



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
301-952-3600

April 25, 2025

**RE: DSP-22001 McDonalds Ager Road
MCDONALDS USA, LLC, Applicant**

NOTICE OF DECISION OF THE DISTRICT COUNCIL

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed herewith a copy of the Council Order setting forth the action taken by the District Council in this case on April 22, 2025.

CERTIFICATE OF SERVICE

This is to certify that on April 25, 2025, this notice and attached Council Order was mailed, postage prepaid, to all persons of record.

A handwritten signature in cursive script, reading "Donna J. Brown".

Donna J. Brown
Clerk of the Council

Case No.: DSP-22001
TCP2-004-2024
McDonald's Ager/
McDonald's Ager Road/
Ager Road McDonald's/
McDonald's East West Highway¹

Applicant: McDonald's USA, LLC

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL

ORDER OF REMAND

A. Introduction²

On April 1, 2025, using oral argument procedures, the District Council reviewed, on its motion, the decision of Planning Board, embodied in Resolution 2025-008, and the record, to approve, among other things, Detailed Site Plan (DSP) 22001, a proposed development to construct a 3,683-square-foot eating and drinking establishment with drive-through service on the southern portion of the subject property, Parcel 23, located in the northeast quadrant of the intersection of MD 410 (East West Highway) and Van Buren Street, and on the south of Ager Road, as shown on Tax Map 41-D1 in Planning Area 65 and Council District 2. The District Council's review of the Board's decision also included consideration of written and oral testimony from certain persons of record and the Applicant/McDonald's.³ (4/1/2025, Tr.), Gibbs/Applicant

¹ The record indicates several Project Names for this site plan. PGCPB No. 2025-008, Planning Board Record, Parts 1 and 2.

² All references to the Zoning Ordinance are to the prior Zoning Ordinance previously codified in Subtitle 27 of the Prince George's County Code because the Applicant has elected review and approval of the proposed site plan under the prior Zoning Ordinance pursuant to certain Transitional Provisions in the current Zoning Ordinance. Under the prior Zoning Ordinance, a Detailed Site Plan is abbreviated "DSP."

³ The District Council is authorized by statute to review the decision of Planning Board to approve this Detailed Site Plan and issue the final decision. Md. Code Ann., Land Use (LU) Article § 25-210 (1957, 2012 Repl. Vol., 2024 Supp.), PGCC § 27-290. *See also County Council of Prince George's County v. Billings*, 420 Md. 84, 88, 21 A.3d

Testimony, 3/25/2025, Smith Testimony/Videos, 3/26/2025, Smith Testimony/Videos, 3/26/2026, Cesar Chavez Community Testimony, 3/25/2025, Lisa Entzminger Testimony, 3/25/2025, Melissa Schweisguth Testimony/Videos, 3/25/2025.

On April 14, 2025, after having reviewed the record, including written testimony and oral argument of the parties, the District Council, on motion, voted 9-0 to direct staff to prepare an Order of Remand to Planning Board in accordance with the issues raised by People's Zoning Counsel at the conclusion of oral argument on April 1, 2025. (4/1/2025, Tr.), PGCC § 27-290.

B. Issues Raised by People's Zoning Counsel⁴

At the conclusion of oral argument, People's Zoning Counsel, based on his review of the record, and testimony from the parties, raised certain issues to the District Council as grounds to remand this matter to Planning Board. (4/1/2025, Tr.). Those issues include stacking and queuing of the double drive through lanes, on-site traffic circulation and pedestrian safety due to the proposed double drive-through lanes; right-in-right-out site access to the proposed site; health impact assessment review for the proposed site plan; supplementation of the record with all Technical Staff Reports and Traffic Studies; identification of the property owner; the appropriate mechanism to address whether the site contains any grave sites or artifacts; and notice to all parties affected by the proposed site plan.

(...continued)

1065, 1067 (2011) (explaining that when the District Council elects to review a decision, where it makes the final decision, filing of exceptions are no longer necessary to guarantee review at the next administrative level).

⁴ Because informed public actions on land use matters require a full exploration of often complex factual and legal issues, an independent People's [Zoning] Counsel can protect the public interest and promote a full and fair presentation of relevant issues in administrative proceedings in order to achieve balanced records upon which sound land use decisions can be made. In addition, a People's [Zoning] Counsel who provides technical assistance to citizens and citizen organizations will encourage effective participation in, and increase public understanding of and confidence in, the County land use process. PGCC § 27-136.

