allows for a drive-thru, which is not fully consistent with a  
15 transportation policy to discourage auto-oriented use and drive-  
16 thrus.

17           We are also aware of DDOT's recommendation for a lower  
18 zone. However, when looking at the overall recommendation of the  
19 Comprehensive Plan and the possibility of future residential use  
20 and the application submitted for the MU-7 zone is appropriate.  
21 The proposal is not inconsistent with the recommendations of the  
22 Upper Northeast Area Element that recommends directing growth to  
23 an area designated for redevelopment and that neighborhood  
24 serving retail uses are strongly encouraged in the area  
25 designated for commercial and mixed uses.

1           Based on these findings, on balance, OP finds that the  
2 proposed map amendment is not inconsistent with the Comprehensive  
3 Plan, and the Office of Planning recommends approval of the  
4 proposal.

5           Thank you, Mr. Chairman, and I'm available for  
6 questions.

7           CHAIRPERSON HOOD: Thank you Ms. Brown-Roberts.

8           I don't believe we have anyone from DDOT, but I did  
9 have -- I think -- I'm not sure who asked the question, it may  
10 have been Commissioner May about the other proposed zone. I  
11 wanted to know what -- as well as what DDOT had in mind since  
12 they now are doing the planning part of it, but anyway, either  
13 way, let me open it up and see if we have any questions for the  
14 Office of Planning.

15           We are going to just have to go with the DDOT report,  
16 because Ms. Blondin, I think -- we don't see Ms. Blondin, right,  
17 Ms. Schellin?

18           MS. SCHELLIN: That's correct.

19           CHAIRPERSON HOOD: Okay. All right. So I will start  
20 off with questions and comments, Commissioner May of Ms. Brown-  
21 Roberts.

22           COMMISSIONER MAY: Yes. There was -- the two key  
23 differences it seems between the MU-5 zone options and the MU-7  
24 zone options are the drive-thru and the seating capacity. And  
25 the drive-thru is pretty clear that it's allowed under 7, it is

1 not under 5. When it comes to the capacity, the limitation of  
2 18 seats, does that apply in MU-5, because the way the language  
3 reads, it's "Use Group E, some of those zones have limitations  
4 on the seating," but it's not clear to me whether MU-5A or 5-B  
5 would have that limitation on the number of seats.

6 MS. BROWN-ROBERTS: I didn't -- I'd have to go back to  
7 check to see which portion of the MU-5 and get back to you on  
8 that one.

9 COMMISSIONER MAY: Okay. Yeah, I think that's  
10 important to know. And if it is limited to 18 seats, is it --  
11 would it be a special exception, or a use variance, or an area  
12 variance in order to get it increased beyond 18?

13 MS. BROWN-ROBERTS: Yeah, I think it could -- I'm sorry.  
14 I think it would be an -- it would be an area variance.

15 COMMISSIONER MAY: Okay.

16 MS. BROWN-ROBERTS: Let me take a look.

17 MS. BATTIES: I think, Ms. Brown-Roberts, it's the  
18 prepared food shop.

19 MS. BROWN-ROBERTS: Uh-huh.

20 CHAIRPERSON HOOD: Ms. Batties. Ms. Batties.  
21 Commissioner May, did you ask Ms. Batties, or were you asking Ms.  
22 Brown-Roberts?

23 COMMISSIONER MAY: I was asking Ms. Brown-Roberts, but  
24 if she can answer it --

25 CHAIRPERSON HOOD: You can get your answer from

1 whomever? Okay.

2 COMMISSIONER MAY: No, I mean if, you know, the key  
3 thing is to get the information.

4 CHAIRPERSON HOOD: Okay. Well, if Ms. Batties has it,  
5 then Ms. Brown-Roberts are you ready to either go with it, or  
6 yay or nay, or you'd rather do the research yourself? It's up  
7 to you. Yeah, I think -- let's just do that. Let's just do  
8 that.

9 MS. BROWN-ROBERTS: Yes.

10 CHAIRPERSON HOOD: Any other questions, Commissioner  
11 May?

12 COMMISSIONER MAY: No. I really do want to know whether  
13 MU-5A or B has that limitation on the number of seats.

14 CHAIRPERSON HOOD: Okay. Commissioner Imamura.

15 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

16 I'll try to make this quick since my connection's a bit  
17 choppy. I'm kind of -- I'm interested too on the seat limitation.  
18 I was a little confused on that MU-5 and MU-7. Both are described  
19 as medium density, and I know in the report, or at least in the  
20 Comp Plan, it does say, "or any other zone that may apply." I'm  
21 curious. MU-4 is designated as moderate density, so why would  
22 MU-7 be the best fit or without the exception or sans the  
23 explanation of maximizing the density?

24 MS. BROWN-ROBERTS: Well, the -- as I said, the MU-7  
25 zone is the one that would allow for the drive-thru. In any

1 other zone, they would need a special exception to -- a use  
2 variance to get that to have the drive-thru.

3 COMMISSIONER IMAMURA: So I understand the drive-thru  
4 would be a use variance, but I guess I'd also want the  
5 clarification if the seating would be a use variance? Why  
6 wouldn't it be a special exception?

7 MS. BROWN-ROBERTS: Because in the MU-5, again -- let's  
8 see -- it's for the use is for the fast-food. I'd have to check  
9 on that and get back to you on that to see the direct wording of  
10 the regulations.

11 COMMISSIONER IMAMURA: Okay. I appreciate that.

12 I think the challenge here is thinking about this in  
13 terms of the immediate sort of need. I think Vice Chair Miller  
14 had alluded to it. The Chairman said we are not to discuss a  
15 future project here, but it's a little difficult not to in terms  
16 of what the emphasis of, you know, why we have a map amendment  
17 before us here. So it's, you know, initiating that versus sort  
18 of what the long-term use or potential use of that that land  
19 could be, so I find that kind of challenging here. But I'll  
20 yield -- that's my (audio interference).

21 MS. BROWN-ROBERTS: Okay.

22 CHAIRPERSON HOOD: I feel compelled to say this again.

23 The same people that give me the legal advice, give  
24 you, the four of you -- you three the legal advice, and they have  
25 given us all the same advice. It's just that I've been try --



1 as the Chairman, I've been trying to follow it, and I know it's  
2 difficult. So you know, let's try to stick to that as much as  
3 we can. And I know it's difficult.

4 There's a long explanation. I've asked this not once.  
5 I've asked this about this -- asked them about the projects more  
6 than once. I always get this long legal interpretation. And  
7 it's the same people that give it to me, that give it to you all.  
8 I just try to go by it.

9 Vice Chair Miller.

10 COMMISSIONER MAY: Mr. Chairman, I'm sorry. I got to  
11 stop you there. I don't understand. I don't -- I've not heard  
12 a lot of questions about the specific development.

13 We're talking about the difference between two zones,  
14 one of which has certain restrictions. The other one does not,  
15 and that's what I'm trying to understand.

16 CHAIRPERSON HOOD: Well, I keep hearing -- I keep  
17 getting (indiscernible). I keep hearing like the Chairman is the  
18 one who wants you all not to talk about a project.

19 COMMISSIONER MAY: No. No. No. I never said that.

20 CHAIRPERSON HOOD: No, I didn't say -- I didn't call  
21 any names. I'm just saying --

22 COMMISSIONER MAY: Yeah. Yeah. Yeah.

23 CHAIRPERSON HOOD: I don't know who said it. I don't  
24 know who said it.

25 COMMISSIONER MAY: No, we know what the rules are and

1 we should not be talking about the specific development. That's  
2 absolutely (indiscernible.)

3 CHAIRPERSON HOOD: Commissioner May, let me -- you  
4 spoke up, but you're the one who has not been doing it, so that  
5 was not directed at you. All right. It was directed -- when I  
6 hear my name, "the Chairman doesn't want us to." No, it's not  
7 the Chairman. It's what we all have been told.

8 COMMISSIONER MAY: Right. I agree with you.

9 CHAIRPERSON HOOD: So again, Vice Chair Miller.

10 Okay. We're good. Vice Chair Miller.

11 COMMISSIONER MAY: Yeah, okay.

12 CHAIRPERSON HOOD: You see the public can get the wrong  
13 impression, and then it'll all come back to the Chairman.

14 COMMISSIONER MAY: Right. You're absolutely right. We  
15 should stick to our rules. We should not discuss --

16 CHAIRPERSON HOOD: That's all I'm trying to do.

17 COMMISSIONER MAY: -- the (indiscernible) project in  
18 any case.

19 CHAIRPERSON HOOD: That's all I'm trying to do. Okay.  
20 Vice Chair Miller.

21 VICE CHAIR MILLER: Well, thank you, Mr. Chairman.

22 I know it was directed at me, and I believe in the  
23 First Amendment.

24 So I don't know if I have any additional questions  
25 beyond what my fellow Commissioners asked of Maxine Brown-

1 Roberts, but I appreciate your report.

2           What would you think would be the harm of upzoning  
3 this map -- this site to MU-5 - an MU-5 zone versus an MU-7 zone.  
4 And why is DDOT (a) not here. I guess they don't want to be  
5 publicly having the District government disagreeing with  
6 themselves publicly at a public forum, although, that happens all  
7 the time. So that's disappointing that they're not here.

8           But I found it disappointing that DDOT was recommending  
9 Comprehensive Plan Consistency Analysis more than OP was in their  
10 report. So I would like you to address that issue of the medium  
11 density zoning regulation, which might be wrong, but there it is.  
12 MU-7 is medium density. The Comp Plan is moderate. It was  
13 upzoned from low, so it needs to be upzoned, but -- and DDOT's  
14 not here to defend not only that planning -- land use planning  
15 issue, but the transportation planning policy that's also in the  
16 Comprehensive Plan that the OP is constantly supporting in terms  
17 of discouraging induced auto, car, automobile traffic in a  
18 neighborhood, a residential neighborhood. It's a low-density  
19 residential neighborhood.

