

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Crystal Myers, Development Review Specialist
MBR for Maxine Brown-Roberts, Associate Director, Development Review
Radhika Mohan, Deputy Director, Development, Design, and Preservation

DATE: May 18, 2026

SUBJECT: OP Set down Report - Proposed Text Amendment to Subtitle U to permit fast-food establishments with existing drive-throughs to be modernized or expanded.

I. RECOMMENDATION

McDonald’s Corporation (Applicant) has requested several text amendments to Subtitle U, Use Permissions, of the Zoning Regulations, to permit the continuation of fast-food establishments with existing drive-throughs to be newly constructed, modernized or expanded if approved through special exception. This text amendment would impact the Mixed Use (MU) Groups D, E, F, G and the Production, Distribution, and Repair (PDR) zones.

The Office of Planning (OP) recommends the Zoning Commission **set down for public hearing** the proposed text amendments except that OP does not recommend amending Subtitle U § 515.1. A fast-food establishment with a drive-through is permitted as a matter of right in the MU-Use Group F zones, so the proposed text would make these zones more restrictive. On balance, the proposed text amendment would not be inconsistent with the Comprehensive Plan.

If the application is set down, OP request the Zoning Commission to allow OP to work with the Office of Zoning Legal Division (OZLD) and the Applicant to refine the language if necessary.

II. BACKGROUND

The Applicant operates several fast-food establishments with drive-throughs around the City. However, this proposal would affect approximately 24 establishments some of which are operated by other entities. The fast-food establishments are allowed in various Mixed Use zones (MU-3, MU-4, MU-5, MU-6, MU-7, MU-8, MU-9, MU-10 and MU-15) and the PDR zones. However, fast-food establishments with drive-throughs are only permitted as a matter-of-right in the MU-7, MU-8, MU-9, CG-3 and MU-15 (MU-Use Group F) zones and in most PDR zones. Currently, fast-food establishments with drive throughs that are not within one of the MU-Use Group F zones are allowed to operate as nonconforming uses.

Today, many of these establishments need physical upgrades due to their age which they are unable to undertake as Subtitle C § 204 prohibits the expansion of nonconforming uses, and a new structure cannot include a nonconforming use. Therefore, these establishments cannot be rebuilt or modernized without first rezoning the properties. Having to take each individual location through the rezoning process is inefficient and therefore the Applicant is seeking the proposed amendments

to cover all locations. Since these fast-food establishments have long operated at their current locations, thirty to forty years, the Applicant is requesting this text amendment to allow most of them to become conforming uses and be subject to review through the special exception process.

III. PROPOSED TEXT AMENDMENT

The Applicant proposed the following text amendments to Subtitle U of the Zoning Regulations as follows: (text to be added is shown as **bold and underlined**)

1. Amendments to Subtitle U, USE PERMISSIONS

A. CHAPTER 5, USE PERMISSIONS FOR MIXED USE (MU) ZONES. § 510, MATTER-OF-RIGHT USES (MU-USE GROUP D) is amended as follows:

510.1. The following uses shall be permitted in MU-Use Group D as a matter-of-right subject to any applicable conditions:

(a) . . .

(g) Eating and drinking establishment uses, subject to the following conditions:

(1) A drive-through or-drive-in operation and a food delivery service shall not be permitted;

(2) A fast food establishment shall not be permitted as a matter of right in the MU-3 zone except that fast food establishments with no drive-through shall be permitted in Square 5912, Square 3499 (Lot 3), and Square 3664 (Lot 820) as a matter of right; **and**

(3) A drive-through shall not be permitted, unless approved as a special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, provided that the drive-through is existing and operational at the time of application or, if discontinued, the discontinuance has not exceeded one (1) year prior to the date of application;

B. CHAPTER 5, USE PERMISSIONS FOR MIXED USE (MU) ZONES. § 511, SPECIAL EXCEPTION USES (MU-USE GROUP D) is amended as follows:

511.1 The following uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

(a) . . .

(e) Fast food establishment, subject to the following conditions:

(1) . . .