As a threshold matter, as detailed *infra*, the District Council finds, despite a Resolution, that the decision of Planning Board to approve the proposed site plan lacks the appropriate legal analysis, explanation or basis given for the conclusion reached by the Board that the proposed site plan, among other things, represents a reasonable alternative for satisfying the site design guidelines in PGCC § 27-274—without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use.⁵ PGCPB No. 2025-008, *Elbert v. Charles Cnty. Plan. Comm’n*, 259 Md. App. 499, 511, 305 A.3d 478, 485 (2023) (explaining that Planning Commission could not satisfy its articulation obligations for two site plan approvals by the simple expedient of referencing a Staff Report that was itself inadequate and devoid of analysis).

C. The Subject Property/Proposed Site Plan/Zoning

The subject property is located in the northeast quadrant of the intersection of MD 410 (East West Highway) and Van Buren Street, and on the south of Ager Road, which is within the Green Meadows Shopping Center. To the north of the shopping center is Van Buren Street, an arterial road, and properties to the north of Van Buren Street are zoned Residential, Multifamily-20 (RMF-20); to the south is MD 410 (East West Highway); to the west is Ager Road (with properties to the west of Ager Road zoned Commercial General Office (CGO) and Residential, Single-Family-65 (RSF-65)); and to the east is Pallottine Seminary zoned Residential, Rural (RR) and a single dwelling property zoned RSF-65. PGCPB No. 2025-008 at 3, Backup 3 of 89.

⁵ Based on substantial evidence in the record of traffic safety issues that will result from the proposed site plan, there is *no* evidence in the record that there would be any unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use for McDonald’s to propose a revise site plan *without* drive-through service subject to review and approval under the prior Zoning Ordinance.

McDonald's site plan includes all of Parcel 23 (4.16 acres), which consists of three (3) buildings in the Green Meadows Shopping Center. There is a single large inline retail building located roughly in the center of Parcel 23. That building includes a bakery, a seafood shop, a sub/sandwich shop, a barber shop, a general retail space, a market, a sit-down restaurant and a liquor store. At the extreme northern end of Parcel 23 is a freestanding building which includes a restaurant specializing in takeout chicken. A third freestanding building is located toward the southern end of Parcel 23, which also includes a takeout restaurant.

McDonald's will lease only the southern portion of Parcel 23, containing 1.16 acres, raze an existing 1,995-square-foot building, and construct a building—almost double the size of the razed building—with a 3,683-square-foot eating and drinking establishment with drive-thru service—consisting of double drive-thru lanes. PGCPB No. 2025-008, Statement of Justification, Backup 2-4 of 89.

Before the adoption of the Countywide Map Amendment (CMA), the subject property was zoned Commercial Shopping Center (C-S-C) and is located in the 1989 Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity area. After the adoption of the CMA, the zone for the subject property was reclassified to Commercial General Office (CGO). Pursuant to certain transitional provisions under the new or current Zoning Ordinance, the Applicant elected to have the proposed site plan reviewed under the prior Zoning Ordinance. PGCPB No. 2025-008 at 1, Historic Preservation Committee (HPC) Memo, 4/3/2024.

D. Purposes of the Prior Zoning Ordinance⁶

Among other things, the purposes of the prior Zoning Ordinance are to protect and promote

⁶ Here, Technical Staff Report and Resolution of Planning Board lack the appropriate analysis for Citizen Opposition and the District Council to determine whether the proposed site plan complies with the purposes of the prior Zoning Ordinance. PGCPB No. 2025-008, Planning Board Record, Parts 1 and 2.

the health, safety, morals comfort, convenience, and welfare of the present and future inhabitants of the County, implement the General Plan, Area Master Plans, and Functional Master Plans, to guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business to promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development, to prevent the overcrowding of land, to lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions, to insure the social and economic stability of all parts of the County, and to protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features. PGCC § 27-102.