20           If you could just address those issues again. I think  
21 you've addressed them, but just reiterate it, just so I try to  
22 understand where OP is coming from, different from where DDOT's  
23 coming from, which seems to be more consistent with the  
24 Comprehensive Plan in this particular case.

25           MS. BROWN-ROBERTS: Okay. So, the Zoning Regulations

1 describes the MU-7 zone as medium density, and it says that the  
2 density typically ranges between 2.5 to 4.0, so we're looking at  
3 the --

4 VICE CHAIR MILLER: The medium-density designation in  
5 the Zoning Regulation. It says, "medium density." This is  
6 my -- and we're talking about moderate --

7 MS. BROWN-ROBERTS: Hello.

8 VICE CHAIR MILLER: I'm sorry to interrupt you. Go.  
9 Go. Go forward.

10 MS. BROWN-ROBERTS: Yes. So the -- as I was saying,  
11 the Zoning Regulation says that the MU-7 zone is a medium density.  
12 When we go to the Comprehensive Plan, it says densities are  
13 typically ranged between FAR 2.5 or up to 4.0.

14 When we look at the zoning for the FAR, for the MU-7  
15 zones that that is described as the medium, it's basically the  
16 same. It goes up to 4.0 FAR, and, you know, similar heights.

17 So, there is that discrepancy there, but when you look  
18 at the -- when you look at the MU-7A, it gives you that 4.0 FAR.

19 VICE CHAIR MILLER: (Audio interference.)

20 MS. BROWN-ROBERTS: So even with --

21 VICE CHAIR MILLER: Go on.

22 MS. BROWN-ROBERTS: So even with -- so what we are we  
23 trying to say is that the result is the same. You're talking  
24 about, you know, one is describing it as a medium. One is  
25 describing it as a moderate. But when you look at the densities

1 that they're recommending, it's basically the same thing, except  
2 that you get a higher non-residential FAR under the 7B.

3 VICE CHAIR MILLER: Your own report acknowledges that  
4 the real distinction is the Use Group and what it's --

5 MS. BROWN-ROBERTS: Right. So --

6 VICE CHAIR MILLER: The development is being  
7 facilitated by this -- by this map Amendment.

8 Ms. Steingasser, did you want to say something since I  
9 see you there?

10 MS. STEINGASSER: I would, Vice Chairman, and  
11 Commissioners.

12 The Comprehensive Plan is not the Zoning Regulations,  
13 and it provides a range of zones and that's why -- it even goes  
14 so far as to say that, that it is not a Zoning Regulation, that  
15 it is not intended to be read that specifically. So it does  
16 provide a range and that range starts down at the 2.5, which is  
17 the MU-4. But if you look at the MU-4 zone, that's identified  
18 as a low to moderate. And then it provides from 2.5 -- 2.5 up  
19 to 4.0 as a matter of right zone. But then it can go even higher  
20 and still be deemed consistent with the Comprehensive Plan  
21 through PUDS and through inclusionary zoning. So we did not take  
22 such a hard, hard reading that the Zoning Regulations, because  
23 they identify it as a medium density zone, somehow altered the  
24 application and balancing and reading of the Comprehensive Plan,  
25 quite the contrary. If anything, the Zoning Regulations should

1 be amended to reflect the Comprehensive Plan, not the other way  
2 around. And as you know, the comp -- the Zoning Regulations were  
3 adopted in 2016. The Comprehensive Plan was amended and approved  
4 just last year. So that time lag of updating the Zoning  
5 Regulations perhaps needs to be brought forward, and we can look  
6 at that as a different -- as a current upcoming case. But in  
7 this case, we did not see it as only -- only one zone applied.  
8 We saw it as a range of zones that could apply.

9           The Applicant applied for the MU-7, so that's the one  
10 we processed with the biggest focus. I think it's clear to say  
11 that everyone is uncomfortable with the fact that OP and DDOT are  
12 not in the same place, and in the 23 years I've worked here, this  
13 is the first time that's ever happened. And, you know, we don't  
14 like it, they don't like it. They ultimately will be reviewing  
15 the permitting of these applications and will -- and can decide  
16 at the permitting stage and not necessarily at the zoning stage.

17           The zoning stage falls to the Zoning Commission and to  
18 weigh and balance all those issues that are before it. And I  
19 think the Applicant made the case that -- especially for a purely  
20 commercial operation, they can only get to 2.5, so they would  
21 still be at the very low end, even under the MU-7 with that  
22 density of 2.5, unless they go to the residential. And then the  
23 residential does bump them up to a 4.0, which is the high end,  
24 and which has always been the case that OP has been aggressive  
25 with -- with providing for density for residential. So all of

1 that kind of came into play in our recommendation.

2 VICE CHAIR MILLER: Well, I appreciate that answer, Ms.  
3 Steingasser. And it's only because of the long-term residential,  
4 IZ Plus designation, which you're recommending, which I agree  
5 with for this map amendment, that I might go along with this  
6 proposal. And I agree that (indiscernible) many best of issues  
7 that you need to deal with, that we need to deal with, the fast-  
8 food regulations for drive-thru maybe need to be looked at, so  
9 that it isn't the variance threshold, it may be a special  
10 exception threshold, so we're dealing with the real issues, which  
11 is neighborhood impacts and adverse impacts that the  
12 neighborhoods is expressing. Although, as the Chairman has  
13 pointed out, the ANC currently -- the current ANC unanimously  
14 supported this. It's unclear whether the ANC-elect will hear  
15 from maybe someone who represents them or this SMD later, has a  
16 different viewpoint on the drive-thru. So I think we need just  
17 one more thing in those Zoning Regulations, that we need to always  
18 be looking at and reviewing as we go forward to try to make it  
19 work best for the neighborhoods and all in our community, though.

20 Thank you for your explanation. I appreciate it.

21 CHAIRPERSON HOOD: Thank you, Vice Chair.

22 Ms. Schellin, if you could help me remember the  
23 dissertation that -- I don't mean it as being sarcastic, that  
24 that Ms. Lovick sent me about map amendments. I tried to find  
25 it. Could you send that to me again, please, and to the

1 Commissioners?

2           Also, Vice Chair, I would agree. I know that that are  
3 a lot of things that we have on our list that need to get done.  
4 I'm not sure. I know this is probably not appropriate, but I  
5 always was told to seize the moment. We haven't got back with  
6 the RA. I'm going to -- I'm just asking, Ms. Steingasser, at  
7 the next meeting, if you can give me an update on where we are,  
8 how long (indiscernible). And I know we just keep on adding  
9 stuff and adding stuff, but we knew this was going to happen when  
10 we did the 2016 Regulations.

11           Now, back to this case.

12           Ms. Brown-Roberts I am -- I didn't see in the report,  
13 and I may have missed it, when DDOT recommended a zone. And I  
14 was trying to refresh my memory, but did they recommend a zone,  
15 or what did that -- did they recommend MU-5?

16           MS. BROWN-ROBERTS: Uh-uh.

17           CHAIRPERSON HOOD: Did DDOT recommend anything?

18           COMMISSIONER MAY: They recommended a zone that would  
19 allow for the density or allow for an increase in density, but  
20 not the drive-thru.

21           CHAIRPERSON HOOD: Okay. So what zone did they  
22 recommend?

23           COMMISSIONER MAY: They did not specifically recommend  
24 it.

25           CHAIRPERSON HOOD: Well, I can -- okay. So they didn't



1 recommend a zone. That's my point.

2 COMMISSIONER MAY: (Indiscernible.)

3 CHAIRPERSON HOOD: Okay. I was going to ask -- go to,  
4 in fact --

5 COMMISSIONER MAY: You know why they're doing that,  
6 because they're not the Office of Planning.

7 CHAIRPERSON HOOD: Well, they recommended the zone, so  
8 they should give us the (indiscernible).

9 COMMISSIONER MAY: No, they didn't recommend a zone.  
10 They recommended that it not be a zone that allows a drive-thru.  
11 That's all.

12 CHAIRPERSON HOOD: Because they want something probably  
13 different. There are underlying agendas here and I don't like  
14 the way this is coming out. And I'm sure that it'll turn out  
15 the way it's supposed to turn out, but I will tell you that being  
16 familiar with ANC 5A, most of those Commissioners I believe are  
17 coming back with the exception of maybe three or four. Anyway.

18 All right. I don't have any further questions of the  
19 Office of Planning. We'll see where this goes. I would -- if  
20 DDOT, if we're going to have to -- it depends upon where we go.  
21 If DDOT is recommending something, I want them to recommend a  
22 zone, because the Office of Planning has made their  
23 recommendation. All right.

24 Any other questions for the Office of Planning?

25 COMMISSIONER IMAMURA: Mr. Chairman, I just want to

1 make a clarification that I think that it's probably nuanced  
2 here, but I think that everybody's in probably agreement with  
3 you, but in agreement with the Office of Zoning Legal Division  
4 that in a map amendment, we're not to discuss any projects, but  
5 I think the difference is projects versus plans and what those  
6 anticipated plans are, because that does lead to -- you know,  
7 planning is not just two dimensional, it's four dimensional.  
8 It's thinking about the time and that leads to urban design, and  
9 what does that look like? So as Ms. Steingasser discussed or  
10 mentioned, right, that her talking about FAR of (indiscernible)  
11 out to 4. So I just want to be clear that it's not really about  
12 the project, but it's what the anticipated plans are. So maybe  
13 that's the nuance here, and so, and urban design certainly within  
14 our expertise here, so I just wanted to put that out.