(4) The use shall not include a drive-through; **unless approved as a special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, provided that the drive-through is existing and operational at the time of application or, if discontinued, the discontinuance has not exceeded one (1) year prior to the date of application.**

C. CHAPTER 5, USE PERMISSIONS FOR MIXED USE (MU) ZONES. § 512, MATTER-OF-RIGHT USES (MU-USE GROUP E) is amended as follows:

512.1 The following uses shall be permitted in MU-Use Group E as a matter of right subject to any applicable conditions for each use below:

- (a) . . .
- (e) Eating and drinking establishment uses, subject to the following conditions:
 - (1) . . .
 - (2) A fast food establishment or food delivery service in all other MU-Use Group E zones, subject to the following conditions:
 - (A) . . .
 - (D) The use shall not include a drive-through; **unless approved as a special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, provided that the drive-through is existing and operational at the time of application or, if discontinued, the discontinuance has not exceeded one (1) year prior to the date of application;** and

D. CHAPTER 5, USE PERMISSIONS FOR MIXED USE (MU) ZONES. § 513, SPECIAL EXCEPTION USES (MU-USE GROUP E) is amended as follows:

513.1 The following uses shall be permitted if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9 and subject to the applicable conditions for each use below:

- (a) . . .
- (e) Fast food establishments or food delivery service eating and drinking establishments in any of the MU-4 zones, subject to the following conditions:
 - (1) . . .
 - (3) The use shall not include a drive-through; **unless approved as a special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, provided that the drive-through is existing and operational at the time of application or, if discontinued, the discontinuance has not exceeded one (1) year prior to the date of application;**

E. CHAPTER 5, USE PERMISSIONS FOR MIXED USE (MU) ZONES. § 514, PROHIBITED USES (MU-USE GROUP E) is amended as follows:

514.3 In the MU-4/RC and MU-5A/RC zones, the following uses shall be prohibited:

- (a) . . .
- (l) Drive-through; **unless approved as a special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, provided that the drive-through**

is existing and operational at the time of application or, if discontinued, the discontinuance has not exceeded one (1) year prior to the date of application;

F. CHAPTER 5, USE PERMISSIONS FOR MIXED USE (MU) ZONES. § 515, MATTER-OF-RIGHT USES (MU-USE GROUP F) is amended as follows:

515.1 The following uses shall be permitted in MU-Use Group F as a matter of right, subject to any applicable conditions for each use below:

(a) . . .

(f) Eating and drinking establishments with no restrictions; **however a fast food restaurant with a drive-through must be approved as a special exception pursuant to Subtitle U § 516.1(k).**

OP does not recommend amending Subtitle U §515.1. A fast-food establishment with a drive-through is permitted as a matter of right in the MU-use Group F zones, so the proposed text would make these zones more restrictive.

G. CHAPTER 5, USE PERMISSIONS FOR MIXED USE (MU) ZONES. § 516, SPECIAL EXCEPTION USES (MU-USE GROUP F) is amended as follows:

516.1 The following uses shall be permitted if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9 and subject to the applicable conditions for each use below:

(a) . . .

(k) A fast-food restaurant with a drive-through approved as a special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, provided that the drive-through is existing and operational at the time of application or, if discontinued, the discontinuance has not exceeded one (1) year prior to the date of application;

H. CHAPTER 5, USE PERMISSIONS FOR MIXED USE (MU) ZONES. § 517, MATTER-OF-RIGHT USES (MU-USE GROUP G) is amended as follows:

517.1 The following uses shall be permitted in MU-Use Group G as a matter of right subject to any applicable conditions:

(a) . . .

(e) A fast-food restaurant, provided that if the use includes a drive through, the drive-through must be approved as a special exception pursuant to Subtitle U § 518.1(t).

I. CHAPTER 5, USE PERMISSIONS FOR MIXED USE (MU) ZONES. § 518, SPECIAL EXCEPTION USES (MU-USE GROUP G) is amended as follows:

518.1 The following uses shall be permitted if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9 and subject to the applicable conditions for each use below:

(a) ...

(t) A fast-food restaurant with a drive-through approved as a special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, provided that the drive-through is existing and operational at the time of application or, if discontinued, the discontinuance has not exceeded one (1) year prior to the date of application;

J. CHAPTER 5, USE PERMISSIONS FOR MIXED USE (MU) ZONES. § 519, USES NOT PERMITTED (MU-USE GROUP G) is amended as follows:

519.1 The following uses shall be specifically prohibited in MU-Use Group G:

(a) ...

(f) Drive-through operation as either a principal or accessory use; unless approved as a special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, provided that the drive-through is existing and operational at the time of application or, if discontinued, the discontinuance has not exceeded one (1) year prior to the date of application;

2. Amendments to Subtitle U, USE PERMISSIONS

A. CHAPTER 8, USE PERMISSIONS PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, § 803, ADDITIONAL USE RESTRICTIONS AND CONDITIONS (PDR) is amended as follows:

803.1 Any use not permitted by conditions, special exception, or as an accessory use in this subtitle shall be deemed to be not permitted.