E. 1989 Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity/Adopted Sectional Map Amendment for Planning Areas 65, 66, and 67^{7,8}

As noted above, the subject property is located at 6565 Ager Road in the northwest quadrant of the intersection of East West Highway and Ager Road and has frontage on East-West Highway (MD 410), Ager Road, and Van Buren Street and is located in the *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment for Planning Areas 65,66 and 67* (1989 Plan). HPC Memo, 4/3/2024.

⁷ Here, Technical Staff Report and Resolution of Planning Board lack the appropriate analysis for Citizen Opposition and the District Council to determine whether the proposed site plan was evaluated in accordance with the 1989 Plan. PGCPB No. 2025-008, Planning Board Record, Parts 1 and 2.

⁸ To view the 1989 Plan, please visit: <https://www.pgplanning.org/wp-content/uploads/2024/04/Langley-Park-College-Park-Greenbelt-Approved-Master-Plan-October-1989-compressed.pdf> (last visited April 21, 2025).

Under the 1989 Plan for example, the goal of the Environment Envelope of the 1989 Plan is to protect and enhance the environmental quality of the Planning Areas. Some objectives for the Environment Envelope in the 1989 Plan are:

- To guide development of the Planning Areas in a manner that will minimize any adverse impact on the natural environment, with particular emphasis on the stream valleys of the Little Paint Branch, Paint Branch, Beaverdam Creek, India Creek, Northeast Branch, Sligo Creek, Northwest Branch, Bald Hill Branch, their tributaries, Greenbelt Lake and proposed Lake Metro.
- To encourage the use of careful site planning and construction techniques in order to minimize the impact of noise, vibrations, fumes, and visual intrusion on the human environment.
- To locate development according to the opportunities and constraints presented by local environmental characteristics.
- To design and locate land uses and transportation and public facilities in a manner that best contributes to the conservation of energy resources.
- To develop necessary new laws, ordinances, and public policies to encourage and promote harmonious development respecting the natural environment.
- To ensure that the County's economic development is guided by environmental imperatives and potentials.

1989 Plan at 33-34.

The 1989 Plan recognized 36 years ago that previous mistakes causing environmental problems must be corrected by public and private actions in order to fulfill the environmental goals and objectives of the General Plan and *this Plan*. The Plan also recognized that the intent of the Environmental Envelope is to identify environmental concerns in the context of an areawide system and then to apply the appropriate ordinances to guide development so that environmentally sensitive and aesthetically attractive areas are preserved and created. 1989 Plan at 34.

The 1989 Plan further recognized other environmental factors such as noise intrusion. According to the 1989 Plan, there are two main sources of noise, point and nonpoint. Point source

noise emanates from a stationary source or area, such as a construction operation, an industrial plant or commercial area. Nonpoint source noise emanates from the flow of traffic. In Prince George's County, the most prominent noise generating sources are construction and mining operations, vehicular traffic, and railroad traffic. While mining and construction operations affect the noise environment, sometimes significantly, their relatively small numbers and intermittent nature result in their impact not being as significant as the impact from vehicular traffic along roadways. 1989 Plan at 37.

Concerning Commercial Areas, the goal of the 1989 Plan is to provide for reasonable amounts and distribution of various types of commercial space. Some objectives for Commercial Areas in the 1989 Plan are:

- To provide a better balance of commercial uses to other uses within the Plan Areas.
- To maintain intensify, and expand existing commercial areas where appropriate, while removing commercial uses from, and stopping intrusions into, areas not appropriate for commercial use.
- To insure that all residents of the Planning Areas are adequately served by commercial activities.
- To ensure that residents of the Planning Areas are not adversely affected by traffic and other impacts of commercial development when such development exists largely for the use of persons outside the Planning Areas.
- To locate commercial activities where vehicular access is adequate and where pedestrian walkways and bikeways can be integrated into the design.

1989 Plan at 87. The Plan also found that the Green Meadows Shopping Centers have no internal landscaping and no coordination of facades or signs. Id. at 93.

Concerning Urban Design Guidelines for Commercial Areas, Circulation Improvements in the 1989 Plan include the following:

- Eliminate any on-street loading along the main street; designate the loading areas to provide better service.
- Generate special activities to occur seasonally in the gathering spaces to increase pedestrian use.
- Provide a safer and more attractive sidewalk system.
- Separate pedestrian and vehicular circulation facilities, enforce the use of crosswalks or provide pedestrian overpasses.
- Include analyses of the potential impacts on the local transportation system for all proposals for renewal or expansion.
- Combine existing access points wherever possible to limit conflicts with the free flow of traffic on the main road; additional access points to the main road should be restricted to those which are strictly required; additional access from the commercial properties to the residential streets should be prohibited.