15 CHAIRPERSON HOOD: Well, let me just say this, and I  
16 don't have a problem. I'm not going to go back-and-forth, but I  
17 don't have a problem with anything this Commission -- each one  
18 of us have one goal, and you noticed I don't even -- when you  
19 start -- we start talking about, and I was not directing it to  
20 you Vice Chair. I was not directing it anybody. Because I know,  
21 I know that the conversations I have with Legal Division, a lot  
22 of times you all might be part of how I'm supposed to handle and  
23 run this hearing, so we can make sure we stay in the legal  
24 requirements, so that's what my job is. That's what I think I've  
25 done a halfway decent over the years, and I'm going to continue

1 to try to do that. So on the back end, regardless of what  
2 happens, that the courts will at least know that the Chairman or  
3 whoever's running the hearing tried to stay in compliance. That's  
4 all it's about. I'm not going to get into a debate. That's all  
5 it's ever been about. And I actually disagree with that, but  
6 I've have been told legally that I can't do that. I disagree  
7 with that wholeheartedly. That's how it all came up. I think I  
8 should be able to talk what the underlying issue is. You know,  
9 it's like I'm being stifled. But anyway, that's my opinion. All  
10 right. But I also follow the rules. All right. So with enough  
11 said.

12 And thank you, Commissioner Imamura.

13 Does the Applicant have any questions of the Office of  
14 Planning?

15 MS. BATTIES: No.

16 CHAIRPERSON HOOD: Commissioner Lucio, do you have any  
17 questions of the Office of Planning?

18 COMMISSIONER LUCIO: (No audible response.)

19 CHAIRPERSON HOOD: She may not be with us.

20 COMMISSIONER LUCIO: I'm here. Sorry. It just took  
21 me a second to unmute. No, I do not have any questions of the  
22 Office of Planning. Thank you.

23 CHAIRPERSON HOOD: Okay. All right.

24 So with that, Commissioner Lucio, we will take your  
25 report at this time, and I will do other government agencies

1 later while you're here, so you may begin.

2 COMMISSIONER LUCIO: Thank you, Chairman.

3 I just want to reiterate what ANC 5A has done over the  
4 course of the last few years in working with this group. To  
5 reiterate what Ms. Batties said, the ANC met with -- or the  
6 developers met with my Single Member District and just to be  
7 clear on this information, this property is in my Single Member  
8 District. However, tonight I am representing the ANC 5A as a  
9 whole.

10 This property is in 5A03 currently, with the rezoning,  
11 it will be adjusted to be in a different Commissioner's SMD, but  
12 as of today it is in my Single Member District.

13 They met with my Single Member District on May 5th,  
14 2022. They met with the ANC on May 25th, 2022. They met with  
15 the North Michigan Park Civic Association on June 1st, 2022, and  
16 the ANC again on June 22nd, 2022.

17 This is in addition to previous meetings where they met  
18 with us just to share with us the plan for the project before we  
19 voted on it. And at our regularly scheduled meetings, we did  
20 vote on it and vote unanimously -- as which has already previously  
21 been mentioned -- to support this project.

22 I want to share that there has been much discussion  
23 within the community. The community was properly notified of all  
24 the meetings in a timely fashion. Was the 200 footers -- to my  
25 understanding were also notified of the project development. The

1 developer did put out notices in front of the project, and so  
2 the community has had ample time to respond and weigh in on this  
3 development.

4           And then to my knowledge, when we voted on it as a  
5 community, while there was some discussion about it and there may  
6 have been some individuals within the community who did not  
7 support it at the time, overall, the sentiment within the  
8 community was to support it and the Commissioners agreed. And  
9 so that's why we supported unanimously for this project to go  
10 forward.

11           I do recognize the fact that one of our Commissioners  
12 -- one of our potential Commissioner-elects, as you know, this  
13 vote has not yet been certified -- so potential Commissioner-  
14 elect Zach Ammerman has raised some opposition to this, as well  
15 as a couple other community members. I cannot confirm whether  
16 any of those community members were at any of the ANC meetings  
17 that were held previously. It's my understanding that Mr.  
18 Ammerman was at least one of them, but I -- he could not confirm  
19 whether he was at the other ones to say that.

20           So I don't know whether these are newer community  
21 members, or whether they just were not able to be at the meetings  
22 for whatever reason, but I will say that overall the ANC was  
23 fully in support of this project and looks forward to it going  
24 forward.

25           Thank you.

1 CHAIRPERSON HOOD: Thank you, Commissioner Lucio. And  
2 let me also put this on the record, because I don't have anything  
3 to keep -- I was part of the re-districting, and my area was your  
4 area, so hopefully, Commissioner Lucio, you all are not that  
5 upset with me that we changed our ANC around, but we had to what  
6 we had to do. So I want to put that -- I put everything on the  
7 table; I just thought about that.

8 But I do know the work that you have done in Ward 5  
9 period, and I appreciate the work and outreach you have done.  
10 We'll see how this goes. You've heard some of my colleagues'  
11 comments. It's going to be a very good debate. I appreciate  
12 all the work that you all have done, along with the civic groups  
13 and other interests parties, whether pro or con, I always  
14 appreciate the work.

15 Let's see if we have any questions for you.

16 Commissioner May.

17 COMMISSIONER MAY: Yes. So, Commissioner Lucio, did the  
18 fact that the proposed zone allows for a matter of right drive-  
19 thru, was that a topic of discussion at the full ANC meeting?  
20 And, if so, what was the general discussion?

21 COMMISSIONER LUCIO: Yep, it was. I'm going to have  
22 to go back and recall my memory, but it was a conversation that  
23 -- pretty much the entire conversation was about the drive-thru  
24 and how that would impact traffic and -- making sure that we,  
25 the developers and the community were working with DDOT to ensure

1 that there was a smooth way in and out, given that South Dakota  
2 is a heavy trafficked street, and the side street there is a  
3 neighborhood street. DDOT has already taken measures on the side  
4 street that parallels that McDonald's, in terms of making it --  
5 it's always been one way, but they cut out -- it used to be two  
6 lanes and a turning lane and they've adjusted that and made and  
7 added a different light cycle there.

8           So, I -- you know, it's my understanding that -- that  
9 the developers are working with DDOT to ensure that there's a  
10 smooth entry and exit. I will say that the one other thing that  
11 came up on discussion at both the North Michigan Park meeting and  
12 the ANC meeting was just confirmation about the overall parcel  
13 of land and whether or not -- there's an adjoining parcel of  
14 land, that there was some confusion within the community as to  
15 whether or not McDonald's owned that piece of land and whether  
16 they were going to be developing on that as well, and it was  
17 cleared up that they that they would not be developing on that  
18 land.

19           And the other final thing I do want to say is, is that  
20 during the course of the meetings, the majority of the people at  
21 those meetings were adamantly opposed to a mixed-use development  
22 on that site. There was overwhelming concern about that -- that  
23 happening, and people did not want that.

24           COMMISSIONER MAY: And that site being that extra site  
25 as opposed to --

1 COMMISSIONER LUCIO: The actual site, yes. And so what  
2 happened was, is there was confusion about whether they were  
3 going to adjoin with the site next to it, to plan mixed-use  
4 development. And so it all sort of got wrapped up into one  
5 conversation and -- but, overall, the community was very much  
6 adamantly opposed to having that be a mixed-use development.

7 COMMISSIONER MAY: Right. And so is it fair to say  
8 that the majority of the community as represented by the meeting  
9 actually want to have a drive-thru?

10 COMMISSIONER LUCIO: Yes.

11 COMMISSIONER MAY: This right now?

12 COMMISSIONER LUCIO: Yes.

13 COMMISSIONER MAY: Can you explain to me why that is.

14 COMMISSIONER LUCIO: Yes. As it's already been  
15 explained, this is a very well frequented location, establishment  
16 within the community. As you realize, this is not -- this is  
17 a -- this is an area that is heavily used by traffic. People  
18 drive a lot of the places.

19 South Dakota is not the safest street to cross easily  
20 --

21 COMMISSIONER MAY: Right.

22 COMMISSIONER LUCIO -- as a pedestrian, so most of the  
23 people that live in the neighborhood do drive and approach the  
24 McDonald's by driving. So, I mean, there are some that walk. As  
25 a matter of fact, my son and I have walked, but the majority of



1 people who do frequent that establishment do drive.

2 COMMISSIONER MAY: So I am -- but that's diff -- driving  
3 is different from drive-thru, and --

4 COMMISSIONER LUCIO: I understand that.

5 COMMISSIONER MAY: -- and so I asking about, you know,  
6 why do people want to have a drive-thru?

7 COMMISSIONER LUCIO: Yep.

8 COMMISSIONER MAY: Because everything you've said to  
9 me so far argues against a drive-thru frankly.

10 COMMISSIONER LUCIO: Well, I think, you know, and I'm  
11 going to say this is speculation, because I don't believe this  
12 particular question was raised during our conversations --

13 COMMISSIONER MAY: Okay.

14 COMMISSIONER LUCIO: -- but I would say that, you know,  
15 I think people live very busy lives these days. Myself -- me  
16 myself as a parent, right, it's often grab-and-go between soccer  
17 and hockey practice, right, and so, it's easy just to drive-thru,  
18 drive-in, get your son some food and drive out, right. So I  
19 think that the people who expressed interest in it being a drive-  
20 thru were very interested in it for that purpose.

21 COMMISSIONER MAY: So, now, I'm really confused because  
22 it sounded like the major discussion was about driving there, but  
23 not necessarily driving through and (indiscernible.).

24 COMMISSIONER LUCIO: Again, I said, this is  
25 speculation, right, because we didn't expect it.

1 COMMISSIONER MAY: And I'm not interested -- and I  
2 really don't want to hear about speculation.

3 COMMISSIONER LUCIO: Okay.

4 COMMISSIONER MAY: In fact, I can -- you know, I can  
5 imagine all the reasons why people think drive-thrus are  
6 convenient and I've had kids --

7 COMMISSIONER LUCIO: We did not answer that type of  
8 question specifically.

9 COMMISSIONER MAY: Okay. All right. Thank you very  
10 much. I appreciate that.

11 COMMISSIONER LUCIO: Yep.

12 CHAIRPERSON GOOD: Okay. Commissioner Imamura.

13 COMMISSIONER IMAMURA: Thank you.

14 Thank you, Commissioner Lucio for your honesty and  
15 forthrightness in your testimony tonight. I don't have any  
16 questions. I think I've heard all that I need to.