803.2 Regardless of the permissions, and in addition to any restrictions or conditions of this chapter, the following uses shall not be permitted on any lot located in whole or in part within one hundred feet (100 ft.) of a residential zone.

(a) ...

(e) Drive-through operation as either a principal or accessory use; unless approved as a special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, provided that the drive-through is existing and operational at the time of application or, if discontinued, the discontinuance has not exceeded one (1) year prior to the date of application;

OP is generally in agreement with the Applicant's proposed amendments but does not recommend the amendment to Subtitle U § 515.1 as a fast-food establishment with a drive-through is permitted as a matter of right in MU-use Group F zones and would make these zones more restrictive.

VI. PLANNING CONTEXT

COMPREHENSIVE PLAN

Future Land Use Map and Generalized Policy Map

As described in Chapter 2, Framework Element, Section 226, *Guidelines for Using the Generalized Policy Map and the Future Land Use Map*, the maps are intended to provide generalized guidelines for development decisions. They are to be interpreted in conjunction with relevant written goals, policies and action items in the Comprehensive Plan text, and further balanced against policies or objectives contained in relevant Small Area Plans and other citywide or area plans.

Properties Designated for Low Density Commercial Uses

On the Future Land Use Map (FLUM), fast-food establishments with drive-throughs are generally located on properties designated for moderate, medium, or high-density commercial uses, as well as most PDR areas. This is consistent with the zoning regulations, which allow these uses in higher-density Mixed Use (MU) zones but not in lower-density Mixed Use (MU) zones.

A review of all MU and PDR-zoned properties in the District identified approximately twenty-four sites that currently have fast-food establishments with drive-through. Two of these sites have a low-density commercial use designation on the FLUM and MU-4 zoning, which is for low-density development.



Under current zoning and FLUM guidance, these properties would not be eligible for a new drive-through if they were to be redeveloped. Their zoning does not permit this use, and unlike other similarly zoned nonconforming fast-food establishments with existing drive-throughs, the FLUM designation on these sites does not support them being rezoned to a zone that would allow this use.

When considering if the proposed text amendment would contradict land use policy for these sites, the Comprehensive Plan's City-wide policies and Area Element has to be considered.

Rock Creek East Area Element Guidance Properties

Two of the properties are within the Rock Creek East Area Element (7425 and 5200 Georgia Avenue, NW). Both properties have existing businesses along Georgia Avenue, which is considered a vibrant local shopping street. As discussed in the policies below, the Comprehensive Plan encourages commercial development along Georgia Avenue and supports assisting existing

businesses to remain in the Rock Creek East Planning Area. The proposed text amendment would not be inconsistent with these Rock Creek East policies:

Policy RCE-1.1.4: Neighborhood Shopping Areas

Maintain and encourage the development of multi-use neighborhood shopping and services in those areas designated for commercial or mixed-uses. 2208.5

Policy RCE-1.1.13: Vibrant Local Shopping Streets

Encourage a vibrant mix of commercial businesses, including local retail options, to avoid excessive concentrations of liquor stores on local shopping streets. 2208.14

Policy RCE-1.2.5: Small and Local Businesses

Assist small and local businesses along Kennedy Street, Georgia Avenue, and other Rock Creek East commercial districts in providing neighborhood services and creating job opportunities for area residents

Policy RCE-2.3.4: Coordinated Business Community

Support existing business organizations that provide beautification and business assistance services along upper Georgia Avenue NW. Encourage efforts to coordinate business improvement strategies among the various Georgia Avenue business associations through the implementation of the Upper Georgia Avenue Land Development Plan. Assist businesses in adapting to changing markets and customer bases that shift with new uses and development on the corridor, particularly around the Walter Reed site. 2213.9

Future Land Use Map

On balance when considering the Comprehensive Plan’s Area Element guidance for these two locations along with the guidance from the Citywide Elements, which is discussed in the racial equity/Comprehensive Plan section, OP finds that the proposed text amendment would not be inconsistent with the Future Land Use Map.

Racial Equity Analysis

The Zoning Commission’s Racial Equity Tool requires that every zoning action is evaluated through a racial equity lens. This analysis identifies and addresses structural inequalities and aims to ensure that all members of the community, regardless of race or ethnicity, can benefit from the zoning action.

Typically, this also involves presenting demographic data for the affected Planning Area and comparing it with District-wide data to highlight potential disparities. However, in this case, there are existing fast-food establishments that are non-conforming uses in almost every Ward in the City. Therefore, demographic data would not provide meaningful or relevant insights.