1989 Plan at 107-108.

Concerning Circulation and Transportation, the goal of the Plan is to create and maintain a transportation network in the Planning Areas that is safe, efficient, and provides for all modes of travel in an integrated manner. 1989 Plan at 123. Some objectives for Circulation and Transportation in the 1989 Plan are:

- To reduce existing traffic congestion, modify circulation deficiencies, decrease accidents, and develop a transportation system with sufficient capacity to accommodate additional traffic generated by future land development.
- To facilitate the safe and orderly movement of both local and through traffic by avoiding possible conflicts between them and in particular by reducing through traffic in residential areas.
- To reduce fuel consumption, traffic overload, excessive noise and other environmental deficiencies resulting from an Inefficient circulation and transportation system.

1989 Plan at 123. The 1989 Plan also indicated that existing and proposed land uses in the Planning Areas are not and will not be the sole determinant of local highway and mass transit needs because

the Plan found that a large proportion of persons and goods moving through the Planning Areas by auto, bus or truck have trip origins and/or destinations outside the Planning Areas and that transportation planning must recognize these externally based travelers. Id.

Among other things, the 1989 Plan made specific recommendations to implement the concepts and fulfill the goals/objectives for transportation, which include arterials, as follows:

- Upgrade East-West Highway to six lanes from Adelphi Road to Ager Road and from Riggs Road to New Hampshire Avenue.
- Redesign the intersection of East-West Highway and Ager Road to eliminate or modify the existing “Y” configuration.

1989 Plan at 133.

The 1989 Plan also indicated that the following guidelines apply to the Circulation and Transportation system in general or in part:

1. Rights-of-way should be acquired and/or protected to provide for the future extension or expansion of planned transportation facilities at reasonable costs, with minimum property displacement.
2. All highways should be designed to minimize their physical impact on the environment while providing the best possible opportunity for development of suitable sites.
3. Properly designed street networks should be provided to facilitate desired traffic flow and continuity. Arterials should not be located through a neighborhood; residential streets should be designed to discourage through traffic; and points of ingress and egress should be minimized to avoid conflicts with through traffic flow while retaining adequate access to properties.
4. Intersections should be located to facilitate safe vehicular and pedestrian access to employment sites, shopping facilities, multifamily developments, and other large traffic generators.
5. To facilitate transportation efficiency in the vicinity of high-intensity uses, provision should be made for adequate access to collector and arterial highways, deceleration and acceleration lanes, signalization, and internal service roads as needed.

1989 Plan at 137.

F. General Purposes of the Commercial Zone⁹

Some of the general purposes of the Commercial Zone are to implement the general purposes of the prior Zoning Ordinance, to provide sufficient space and a choice of appropriate locations for a variety of commercial uses to supply the needs of the residents and businesses of the County for commercial goods and services, to protect adjacent property against fire, noise, glare, noxious matter, and other objectionable influences, to improve traffic efficiency by maintaining the design capacities of streets, and to lessen the congestion on streets, particularly in residential areas, and to promote the efficient and desirable use of land, in accordance with the purposes of the General Plan, Area Master Plans and the prior Zoning Ordinance. PGCC § 27-446.

G. Purposes of the C-S-C Zone¹⁰

The purposes of the C-S-C Zone are to provide locations for predominantly retail commercial shopping facilities, to provide locations for compatible institutional, recreational, and service uses, to exclude uses incompatible with general retail shopping centers and institutions, and for the C-S-C Zone to take the place of the C-1, C-2, C-C, and C-G Zones. PGCC § 27-454.

An eating and drinking establishment, with drive-thru service is permitted in the C-S-C Zone subject to Detailed Site Plan approval in accordance with Part 3, Division 9, of the prior Zoning Ordinance. PGCC § 27-461.

⁹ Here, Technical Staff Report and Resolution of Planning Board lack the appropriate analysis for Citizen Opposition and the District Council to determine whether the proposed site plan complies with the general purposes of the Commercial Zones in prior Zoning Ordinance. PGCPB No. 2025-008, Planning Board Record, Parts 1 and 2.