17 CHAIRPERSON HOOD: And Vice Chair Miller.

18 VICE CHAIR MILLER: Thank you, Commissioner Lucio.

19 Are you still going to be on the ANC next year?

20 COMMISSIONER LUCIO: I am, and I'm going to still be  
21 on 5A03, although, as I said, the McDonald's will be just outside  
22 my Single Member District boundary.

23 VICE CHAIR MILLER: That's great. Well,  
24 congratulations on your --

25 COMMISSIONER LUCIO: Thank you.

1 VICE CHAIR MILLER: -- re-election.

2 COMMISSIONER LUCIO: Well, yeah, but the vote is not  
3 certified yet, but we'll go with that anyway.

4 VICE CHAIR MILLER: Not certified yet. That's been a  
5 few weeks ago. I feel like we're in Nevada, or something.

6 Okay. So thank you. Thank you for all your work and  
7 the community and your explanations here tonight, and I don't  
8 really have any questions for you, so I appreciate all of it --  
9 all your work. Thank you.

10 COMMISSIONER LUCIO: Thank you.

11 CHAIRPERSON HOOD: I too want to thank you,  
12 Commissioner Lucio, for your comments and, again, for the work  
13 that you done at (indiscernible) and the City.

14 CHAIRPERSON HOOD: Ms. Batties, do you have questions  
15 of Commissioner Lucio?

16 MS. BATTIES: I just have one. First, I want to just  
17 thank Commissioner Lucio for all of her guidance and support, and  
18 really helping us reach the community for this application.

19 Can you just confirm, Commissioner Lucio, was there any  
20 objection to the actual drive-thru use when we had at least  
21 several meetings with the community? Was there an objection to  
22 the actual drive-thru?

23 COMMISSIONER LUCIO: Not that I recall. As I said  
24 earlier, the majority of the discussion was concern over it  
25 becoming a mixed-use development with the partial next to it. To

1 my recollection, there was not a direct objection to the drive-  
2 thru itself.

3 CHAIRPERSON HOOD: Is that it?

4 (No audible response.)

5 All right. Thank you, Commissioner Lucio. Thank you,  
6 Ms. Batties, and everyone for asking your questions.

7 Ms. Schellin, let's see who's out there to test -- I  
8 mean, let me back up. Is the office of the Attorney General?  
9 Because I didn't see anything in the record.

10 MS. SCHELLIN: No, sir.

11 CHAIRPERSON HOOD: Okay. Any other government  
12 agencies out there to testify?

13 MS. SCHELLIN: No one signed up.

14 CHAIRPERSON HOOD: Okay. Do we have anybody else whose  
15 proponent, who would like to testify -- a proponent/opponent, or  
16 do we have quite a few?

17 MS. SCHELLIN: Just opponent.

18 CHAIRPERSON HOOD: We only have opponent.

19 MS. SCHELLIN: We have Matthew Kirkland.

20 CHAIRPERSON HOOD: Okay. Let's bring up the opponents.

21 MS. SCHELLIN: Herman Roberts-Williams, and Jacob  
22 Tonks.

23 CHAIRPERSON HOOD: Are those opponents or proponents?

24 MS. SCHELLIN: Opponents.

25 CHAIRPERSON HOOD: There are -- Ms. Stevenson --

1 MS. SCHELLIN: There were no proponents.

2 CHAIRPERSON HOOD: She's the president of North  
3 Michigan Park, and I think wrote a letter in support. So, we  
4 -- well, that's all right. Just bring everybody up if we can  
5 get them up and they --

6 MS. SCHELLIN: Yeah, we just have -- there are only  
7 three who signed up to testify.

8 CHAIRPERSON HOOD: And before, I will ask everyone  
9 before you testify, let us know if you're in support or  
10 opposition.

11 Let me just start with -- who was the first name that  
12 you called?

13 MS. SCHELLIN: Mr. Kirkland.

14 CHAIRPERSON HOOD: Let's go with Mr. Kirkland.

15 MR. KIRKLAND: (Indiscernible), thank you for having  
16 me. This has been enlightening to hear.

17 I am testifying in opposition to the proposed upzoning.  
18 I am a neighbor. I live on the 5000 block of South Dakota. I've  
19 been here five years. I've been a D.C. resident for well over  
20 12 years. This neighborhood has been great.

21 Many of my neighbors also at 5012 and 5022 couldn't be  
22 here, but said to express their opposition to a drive-thru.  
23 We're all in support of upzoning, but the drive-thru, given the  
24 dangers that we see in our alleyway and streets around us every  
25 day, you know, seems to be of concern.

1 I submitted some comments, previously, prior to the  
2 hearing. I'm not sure if people had a chance to read them, or  
3 if I'm supposed to read them now, but I could do that, if that  
4 is okay.

5 CHAIRPERSON HOOD: Yeah. Well, however, you want to  
6 give us your testimony.

7 MR. KIRKLAND: All right.

8 CHAIRPERSON HOOD: You have two minutes and 22 seconds.

9 MR. KIRKLAND: All right. So, I live on the 5000 block  
10 of South Dakota Avenue. I'm briefly going to explain some of  
11 the reasons why my wife and I are hoping that this request to  
12 upzone is denied.

13 During my five years here on this block, I witness near  
14 daily traffic infractions on the surrounding blocks of both  
15 Delafield and on South Dakota, near -- several times a month we  
16 see hit-and-runs, cars flipped over. My neighbor has ended up  
17 with an axle in their front yard a couple months back. Even more  
18 -- you know, the mundane things like speeding over 80 miles an  
19 hour, glass bottles, littering. That happens daily.

20 You know, a lot of our neighbors, we have worked really  
21 hard to make things more safe. We fought to get, you know, lit  
22 crosswalks, flashing crosswalks on the blocks around here. We're  
23 working to get speed limit signs in our alley due to how fast  
24 people fly out of McDonald's through the alley as a shortcut.

25 In the current zoning configuration, we already have

1 cars going the wrong direction in the one-way, and this is even  
2 after DDOT's made attempts to make it more clear that it's a one-  
3 way and delineate the lanes. It really doesn't matter when people  
4 are trying to get into that -- in or out of that McDonald's.

5 A lot of us are concerned that, that the drive-thru is  
6 only going to make that problem worse, causing backups on South  
7 Dakota, more, you know, traffic accidents via that way.

8 You know, we don't -- we're not really sure, you know,  
9 what -- what's -- what's the trade-off for, you know, pedestrian  
10 and public safety versus, you know, a potential drive-thru.

11 Recently, we had a neighbor that had a new fence put  
12 in their alleyway. Somebody came flying out of the McDonald's  
13 into the alley, from the left in the alley, and went right through  
14 the fence the day after it was made. You know, there's really  
15 not anything that can be done to stop people driving like that.  
16 The only thing that can be done is to stop more people driving  
17 and coming through, driving in that manner.

18 I just -- you know, there's also environmental impacts.  
19 As many of us know, there's been fights with, you know, economic  
20 justice, or environmental justice in the City. Many years back.  
21 There was Ivy City kids who were fighting the bus depot for clean  
22 air. That's also, I believe, Ward 5. Ward 5 is specifically  
23 this area. It's the biggest heat island in the City.

24 I think about the environmental, the health impacts of  
25 having more service area with cars idling and driving through.

1 I can't see how, you know, there was a racial justice argument  
2 made earlier. What about the racial justice of public health and  
3 public safety in a majority black neighborhood? And that's --  
4 when I hear the racial justice argument, it just rings a little  
5 hollow when I consider the asthma and the "heat island" effect I  
6 referred to already in existence here.

7 So that's my testimony. I just hope that, you know,  
8 we can find a way to bring the density that people want, you  
9 know, allow Mr. Alvarez to expand his McDonald's. It's a great  
10 place I go all the time, but a way that we can prevent something  
11 that allows a drive-thru that only causes more health -- adverse  
12 health effects and safety effects.

13 CHAIRPERSON HOOD: Thank you, Mr. Kirkland.

14 Let's do Mr. Kirkland first, because we want to, maybe,  
15 address issues, and I'm going to do it a little differently from  
16 what I normally do.

17 Commissioner May, do you have any questions of Mr.  
18 Kirkland?

19 COMMISSIONER MAY: No, I do not. Thank you.

20 CHAIRPERSON HOOD: Vice -- Commissioner Imamura, do you  
21 have any questions of Mr. Kirkland?

22 COMMISSIONER IMAMURA: No.

23 CHAIRPERSON HOOD: And Vice Chair Miller, do you have  
24 questions of Mr. Kirkland?

25 VICE CHAIR MILLER: No. Thank you, Mr. Kirkland, for



1 your testimony tonight.

2 CHAIRPERSON HOOD: Mr. Kirkland, I do appreciate it,  
3 and I'm sorry you find what I -- my racial equity a little hollow.  
4 I find what you say hollow as well, but I want to tell you this,  
5 and I'm not being personal. I just want to make sure that we--  
6 both know.

7 One thing I've learned when I got on the Commission,  
8 one of the Commissioner's said, Hood, make sure you do your  
9 homework. Behind the 7-Eleven, I'm going to ask you something.  
10 I'm just trying to get where you're coming from -- and I  
11 understand about South Dakota Avenue. South Dakota Avenue has  
12 been like that since the '70s when I was a kid. Well, the  
13 neighborhood did not want to get the Wendy's and I wanted the  
14 Wendy's, and the neighborhood didn't want the Wendy's, so I  
15 started at a very early age.

16 If the Wendy's was there -- I'm just asking you now.  
17 The Wendy's was behind -- there was a 7-Eleven. It's not what  
18 it is now. It was a 7-Eleven. They used to park cement trucks  
19 every morning back there and they started at 5:00 o'clock.

