Delegated Action of the Executive Director

PROJECT
Text Amendment to Subtitle U - Drive Through Facilities for Existing Facilities as Special Exception
Washington, DC

REFERRED BY
Zoning Commission of the District of Columbia

NCPC FILE NUMBER
ZC 25-16

NCPC MAP FILE NUMBER
21.00(06.00)46285

DETERMINATION
Approval of report to the Zoning Commission

REVIEW AUTHORITY
Advisory
per 40 U.S.C. § 8724(a) and DC Code § 2-1006(a)

The Zoning Commission of the District of Columbia has referred text amendments to Subtitle U of the Zoning Regulation for review and comment. The amendments are related to Subtitle U, Use Permissions of the Zoning Regulations, to permit existing drive-throughs to be continued with newly constructed, modernized or upgraded fast-food establishments if approved through special exception. The proposed text amendments would impact properties in the Mixed-Use (MU) Zones Groups D, E, G; the Production, Distribution, and Repair (PDR) Zone; and Neighborhood Mixed-Use (NMU) Zone. The DC Office of Planning (DCOP) staff report dated September 18, 2026 notes that on balance, the proposed text amendments would not be inconsistent with the District Elements of the Comprehensive Plan and recommended the Zoning Commission approve the proposed text amendments. On September 28, 2026, the Zoning Commission took a proposed action to approve the case. The Zoning Commission plans to take final action after NCPC's 30-day comment period.

Fast-food establishments with drive-throughs are not permitted in most MU and NMU zones. They are also not permitted in PDR zones when near a residential zone. Currently, those that exist in zones where they are prohibited continue to operate as permitted nonconforming uses. The expansion of nonconforming uses is prohibited, and a new structure cannot include a nonconforming use. As a result, these establishments have not been able to rebuild, expand or modernize without first rezoning the properties. Because these establishments have long operated at their current locations, this text amendment would allow for their expansion or modernization through the special exception process. The proposed amendments condition special exception approval on the following: (i) 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 (ii) a comprehensive transportation review is provided to the District Department of Transportation no later than forty-five (45) days before the public hearing before the Board of Zoning Adjustment (BZA).

NCPC staff finds that the proposed text amendment is a narrow change with minimal potential impacts on federal interests as it does not allow new non-conforming drive-through uses. Only two of the nine properties where the changes would apply are within L'Enfant City. These properties are located on Special Streets identified in the Federal Urban Design Element, Maryland and Pennsylvania Avenues, and one property is located at a Capital Gateway, Barney Circle. If a case were submitted for special exception on one of those sites, careful consideration will be required regarding impacts to the pedestrian experience, visual qualities of the public realm, and the sense of arrival to Nation's Capital in accordance with guidance in the Federal Urban Design and Transportation Elements of the Comprehensive Plan (UD.B.3.5.4., UD.B.3.8, UD.B.1.2, and T.B.2). Through the proposed process amendments, the BZA, which includes NCPC representation, will conduct a thorough special exception review of these and other relevant site-specific issues to mitigate any potential adverse impacts. As such, the text amendment is not inconsistent with the federal elements of the *Comprehensive Plan for the National Capital*.

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Pursuant to delegations of authority adopted by the Commission on March 6, 2025 and per 40 U.S.C. § 8724(a) and DC Code § 2-1006(a), I find the proposed text amendment to Subtitle U, related to drive-through facilities for existing facilities as a special exception, would not be inconsistent with the federal elements of the *Comprehensive Plan for the National Capital* nor would it adversely impact any other identified federal interests.

Diane Sullivan
Acting Executive Director

Date