¹⁰ Here, Technical Staff Report and Resolution of Planning Board lack the appropriate analysis for Citizen Opposition and the District Council to determine whether the proposed site plan complies with purposes of the C-S-C Zone in prior Zoning Ordinance. PGCPB No. 2025-008, Planning Board Record, Parts 1 and 2.

H. Eating and Drinking Establishment

An eating and drinking establishment is defined as “[a]n establishment that provides food or beverages for consumption on or off premise, which *may* be developed freestanding, on a pad site or attached to another building, or located within another building or located within a group of buildings, which *may* include a drive-through service, carryout, outdoor eating, music of any kind, patron dancing, or entertainment, excluding adult entertainment uses. PGCC § 27-107.01(a) (81.1) (Emphasis added). The word “may” is permissive. PGCC § 27-108.01(a)(19). And the word “approve” includes “approve with conditions, modifications, or amendments.” PGCC § 27-108(a)(10).

Here, the Technical Staff Report and Resolution of Planning Board only determined that an eating and drinking with drive-through service is a permitted use in the C-S-C Zone. PGCPB No. 2025-008 at 4. Because the interpretations and rules of construction apply to the entire prior Zoning Ordinance, and the wording of any conditions placed on any final decision, such as conditions placed on the approval of zoning cases, the Staff Report and Resolution of Planning Board lack any analysis whether, under the definition for an eating and drinking establishment, in context of this proposed site plan, and in light of substantial evidence in the record about traffic safety issues, there is no analysis of the application of the use in reaching the conclusion that the proposed site plan represents a reasonable alternative for satisfying the site design guidelines in PGCC § 27-274 or whether the proposed site plan may be conditionally approved *without* a drive-through service. PGCC § 27-108.

I. Purposes of a Detailed Site Plan¹¹

The general purposes of Detailed Site Plans are to provide for development in accordance with the principles for the orderly, planned, efficient and economical development contained in the General Plan, Master Plan, or other approved plan, to help fulfil the purposes of the zone in which the land is located, to provide for development in accordance with the site design guidelines established in the prior Zoning Ordinance, and to provide approval procedures that are easy to understand and consistent for all types of Detailed Site Plans. PGCC § 27-281(b).

The specific purposes of Detailed Site Plans are to show the specific location and delineation of buildings and structures, parking facilities, streets, green areas, and other physical features and land uses proposed for the site, to show specific grading, planting, sediment control, woodland conservation areas, regulated environmental features and storm water management features proposed for the site, to locate and describe the specific recreation facilities proposed, architectural form of buildings, and street furniture (such as lamps, signs, and benches) proposed for the site, and to describe any maintenance agreements, covenants, or construction contract documents that are necessary to assure that the Plan is implemented in accordance with the requirements of the prior Zoning Ordinance. PGCC § 27-281(c).

J. Site Design Guidelines

Under the prior Zoning Ordinance, unless site design guidelines are modified under PGCC § 27-286 (which is not the case here) a Detailed Site Plan *shall*¹² be designed in accordance with the

¹¹ Here, Technical Staff Report and Resolution of Planning Board lack the appropriate analysis for Citizen Opposition and the District Council to determine whether the proposed site plan was evaluated in accordance with the 1989 Plan that governs, among other things, this Vicinity Area. PGCPB No. 2025-008, Planning Board Record, Parts 1 and 2.

¹²Under the prior Zoning Ordinance, “shall” is interpreted as “mandatory.” PGCC § 27-108.01(a)(19).

same guidelines required for a Conceptual Site Plan in PGCC § 27-274. PGCC § 27-283.

Site design guidelines for vehicular and pedestrian circulation on a site should be safe, efficient, and convenient for both pedestrians and drivers and *each* of the following guidelines should be observed:¹³