20 If the Wendy's was there and the cement trucks was  
21 there, and the McDonald's was across the street, right close to  
22 South Dakota Avenue, do you think you would have still bought in  
23 the neighborhood? Or still came to the neighborhood?

24 MR. KIRKLAND: That's a very good question. I, you  
25 know, my wife and I bought in this neighborhood from after meeting

1 neighbors, and it was basically driven by the people around us  
2 that we met when we visited the house, who we spoke to in the  
3 days leading up to offering. To be honest, when we moved in,  
4 the McDonald's and the Mini Marts weren't as much of a concern,  
5 but what we've seen over the past few years with the traffic and  
6 the safety issues kind of made us realize that was something we  
7 should have thought about.

8           So I also want to say that racial argument thing, I was  
9 more into the attorneys for the supporter, rather than yours as  
10 well, and just seeing corporate, you know, hollow (indiscernible)  
11 speak to me itself.

12           CHAIRPERSON HOOD: All right. I appreciate that, Mr.  
13 Kirkland. I didn't take it personal. I just wanted -- I'm trying  
14 -- I'm trying to see it from your lens, because you -- one thing  
15 about it, whether you are pro or con, agree or disagree, we all  
16 have to -- you have to live there, that is in this area, and I'm  
17 just trying to figure out the best way to balance that. So I  
18 appreciate you letting me ask you that, and I appreciate your  
19 honesty.

20           Ms. Batties, do you have any questions or comments of  
21 Mr. Kirkland?

22           MS. BATTIES: No, I don't. Thank you.

23           CHAIRPERSON HOOD: And, Commissioner Lucio, do you have  
24 any questions or comments of Commissioner Lucio? Oh, no. I'm  
25 sorry, of Mr. Kirkland

1 COMMISSIONER LUCIO: Yes, I do. Thank you.

2 Mr. Kirkland, were you in the neighborhood in  
3 attendance at any of the recent ANC meetings where this was  
4 discussed?

5 MR. KIRKLAND: Well, we're in and out of the country  
6 often as well, and I actually -- I sometimes hear about the ANC  
7 meetings after the fact. You've always been a wonderful  
8 Commissioner. You were my former Commissioner. The rezoning  
9 moves it around. And you helped us with the traffic safety at  
10 the 5000 -- 5100 block, so, you know, I have nothing, but respect  
11 for you. But you know, sometimes the meetings, they get lost in  
12 the shuffle and a lot of times, either I'm stuck at work. I run  
13 a commercial department of a big construction company, so stuff  
14 happens all the time or I find out after the fact. So it's  
15 something I'm trying to get more involved in, and you're always  
16 really good about inviting folks when we've been in  
17 (indiscernible.)

18 COMMISSIONER LUCIO: I appreciate that. Let me ask you  
19 one other question. Did at any point in time prior to now, did  
20 you go on to the ANC 5A website and look up the previous meeting  
21 minutes where this was brought up and review those and reach out  
22 to any of the ANC Commissioners, prior to now to express your  
23 concern?

24 MR. KIRKLAND: So, I'm not really sure how this stuff  
25 works, (indiscernible), but, yes, I did read the minutes

1 previously. I have not reached out to anyone outside of you,  
2 Mr. Ammerman and Mr. Fletcher.

3 COMMISSIONER LUCIO: And that was just recently about  
4 this?

5 MR. KIRKLAND: That was recently, yes. When I realized  
6 kind of what stage after reviewing the minutes and once I saw  
7 the sign at McDonald's, it was (audio interference).

8 COMMISSIONER LUCIO: Okay. Thank you. I have no  
9 further questions.

10 MR. KIRKLAND: Thanks, Emily.

11 CHAIRPERSON HOOD: Okay. Thank you.

12 Ms. Schellin, who did you have next?

13 MS. SCHELLING: The only other one that is -- that's  
14 present is Carmen Roberts-Williams.

15 CHAIRPERSON HOOD: Ms. Carmen Williams. President  
16 Williams, you may begin. I think she gets five minutes. She's  
17 the president of North Michigan Park.

18 Before you go, Ms. Williams, there's another person you  
19 called, Ms. Schellin.

20 MS. SCHELLIN: Yes, Mr. Tonks, but he is not on.

21 CHAIRPERSON HOOD: Okay. All right. Ms. Williams.

22 PRESIDENT ROBERTS-WILLIAMS: Can you hear me?

23 CHAIRPERSON HOOD: Yes, we can.

24 PRESIDENT ROBERTS-WILLIAMS: Good evening, everybody.  
25 Thank you for hearing my testimony this evening.

1 I'm just going to give you a little bit of background  
2 on things that happened --

3 CHAIRPERSON HOOD: Can you speak up just a little bit,  
4 Ms. Williams.

5 PRESIDENT ROBERTS-WILLIAMS: Just give you a little bit  
6 of background of things that have happened -- can you hear me?

7 CHAIRPERSON HOOD: Yeah. If you could speak up a little  
8 bit. All of us are over 50.

9 PRESIDENT ROBERTS-WILLIAMS: Okay. Can you hear me?

10 CHAIRPERSON HOOD: Yeah, now we can.

11 PRESIDENT ROBERTS-WILLIAMS: Is that better? Hello.

12 CHAIRPERSON HOOD: Yes, it is. Yeah, we can hear you.  
13 Can you hear us?

14 PRESIDENT ROBERTS-WILLIAMS: Okay. Yes. Okay.

15 CHAIRPERSON HOOD: Okay.

16 PRESIDENT ROBERTS-WILLIAMS: Good evening. Thank you  
17 all for having on and to be able to testify this evening.

18 What I'd like to do is just give you a little bit of  
19 background of things that have transpired within North Michigan  
20 Park. I am called Carmen Roberts-Williams. I am the president  
21 of North Michigan Park Civic Association. I have been in the  
22 community 40 years, so I have seen a lot of things change within  
23 North Michigan Park. And I do represent the community of North  
24 Michigan Park, not just the Single Member District of an ANC.

25 Emily sits within her ANC -- sits within North Michigan

1 park, some of Mr. Ammerman's residents, which is the new ANC  
2 Commission 5A09. He has three blocks in his residents that sit  
3 with the North Michigan park, and we also have 5A08, which would  
4 be the new Commissioner, who is the current Commissioner in 5A08.

5 McDonald's moved from 5A03 to 5A08 and that  
6 Commissioner will still be the same. That will be Gordon  
7 Fletcher. So going forward, Gordon already knows the issues  
8 going forward.

9 Prior to Emily being the ANC commissioner, the  
10 Commissioner was Adrian Jordan. This all came about in 2016. In  
11 2016, the residents of North Michigan Park took a vote in their  
12 meeting. That was in September of 2016. There were 96 people  
13 present at the meeting.

14 During that meeting, we talked about many things of  
15 what's going to happen with McDonald's. Mr. Harry Thomas was  
16 there. Mr. Raoul, the owner of the McDonald's was there. They  
17 gave us the presentation. The residents were able to ask their  
18 questions. And one of the questions that the community was  
19 opposed to was if the zoning is changed, would they get mixed-  
20 use development, which is something that the community does not  
21 want.

22 The community is in support and we voted in support of  
23 the drive-thru. McDonald's for us is a historic piece. It's  
24 the first McDonald's that was built in the city of Washington,  
25 D.C. McDonald's initially wanted to move. They wanted to move

1 where the current Chick-Fil-A is now at Riggs Road and South  
2 Dakota Avenue.

3 So, when you talk about DDOT and what DDOT wants to do,  
4 what they've created there where the Chick-Fil-A is, is now a  
5 nightmare. It's a traffic nightmare.

6 In the case where McDonald's is, we voted in support  
7 of McDonald's getting the drive-thru, so McDonald's could stay  
8 in that particular spot. They've been good partners to the  
9 residents of North Michigan park. They've given money to our  
10 residents for scholarships. They help us with our community  
11 events, like our Community Day that we had in August. They've  
12 been a great partner to our community.

13 In 2017, again, we voted in 2016 and 2017. Mr. Thomas  
14 and Mr. Alvarez came back to the community to talk about what  
15 would change. What's going to change? Those did not move  
16 forward, because they waited for the zoning amendment changes.

17 In 2018, they came back to the community again to talk  
18 about the zoning change and what it's going to be.

19 At that point, in 2018, they went to the ANC. The ANC  
20 supported. They did their support based on what the community  
21 wanted. It wasn't what the ANC wanted. They voted based on what  
22 the community wanted, and the community voted in support of the  
23 McDonald's getting the drive-thru.

24 Residents who use the McDonald's, you know, it's a  
25 matter of convenience for me when I go. When I'm going to the

1 McDonald's, sometimes I bypass the one here to go to the one that  
2 there's a drive-thru. Folks that have a mobility issue, they're  
3 in a car. I like going to that particular McDonald's. If I'm  
4 walking there, it's okay. My kids go there. My kids used to  
5 work at that McDonald's when they were coming up. It's a  
6 stakeholder for our community.

7           The North Michigan Park is not in support of adding  
8 apartments to that particular area. We don't want it to look  
9 like Riggs Park with the mixed-use development up there. Yes,  
10 that does cause additional traffic. It causes more crime. With  
11 all the development that's going on in the community, we're having  
12 a lot more traffic. It won't be just the McDonald's that's going  
13 to create the traffic.

14           You have 80 new apartment buildings -- eight new  
15 apartment buildings that will be developed across from Bertie  
16 Backus in the Lamond-Riggs area. You've got 80 more townhomes  
17 that are being built at Riggs Road and South Dakota Avenue. You  
18 got the mixed-use development where (audio interference) is.

19           Then you've got 80 more townhomes that are being built  
20 at 12th and Allison, and then you got 80 more townhomes that are  
21 going at 10th and Buchanan. Talking about traffic, yes, there  
22 is going to be traffic, but it won't be the result of McDonald's.