Comprehensive Plan Analysis including Racial Equity Lens

The Implementation Element of the Comprehensive Plan calls for “*the Zoning Commission to evaluate all actions through a racial equity lens as part of its Comprehensive Plan consistency analysis*” 2501.8. Equity is conveyed throughout the Comprehensive Plan, particularly in the context of zoning. Subtitle X § 1300.2 requires the Zoning Commission to determine that a proposed petition for a text amendment to the Zoning Regulations “*is not inconsistent with the Comprehensive Plan and other adopted public policies and active programs related to the subject text.*” The direction to consider equity “as part of its Comprehensive Plan consistency analysis”

indicates that the equity analysis is based on the policies of the Comprehensive Plan and part of the Commission's consideration of whether a proposed zoning action is "not inconsistent" with the Comprehensive Plan. As discussed below, on balance, the proposed text amendment would not be inconsistent with these Comprehensive Plan policies:

Land Use Element

Policy LU-2.1.1: Variety of Neighborhood Types

Maintain a variety of neighborhoods, ranging from low-density to high density. The positive elements that create the identity and design character of each neighborhood should be preserved and enhanced while encouraging the identification of appropriate sites for new development and/or adaptive reuse to help accommodate population growth and advance affordability, racial equity, and opportunity. 310.7

Policy LU-2.1.2: Neighborhood Revitalization

Facilitate neighborhood revitalization by focusing District grants, loans, housing rehabilitation efforts, commercial investment programs, capital improvements, and other government actions in those areas that are most in need, especially where projects advance equitable development and racial equity, as described in Section 213 of the Framework Element, and create opportunities for disadvantaged persons and for deeply affordable housing. Engage and partner in these efforts with the persons intended to be served by revitalization, especially residents. Use social, economic, and physical indicators, such as the poverty rate, the number of abandoned or substandard buildings, the crime rate, and the unemployment rate, as key indicators of need. 310.9

Policy LU-2.4.1: Promotion of Commercial Centers

Promote the vitality of commercial centers and provide for the continued growth of commercial land uses to meet the needs of residents, expand employment opportunities, accommodate population growth, and sustain Washington, DC's role as the center of the metropolitan area. Commercial centers should be inviting, accessible, and attractive places, support social interaction, and provide amenities for nearby residents. Support commercial development in underserved areas to provide equitable access and options to meet the needs of nearby communities. 313.9

The proposed text amendment would not be inconsistent with the Land Use Element. Permitting existing drive-through establishments by special exception approval would allow them to rebuild and be upgraded within what is appropriate to local conditions. Drive-through restaurants that are allowed to fully upgrade and modernize would help to activate underutilized commercial and mixed-use corridors.

Transportation

Policy T-1.1.7: Equitable Transportation Access

Transportation within the District shall be accessible and serve all users. Residents, workers, and visitors should have access to safe, affordable and reliable transportation options regardless of age, race, income, geography or physical ability. Transportation should not be a barrier to economic, educational, or health opportunity for District residents. Transportation planning and development should be framed by a racial equity lens, to identify and address historic and current barriers and additional transportation burdens experienced by communities of color. 403.13

The proposed text amendment would not be inconsistent with the Transportation Element, especially regarding providing equitable transportation access. Seniors, individuals with disabilities, and caregivers prefer to use drive-through establishments, as they offer convenient access for those who are uncomfortable or unable to physically enter a building. Drive-throughs are also often located in areas with limited walkability and transit service, which are conditions that frequently affect underserved neighborhoods where many communities of color reside. Allowing these establishments to be upgraded and to remain in place would help ensure that residents can continue to rely on these neighborhood businesses.

Economic Development

Policy ED-1.1.4: Promote Local Entrepreneurship

Support District residents, including women-owned businesses and equity impacts enterprises (small, resident-owned Black and Brown business) seeking entrepreneurship opportunities through layered programs, including technical assistance, promotion of District products and services, and market development. 703.15

Policy ED-3.1.1: Neighborhood Commercial Vitality

Promote the vitality and diversity of Washington, DC’s neighborhood commercial areas by retaining existing businesses, attracting new businesses, supporting a strong customer base through residential density, and improving the mix of goods and services available to residents. 713.5