23           So I'm going to close my testimony and say that, yes,  
24 the residents of North Michigan Park, we have had a number of  
25 meetings and if folks are not on board with it -- it's a little



1 late, because we have voted in support of this and it's time to  
2 move forward. We've gone through three ANC Commissioners. All  
3 of them have gone through the ANC and they all have voted in  
4 support, based on what the community has wanted.

5 Thank you very much for your time.

6 CHAIRPERSON HOOD: Okay. Thank you, Ms. Williams. We  
7 have a few questions. We may have a few questions. We may have  
8 a few questions.

9 Commissioner May, any questions?

10 COMMISSIONER MAY: No. I think the testimony was very  
11 thorough. Thank you.

12 CHAIRPERSON HOOD: Commissioner Imamura, do you have  
13 any questions?

14 COMMISSIONER IMUMURA: (No audible response.)

15 CHAIRPERSON HOOD: Vice Chair Miller, do you have any  
16 questions?

17 VICE CHAIR MILLER: No questions. Thank you, very much  
18 for your testimony.

19 CHAIRPERSON HOOD: Does Archie, have any questions. I  
20 saw him there on the screen a moment ago.

21 VICE CHAIR MILLER: Archie is, I think, going to Mickey-  
22 D's in the neighborhood.

23 CHAIRPERSON HOOD: All right. Commissioner May.

24 COMMISSIONER MAY: Yes, sorry. I did have a question.  
25 So the support -- the North Michigan Park Citizens

1 Association voted in support of this map amendment because it  
2 would allow a drive-thru?

3 PRESIDENT ROBERTS-WILLIAMS: Yes. That's correct.

4 COMMISSIONER MAY: But you're not supportive of mix-  
5 use development, which this map amendment would allow as well.

6 PRESIDENT ROBERTS-WILLIAMS: No. McDonald's has said  
7 that they were not going to do that. And our concern was that  
8 if they we gave -- if they went ahead and they did that, whether  
9 the strip mall would be able to do the mixed-use development,  
10 which is something that we did not want. McDonald's has said  
11 that they're not going to do that.

12 COMMISSIONER MAY: Right, but that -- I mean, that  
13 could change because this map amendment is a permanent thing.  
14 Right. It's not tied to any particular development. It will be  
15 allowed -- mixed-use development will be allowed on that site  
16 permanently once we vote in favor of this.

17 PRESIDENT ROBERTS-WILLIAMS: But the vote, if I  
18 understand, is the exception for them to get the drive-thru.

19 COMMISSIONER MAY: No. It would change the zone and  
20 it would allow the drive-thru and it would allow mixed-use  
21 development.

22 PRESIDENT ROBERTS-WILLIAMS: For just that site or for  
23 the whole site? Or for the --

24 COMMISSIONER MAY: Just for that site.

25 PRESIDENT ROBERTS-WILLIAMS: Okay.

1 COMMISSIONER MAY: Certainly, you don't think --

2 PRESIDENT ROBERTS-WILLIAMS: Okay. At this time, they  
3 do not plan to do it. If that is what they decide to do 20 years  
4 down the road, I'll be dead and gone.

5 COMMISSIONER MAY: I mean, I'm sorry.

6 PRESIDENT ROBERTS-WILLIAMS: Nothing. Nothing. If  
7 they plan to do that in 20 years, I'm okay with it.

8 COMMISSIONER MAY: Yeah, I guess I probably would too  
9 for similar reasons.

10 The -- yeah, I mean, it's -- it is possible that the  
11 Mini Mart next door, that property could be redeveloped  
12 similarly, as well, because that has the same Comprehensive Plan  
13 map designations. They would be -- (indiscernible).

14 PRESIDENT ROBERTS-WILLIAMS: And they would have to go  
15 through the same process.

16 COMMISSIONER MAY: And they would have to go through  
17 the same process.

18 PRESIDENT ROBERTS-WILLIAMS: Yes.

19 COMMISSIONER MAY: All right. Thank you.

20 CHAIRPERSON HOOD: Oh, President Williams, I just have  
21 a few questions. I heard you say -- I heard your answer to  
22 Commissioner May, and I will tell you that you can't really say  
23 that, because in Southwest when they first started and all of us  
24 was going to the Waterfront, I told the planning director at that  
25 time under Mayor Williams, that by the time that happened, I'll

1 be dead and gone. Guess what? It happened. It's going well,  
2 and I'm still here. So let me just ask you -- it's very  
3 interesting that you made a point of going somewhere else for  
4 those business needs and leaving out of your neighborhood for  
5 those business needs and I find that very interesting. You said  
6 you would go somewhere else for that business need, because you're  
7 -- right near your home does not have that business need.

8 Do you do that often?

9 PRESIDENT ROBERTS-WILLIAMS: I do. Going to  
10 McDonald's, they don't have a drive-thru. I do have a mobility  
11 issue. I have bad knees. Getting in and out of the car sometimes  
12 presents a problem. I also have a heart issue, so sometimes it's  
13 a little easier to go through a drive-thru than to have to park,  
14 get out of the car to go in to get it, to stand in line to get  
15 it, and then to come back out.

16 CHAIRPERSON HOOD: So that's -- to me that's -- and I  
17 understand those who are in opposition. That's where the  
18 balancing comes in at. I don't know if you remember the late  
19 Rosalie Smith, and then when you mentioned that I thought about  
20 her, who was a very good friend of mine for years. She used to  
21 sit in her car and wait for one of the kids to come by to go in  
22 and get her a cup of senior coffee.

23 So those are some of the things. And it goes back to  
24 business needs. That's kind of what I'm looking at. And it also  
25 goes back to going into another neighborhood and having those

1 business needs met and not having it met here. And I'm sure my  
2 colleagues and I will have a very robust discussion. I'm looking  
3 forward to it. And also those in opposition who are trying to  
4 balance all that. So let me see if I have any other questions  
5 for you.

6 Oh, so you said that this -- the gentleman who wrote  
7 us the letter, Mr. Ackerman -- Ackerman. Hold on, let me see.  
8 Maybe that's not his name. Hold on. The gentleman who was --  
9 who's elect, who's going to either 5A09.

10 COMMISSIONER LUCIO: Zachary Ammerman.

11 CHAIRPERSON HOOD: Yeah, and let's not talk about re-  
12 districting, because some folks may still be mad with my team on  
13 that, but let's -- what's -- Zacherman?

14 PRESIDENT ROBERTS-WILLIAMS: Ammerman.

15 CHAIRPERSON HOOD: Ammerman, okay.

16 COMMISSIONER LUCIO: Ammerman.

17 CHAIRPERSON HOOD: So, did you say -- so this is across  
18 the street? I think in his letter, it's across the street from  
19 his Single Member District office, soon to be, and I understand  
20 -- Commissioner Lucio.

21 PRESIDENT ROBERTS-WILLIAMS: No. Actually, his Single  
22 Member District starts three blocks out.

23 COMMISSIONER LUCIO: Correct.

24 CHAIRPERSON HOOD: Okay.

25 COMMISSIONER LUCIO: His Single Member District is over

1 closer to Fort Totten.

2 CHAIRPERSON HOOD: Okay. Okay. Because that was the  
3 old 5A01, I think, wasn't it? No, or what was it?

4 PRESIDENT ROBERTS-WILLIAMS: Yes. Yes. It was -- no,  
5 it was 5A08.

6 CHAIRPERSON HOOD: 5A08, okay. I know we changed all  
7 of that around. So I'm just trying to make sure I understand,  
8 was he parallel? So this would not be in his Single Member  
9 District, but I know he will have a vote if everything is  
10 certified.

11 COMMISSIONER LUCIO: It is -- it will not be in his  
12 Single Member District. It is -- it's currently in my Single  
13 Member District and it will be in Commissioner Fletcher's Single  
14 Member District come January 1st.

15 CHAIRPERSON HOOD: Oh, okay. Okay. All right. That's  
16 all I have. Let me see -- does (indiscernible) have any  
17 questions?

18 COMMISSIONER LUCIO: Mr. Chairman. Mr. Chairman -- Mr.  
19 Chair, I just want to make one correction to what President  
20 Williams said, and that is, is that while Adrian Jordan did serve  
21 on the ANC 5A, it was Keisha Cofield-Brown who was serving at  
22 the time that the ANC supported this initially.

23 PRESIDENT ROBERTS-WILLIAMS: No, she wasn't -- no, she  
24 was not.

25 COMMISSIONER LUCIO: Well, she's on the letterhead at

1 Chairman (indiscernible.)

2 PRESIDENT ROBERTS-WILLIAMS: Initially, when they came  
3 to the community, because that was before it went to the ANC.  
4 Adrian Jordan was the Commissioner.

5 COMMISSIONER LUCIO: That is -- that is correct, and  
6 when the --

7 PRESIDENT ROBERTS-WILLIAMS: And then Keisha and then  
8 you.

9 COMMISSIONER LUCIO: That's correct. The letter that  
10 came from the ANC has Keisha Cofield-Brown's name on it.

11 CHAIRPERSON HOOD: So either way, that's -- that's  
12 actually irrelevant right now.

13 COMMISSIONER LUCIO: Yep.

14 CHAIRPERSON LUCIO: I appreciate the conversation.

15 COMMISSIONER LUCIO: Yep.

16 CHAIRPERSON HOOD: We're looking at more of  
17 (indiscernible).

18 COMMISSIONER LUCIO: Yep.

19 CHAIRPERSON HOOD: And this was good, so everybody got  
20 to see how Michigan Park has debates, but anyway, that's  
21 irrelevant to our proceeding. So I thank you both. Let's see.

22 Ms. Batties, did you have any questions of Ms. --  
23 President Williams?

24 MS. BATTIES: I do not, but I also want to thank  
25 President Williams for her time and efforts regarding this

1 application.

2 CHAIRPERSON HOOD: And Commissioner Lucio, do you have  
3 any questions of -- any more questions of Commissioner Williams,  
4 I mean, President Williams?

5 COMMISSIONER LUCIO: I do not. Thank you so much. I'm  
6 happy to answer any further questions, but I don't have any more.  
7 Thank you.

8 CHAIRPERSON HOOD: Okay.

9 PRESIDENT ROBERTS-WILLIAMS: I have one additional  
10 comment, if I could?

11 CHAIRPERSON HOOD: Yes.

12 PRESIDENT ROBERTS-WILLIAMS: In the meeting that we had  
13 in June of this year, and you talk about the number of folks that  
14 turn out for our meetings. Our meetings are normally large  
15 turnout meetings. In this particular case, because we are still  
16 virtual, we had 47 people virtually attending and 25 who attended  
17 face-to-face, for a total of 72 people that came out for the  
18 civic association meeting.

19 So a notice to the community goes out. It's -- you get  
20 it either in the newsletter you get, it's posted. It's on  
21 Twitter. It's in Nextdoor Neighbor, so the notification to the  
22 neighbor's goes out. If you're on the distribution list,  
23 everybody gets the distribution, that gets the agenda, who's  
24 going to be in attendance at the meetings. So we try to do our  
25 best to get everything out to all of the residents of the



1 community.

2 Now, with the help of Emily and Gordon, at the time,  
3 it was Commissioner Lockett. Now, when I send it to the  
4 Commissioners, they send it out to their distribution lists as  
5 well.

6 CHAIRPERSON HOOD: Okay. Thank you. I know North  
7 Michigan Park has always been active for the years that I've been  
8 around. I've been around 58 years. So, I know that they do the  
9 best that they can. But let me ask you this. You mentioned over  
10 96 people at the meeting that this came up, and I guess you all  
11 voted as a civic association. Was that correct?

12 PRESIDENT ROBERTS-WILLIAMS: That is correct. That was  
13 in 2016.

14 CHAIRPERSON HOOD: And no opposition out of 96?

15 PRESIDENT ROBERTS-WILLIAMS: There were maybe four or  
16 five. I don't have the document in front of me.

17 CHAIRPERSON HOOD: Okay.

18 PRESIDENT ROBERTS-WILLIAMS: But for the most part, it  
19 was -- everyone was in support of McDonald's getting the drive-  
20 thru.

21 CHAIRPERSON HOOD: Okay. All right. That's all I  
22 have. I thank you both. Unless my colleagues have any other  
23 questions for you. Thank you for taking your time and your  
24 testimony and also working on this issue. I'm not sure where  
25 it's going, but I appreciate the testimony, so thank you both.

1 And also, thank you for taking the time. I know you all have  
2 other obligations that you're dealing with as well, so thank you.

3 All right. Mr. Young, you can take everybody down,  
4 other than myself and my colleagues, and except for Ms. Batties,  
5 so she can do closing. I think you have to do rebuttal. Do you  
6 have any rebuttal? I think we rebutted through the whole hearing.  
7 So if you have any rebuttal, go right ahead. That'll be good.

8 MS. BATTIES: I just -- I can just do closing and kind  
9 of respond to some of the comments.

10 So I just want to reiterate the rezoning that's before  
11 the Zoning Commission is a Comp Plan consistency case. And the  
12 concerns that have been raised about traffic circulation, access  
13 to the site, those are appropriately addressed by the Public  
14 Space Committee, a different body than what's here.

15 You know, if this were just a regular developer coming  
16 in to seek a rezoning, they would seek the highest zoning possible  
17 that would be permitted under the Comprehensive Plan in order to,  
18 you know, get the most and best entitlements for the site.

19 This application, and I've done several of those  
20 applications before the Zoning Commission where we don't have  
21 site plans, where we don't talk about the site design, this  
22 application should not be treated any differently. There's  
23 nothing unusual about saying, "well, you can get MU-5," about the  
24 McDonald's as a property owner wanting to seek the highest and  
25 best density for the site.

1           And so an MU-7B is consistent with Comp Plan  
2 designation to address Commissioner Miller's concern, as a non-  
3 residential (indiscernible). It will be developed. It should  
4 only be developed at a maximum density of 2.5 FAR, but the long-  
5 term rezoning is consistent with other objectives and policies  
6 in the Comprehensive Plan, should the site be developed at some  
7 point in the future.

8           Just to reiterate, the community though has been -- has  
9 made it very clear that this is the use that they prefer and  
10 support for this property. And trying -- I've been, you know,  
11 really trying not to talk about the use, but as it relates to  
12 the drive-thru and a fast-food establishment -- and this is a  
13 conversation that has come up in some of the community meetings  
14 -- a drive-thru for today's fast-food restaurants is a very  
15 important component to a modern day fast-food establishment. So  
16 I will leave it at that in terms of just the use for the property.

17           We've demonstrated in the record and in our testimony  
18 and with the Office of Planning's report that the proposal and  
19 the application is consistent with the Comprehensive Plan -- or  
20 not inconsistent with the Comprehensive Plan -- and with that,  
21 we would respectfully request the Commission take proposed  
22 action.

23           Thank you.

24           CHAIRPERSON HOOD: Okay, thank you, Ms. Batties.

25           Let's open -- let me open it up, and you've heard the

1 request. Let me open it up and hear what others have to say.  
2 Material wise (indiscernible) did you ask for anything that you  
3 need. I'll start with you Commissioner May.

4 COMMISSIONER MAY: Yeah, there's still an open question  
5 that I had from the Office of Planning. I don't know if they  
6 can answer it right now, but even so, I am not prepared to take  
7 action on this tonight.

8 CHAIRPERSON HOOD: Okay. Commissioner Imamura.

9 COMMISSIONER IMAMURA: I'd like to ask --

10 VICE CHAIR MILLER: What's your open question,  
11 Commissioner May?

12 COMMISSIONER MAY: Whether the RA-5 zones would allow  
13 seating of more than 18 seats that was -- they could not answer  
14 that clearly. It seems -- I mean, my reading of the regulations  
15 is that it would be allowed, but I wanted to hear that from the  
16 Office of Planning.

17 VICE CHAIR MILLER: If anyone's able to provide that  
18 now, they should provide it. But yeah, okay, thank you. I just  
19 wanted to know what the open question was.

20 COMMISSIONER MAY: Yeah, that was the open question.

21 CHAIRPERSON HOOD: Okay, Commissioner Imamura. I'm  
22 going to come back to see if they can do that now. If not --  
23 Commissioner Imamura.

24 COMMISSIONER IMAMURA: I'm good. I'm not in a position  
25 -- I'd like to wait to see OP and their response. I did ask

1 about the special variance versus the use variance.

2 CHAIRPERSON HOOD: Okay. And Vice Chair Miller.

3 VICE CHAIR MILLER: Thank you, Mr. Chairman.

4 As you've said, Mr. Chairman, in other cases that were  
5 in my neighborhood, which were close calls, you deferred to me,  
6 so I'm going to defer to you. You know your neighborhood, not  
7 that it's a recusal issue. I don't think it was. We've all been  
8 to McDonald's. I've gone to my share of McDonald's drive-thrus,  
9 and the one near me that isn't a drive-thru, and I've tried not  
10 to go in the last few years for health reasons. So. But I defer  
11 to you knowing your community and the ANC that unanimously has  
12 approved this, that we are required to give a great weight to.  
13 OP, that we are required to give great weight to. DDOT has  
14 opposed, and I was concerned about their concerns about the public  
15 safety and traffic (indiscernible) issues in that South Dakota  
16 intersection, but the community -- the ANC seems to be a lot of  
17 support for this use, which this map amendment would provide this  
18 use. We can't really separate the map amendment from the use  
19 that's being immediately contemplated, even though I happen to  
20 disagree with the community's concern about the mixed-use  
21 development and additional housing that this map amendment would  
22 provide in the long-term for any development that might come  
23 forward way after we're long gone.

24 So I guess -- I appreciate the Office of Planning's  
25 responses to our, I think, reasonable questions. I think the

1 oppositions' reasonable questions, the ANC Commissioner-elects'  
2 reasonable questions, but I think there were reasonable  
3 explanations, and I am prepared to move forward after we get a  
4 further response to the open questions that Commissioner May and  
5 maybe others have asked for.

6           If we're going to get -- if we're going to wait beyond  
7 tonight, I could do a first vote tonight, but even though my  
8 reluctance, I could do a first vote tonight just to keep the  
9 momentum going forward, because these cases -- 35 years I heard  
10 this case was in the making. I mean, my God, that's a long time,  
11 so I don't want to delay anything. So I could get the additional  
12 information on it before we get to a final vote on this particular  
13 map amendment. But if we're going to get it -- if we're going  
14 to wait, I would like to see just a bit more explanation of the  
15 in a written form from the Applicant, and I don't know from OP,  
16 but certainly from the Applicant on the medium-density call out  
17 in the Zoning Regulations, which probably need to be changed for  
18 this particular zone and the moderate-density Future Land Use Map  
19 designation, which is in the Comp Plan, which was changed up --  
20 which was "upFLUMed," as the expression goes from the most recent  
21 Council amendments from low-density commercial to moderate-  
22 density commercial.

23           So if we're going to get more information, I'd like to  
24 see a little more in explanation, so we can put that in our order  
25 to justify what we're doing here. So thank you very much, Mr.

1 Chairman.

2 CHAIRPERSON HOOD: Thank you, Vice Chair. I will just  
3 say this. While I appreciate all the comments I've heard and  
4 it's not about -- and I appreciate our Vice Chair yielding to  
5 me, but you don't have to do that. I'm looking at -- and I  
6 appreciate it, though, and I do yield to my colleagues when they  
7 (indiscernible) because you know about your neighborhoods, and I  
8 appreciate that. But my issue is with this, is I know South  
9 Dakota Avenue. I've been around them. I used to play at Fort  
10 Totten when it was a train station, which I -- when I think about  
11 it now, I say, how insane could I have been. I used to play on  
12 the train tracks, and it wasn't Metro up there. The Red Line  
13 was not there. So when I think about this neighborhood  
14 progressing, I knew that it was, basically, R-1, R-2. I know  
15 the zones were there, but then when I look at South Dakota Avenue,  
16 we have the 7-Eleven, gasoline station. People at first in the  
17 neighborhood did not want that McDonald's to do certain things,  
18 but times have changed. Times have changed all over this City,  
19 and we -- this Zoning Commission has made the amendments and the  
20 changes all over the City; a lot easier than we do certain  
21 neighborhoods, and I'm starting to notice that we need to start  
22 leveling up and balancing off, and I'm not just saying, this  
23 Commission, this particular Commission, but over the years.