Policy ED-3.1.2: Targeting Commercial Revitalization

Continue to target government economic development programs to areas of greatest need and historically neglected areas, including older business areas with high vacancy rates and commercial centers that inadequately serve surrounding areas. Commercial revitalization should focus on serving existing neighborhood residents and opportunities to support resident owned businesses. Focus on equitably achieving critical mass to sustain viable neighborhood commercial centers, recognizing that critical mass may vary according to zoning and historical investments. 713.6

The proposal would not be inconsistent with the Economic Development element. Some establishments with drive-through fast-food are locally owned and serve as important businesses within their neighborhoods. Allowing these existing drive-throughs to modernize or expand on their current sites would help improve sales volumes, increase customer turnover efficiency, and strengthen their overall financial stability. Drive-throughs also draw a broader customer base by accommodating people who prefer not to enter the restaurant.

In some older corridors with high vacancy, drive-through restaurants may function as an anchor for a neighborhood shopping center. Permitting these businesses to modernize or expand on their site could help the surrounding commercial center maintain the “critical mass” needed to attract additional retailers and remain economically viable.

Criteria to Evaluate a Zoning Action through a Racial Equity Lens

Factor	Question	OP Response
Direct Displacement	Will the zoning action result in displacement of tenants or residents?	OP does not anticipate displacement of either residents or commercial tenants as part of this proposal. The intent of this text amendment is to

Factor	Question	OP Response
		allow existing businesses to remain in operation in their current location.
Indirect Displacement	What examples of indirect displacement might result from the zoning action?	OP does not anticipate that allowing existing establishments with drive-through to modernize and redevelop would have a significant enough impact on surrounding property values to lead to indirect displacement.
Housing	Will the action result in changes to: <ul style="list-style-type: none"> ▪ Market Rate Housing ▪ Affordable Housing ▪ Replacement Housing 	The proposed text amendment would not impact housing.
Physical	Will the action result in changes to the physical environment such as: <ul style="list-style-type: none"> ▪ Public Space Improvements ▪ Urban Design Improvements 	The proposed text amendment would allow for architectural and modernization improvements for existing drive-through establishments and could lead to improved public space adjacent to the establishments or improvements to vehicular entrance and exit areas and the interplay with sidewalks.
Access to Opportunity	Is there a change in access to opportunity? <ul style="list-style-type: none"> ▪ Job Training/Creation ▪ Healthcare ▪ Addition of Retail / Access to New Services 	This proposed text amendment would not impact, health care or other services in the area. However, it would allow existing establishments with drive-through to modernize, provide improved service and remain in the neighborhoods. The jobs they provide would also be able to remain and could possibly lead to the creation of more jobs.

Community Outreach and Engagement

A neighborhood-level community outreach effort is not feasible for this text amendment because it applies to properties across the entire District. The Applicant states that they have notified all Advisory Neighborhood Commissions (ANCs) about the proposal but did not engage with any individual ANC or neighborhood organization.

Applicant notes feedback received during outreach for two prior Zoning Commission map amendment cases. In cases 22-19 and 24-13, existing McDonald’s drive-through restaurants sought an MU-7B zone to allow redevelopment without losing their drive-through use. In both instances, the local ANCs and community members supported the requests. **If the application is set down, OP recommends that the Applicant provide an update on their community outreach.**

If approved, this text amendment would require special exception review, which includes a public hearing. Further community engagement would occur at that stage and would focus on the specific property seeking redevelopment.

VI. COMMENTS FROM OTHER DISTRICT AGENCIES

Department of Transportation

OP consulted with the Department of Transportation (DDOT) as the drive throughs could have an impact of traffic movements as vehicles enter or exit these establishments. DDOT did not express any major concerns and noted that since these drive through would be subject to special exception review each application could be reviewed in detail at that time. They also looked forward to reviewing the text more closely if the case is set down for public hearing.

VII. SUMMARY

The proposed text amendments would allow many existing nonconforming restaurants with drive-throughs to remain in their communities and continue serving residents. These establishments often act as commercial anchors in their neighborhoods and provide an important option for individuals who may not feel comfortable entering an establishment. Allowing these establishments via the special exception review process ensures public input and that future redevelopment occurs in a way that is compatible with the surrounding community. Additionally, this text amendment would enable these businesses to modernize without having to eliminate the drive-through function that is essential to their economic sustainability.

On balance this proposal would not be inconsistent with the Comprehensive Plan maps, Citywide policies, and Area Elements. Neither would they be inconsistent with the Comprehensive Plan when viewed through a racial equity lens. **OP therefore recommends the Zoning Commission set down the proposed text amendments except for the amendment proposed to Subtitle U § 515.1.**