24 It's always been tough on certain communities, as  
25 opposed to others, and I want to thank the Mayor and the Council

1 for bringing some of that to light, because it's easier to get  
2 things done in some neighborhoods as opposed to others, and as  
3 long as I'm here -- I got four more years -- as long as I'm here,  
4 I'm going to do my best to try to balance some of that stuff out,  
5 because I think it's ridiculous to have, Ms. Williams, who says  
6 she goes somewhere else to get her basic needs taken care of and  
7 she could just go right there. And I think it's bad for Rosalie  
8 Smith who has died, who used to sit in her car and wait for  
9 somebody to come by and go in there and get her a single cup of  
10 coffee. The rest of us, other neighborhoods, they can just drive  
11 around and get it done.

12 Now, some of the other people -- and I say this about  
13 bicyclists -- when we get older, and I know some people may  
14 disagree -- when we get older and our bodies won't do some of  
15 the same things, we want to change, and I think we have to  
16 (indiscernible). And I don't -- I don't take away what the other  
17 people have mentioned as far as their concerns on South Dakota  
18 Avenue. I grew up on South Dakota, that's why I know about it.  
19 But I think that what this City -- and we have done a lot. We  
20 have done a lot worse, as far as I'm concerned. We talk about  
21 pedestrian and car mixes. I think we've done a lot worse, and I  
22 think you've heard me ask some of those questions, so I want to  
23 say, Vice Chair, I appreciate -- appreciate that.

24 Let's get the information that you all have asked for,  
25 but let's make sure we, basically, don't let racial equity just



1 fly out the window and certain neighborhoods are able to have  
2 those amenities, or whatever it is going to be, as far as the  
3 basic need, because it's in there -- it's written in there, "basic  
4 need," and we know they're opposed to housing.

5 I think that was one of the questions I probably should  
6 have mentioned. You're exactly right, Commissioner May, that the  
7 -- once rezoning, that's what you get. And I think, though, that  
8 Ms. Batties and hopefully, Mr. Alvarez and -- has been in this  
9 long enough that they know -- I will tell you, North Michigan  
10 Park will fight you. They will fight you tooth and nail, whether  
11 they disagree or fundamentally disagree on certain issues, that's  
12 part of the process.

13 So I will be voting in support of what this community  
14 has asked, like I've done in other neighborhoods in this City.  
15 And I think it meets our racial -- for me, racial equity. I  
16 understand about the MUs. I understand what they're saying about  
17 MU-7, but I think at the bottom line, they're trying to achieve  
18 something. They're trying to achieve something. They're trying  
19 to get there. So. And I think this neighborhood is well-  
20 deserving and there are people that need this, and I think Ms.  
21 Williams mentioned it. That sealed the deal for me when she said  
22 her mobility issue, so I'll leave it at that.

23 Is the Office of Planning still around?

24 (No audible response.)

25 But you asked for something too, didn't you Vice Chair?

1           VICE CHAIR MILLER: I was just saying if whether we  
2 vote tonight on a prelim -- on a proposed action or delay that  
3 if we're going to do that. If we're going to get more information,  
4 I would like a little more justification, both from the Applicant  
5 and Office of Planning on the issue of the consistency with our  
6 Zoning Regulation, which we probably need to change in various  
7 aspects. It says MU-7 is medium density and the Comp Plan for  
8 the site now says moderate density.

9           CHAIRPERSON HOOD: Okay. So, also -

10          MS. BATTIES: Vice Chair, I can also provide that  
11 information.

12          CHAIRPERSON HOOD: I also want to note that we have  
13 done that in the past too, Vice Chair, as you already know. We  
14 have done that when we need to make changes. We're going to hear  
15 and approve certain cases, and this is actually -- this is my  
16 point bigger than anything in this case, is that we do it in  
17 certain situations, but we don't do it in all, and we need to be  
18 consistent. And I know there are some different outliers here,  
19 but I think what you just said, I know for a fact that we've done  
20 a number of cases where we need to change our stuff, but we voted  
21 for it, and went ahead and did it in other neighborhoods.

22          So that's just --

23          VICE CHAIR MILLER: (Indiscernible.)

24          CHAIRPERSON HOOD: Yeah, if it's personal to me -- it's  
25 like -- because if you haven't noticed, I am of color, and

1 sometimes it's rough to always have to be fighting to get up to  
2 something.

3 So I agree with the City. I agree with the Councilman,  
4 and I applaud the Mayor for what they've done in this racial  
5 equity. I mean, to me, even though the Zoning Commission, we've  
6 always had leveling the playing field, but we've never had the  
7 team behind it. So. All right, so we will wait.

8 Ms. Schellin.

9 MS. SCHELLIN: Okay.

10 VICE CHAIR MILLER: I'm willing to vote for a first  
11 vote tonight, Mr. Chairman.

12 COMMISSIONER MAY: I am not.

13 VICE CHAIR MILLER: There are three us who are.

14 COMMISSIONER MAY: I am adamantly not. Even if we had  
15 all of the information at hand, I would not want to vote because  
16 I want to think about this.

17 VICE CHAIR MILLER: Okay. I appreciate that comment,  
18 because --

19 CHAIRPERSON HOOD: Commissioner Imamura, where are you?

20 VICE CHAIR MILLER: -- (indiscernible) a week ago on  
21 another case.

22 CHAIRPERSON HOOD: He's saying he's not. You're ready  
23 to vote. I'm ready to vote.

24 Commissioner Imamura, where are you?

25 COMMISSIONER IMAMURA: Well, that puts in an

1 interesting position, doesn't it, Mr. Chairman?

2 CHAIRPERSON HOOD: Yeah, it puts in a very interesting  
3 -- I've been there. I know. I'm there now.

4 COMMISSIONER IMAMURA: I'm --

5 CHAIRPERSON HOOD: I'm going to save you. I'm going  
6 to save you. I'm going to save you. We'll put it off. I'm  
7 going to save you. You don't even have to put it out there.

8 Ms. Schellin.

9 MS. SCHELLIN: It isn't --

10 CHAIRPERSON HOOD: Unless you just want to. I figured  
11 I would save you. You're still the new guy. Have you been here  
12 a year yet?

13 MS. SCHELLIN: Yes.

14 COMMISSIONER IMAMURA: I've been here almost a year  
15 and-a-half.

16 CHAIRPERSON HOOD: Oh. Well, I shouldn't save you.  
17 I'll wait until two years.

18 All right, Ms. Schellin, could you give us a date?

19 MS. SCHELLIN: It seems like this information could be  
20 gotten pretty quickly.

21 MS. BATTIES: I can give it to you tomorrow.

22 MS. SCHELLIN: Yeah. And I think Ms. Brown-Roberts  
23 could probably provide this by -- in a week, by December 5<sup>th</sup>. And  
24 the ANC if it chooses to respond, I'm not sure that it will since  
25 it's already provided its report, and this is just -- it sounds

1 like more of a clarification. If it chooses to do so, could  
2 respond by the 12th and we could put this on for the December  
3 15th meeting, if the Commission would like to proceed in that  
4 fashion.

5 CHAIRPERSON HOOD: Does that meet everybody's schedule?  
6 Will everybody be here December 15th?

7 COMMISSIONER LUCIO: I think the ANC can make that  
8 work.

9 CHAIRPERSON HOOD: For some reason, we have something  
10 else December the 15th, and I want us to do this, but this  
11 shouldn't take us a whole lot of -- a long time, but we have  
12 something else the 15th, if I remember.

13 MS. SCHELLIN: We have a lot of things on the 15th.  
14 Yeah.

15 CHAIRPERSON HOOD: Well, maybe that's it. Okay. All  
16 right. So we will do the 15th.

17 Ms. Schellin, could you kind of give us a recap of  
18 where we are?

19 MS. SCHELLIN: Yes. So, the Applicant and OP would  
20 submit their responses that the Commission has asked for by the  
21 5th, 3:00 p.m.. And the ANC if it chooses to respond, can do so  
22 by 3:00 p.m. on the 12th. And we'll put this on the December  
23 15th agenda.

24 CHAIRPERSON HOOD: Okay. Any questions, follow-up  
25 questions or comments from anyone?

1 (No audible response.)

2 CHAIRPERSON HOOD: All right. So, with that I will--  
3 oh, the Zoning Commission will be meeting again -- I meant to  
4 say this earlier, I hope everyone had a great Thanksgiving. Kind  
5 of late now, but I wanted to mention that.

6 The Zoning Commission will meet again December the 1st  
7 -- right, Ms. Schellin?

8 MS. SCHELLIN: (No audible response.)

9 CHAIRPERSON HOOD: December the 1st, Zoning Commission,  
10 Case No. 22-18, Argyle Condominium Association. It will be on  
11 these same platforms at 4:00 p.m., again, December the 1st.

12 I want to thank everyone for their participation  
13 tonight. And with that, this hearing is adjourned. Good night,  
14 everyone.

15 (Whereupon, the above-entitled matter went off the  
16 record at 6:12 p.m.)

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## C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 11-28-2022

Place: Videoconference

was duly recorded and accurately transcribed under my  
direction; further, that said transcript is a true and accurate  
record of the proceedings.

A handwritten signature in black ink, reading "Gary Euell". The signature is written in a cursive, flowing style with large, connected letters.

---

GARY EUELL

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