- (i) The location, number and design of driveway entrances to the site should minimize conflict with off-site traffic, should provide a safe transition into the parking lot, and should provide adequate acceleration and deceleration lanes, if necessary;
- (ii) Entrance drives should provide adequate space for queuing;
- (iii) Circulation patterns should be designed so that vehicular traffic may flow freely through the parking lot without encouraging higher speeds than can be safely accommodated;
- (iv) Parking areas should be designed to discourage their use as through-access drives;
- (v) Internal signs such as directional arrows, lane markings, and other roadway commands should be used to facilitate safe driving through the parking lot;
- (vi) Drive-through establishments should be designed with adequate space for queuing lanes that do not conflict with circulation traffic patterns or pedestrian access;
- (vii) Parcel pick-up areas should be coordinated with other on-site traffic flows;
- (viii) Pedestrian access should be provided into the site and through parking lots to the major destinations on the site;
- (ix) Pedestrian and vehicular circulation routes should generally be separated and clearly marked;
- (x) Crosswalks for pedestrians that span vehicular lanes should be identified by the use of signs, stripes on the pavement, change of paving material, or similar techniques; **and**
- (xi) Barrier-free pathways to accommodate the handicapped should be provided. PGCC § 27-274(a)(2)(C).

¹³ Under the prior Zoning Ordinance, where a regulation involves two (2) or more items connected by the conjunction, “and,” it indicates all the connected items shall apply. PGCC § 27-108.01(a)(13).

In addition, a Detailed Site Plan *shall* also be referred to the Prince George’s County Health Department. The Health Department *shall* perform a health impact assessment review of the proposed development identifying the potential effects on the health of the population, and the distribution of those effects within the population, including recommendations for design components to increase positive health outcomes and minimize adverse health outcomes on the community. PGCC § 27-284.

Because “shall” is interpreted as mandatory under the prior Zoning Ordinance, a Health Assessment Review is required as a part of the regulations and procedures to approve this proposed site plan in the C-S-C Zone. PGCC § 27-108.01(a)(17) (When something is referred to as being “required,” it means required as a part of the regulations and procedures in the applicable zone).

K. Testimony from Citizen Opposition

Greg Smith — Smith submitted extensive written testimony concerning the impacts that the proposed site plan will have on the environment, the community, and public health. Concerning traffic, Smith testified as follows:

The project fails to meet numerous goals and policies set forth in Plan 2035 and the County’s Climate Action Plan, which call for reducing automobile use and increasing access via other modes of transportation.

The project is adjacent to a complex, five-point intersection that is routinely congested with long backups, especially, but not exclusively during morning and evening rush hours. I know from experience biking through that intersection and crossing Riggs Road and Route 410 on the Sligo Creek path nearby that crossing those roads can be perilous.

Smith Testimony, 3/26/2025.

Smith also testified that the proposed site plan will exacerbate/worsen traffic and safety at an already congested intersection as follows:¹⁴

¹⁴ Smith also supported written testimony with photographs and video recordings.

McDonald's proposes to build this high-volume drive-through right next to a complex five-point intersection, and along a road segment that is among the most dangerous in the county with respect to fatal and injury crash rates. Adding a high-volume drive-through will exacerbate these issues and will imperil pedestrians and bicyclists the most. It also will increase local emissions and ambient air concentrations of traffic-related air pollution in an already overburdened community.

Site observations and publicly available crash data indicate that local roads abutting or very near the site, particularly segments near the intersections of East-West Highway with Riggs Road and Ager Road, have a disproportionate number of crashes and are prone to traffic jams that compromise level of service and increase crash risk. The site is within the walkshed of two elementary schools, next to three bus stops that serve high-volume routes and surrounded by dense residential areas, making the site a high-pedestrian location and desirable bike commuting route.

Incredibly, the Applicant and the Planning Board have asserted that off-site impacts and conditions may not be considered in this DSP review even though Section 27-102 of the Zoning Ordinance states that the purposes of the Ordinance include "*To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County*" and "*to lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions.*" The Applicant has provided no evidence that this project would meet these or numerous other purposes of the Ordinance. (Emphasis in original).

Smith Testimony, 3/25/2025.

Cesar Chavez Community — The Cesar Chavez Community testified concerning the impacts of the proposed site plan on air quality, the environment, nutrition inequities, and traffic hazards and pedestrian safety. Concerning traffic, the following testimony was provided:

Traffic Hazards and Pedestrian Safety: Children and parents commute to CCDSI via car, bus, bicycle, and on foot from a large swath of the county. Parents and administrators actively advocate for our children's safe arrival and departure from school. This year we have secured crossing guard presence, but there is no infrastructure beyond a crosswalk to support safe crossing of Riggs Road. Children must cross six lanes of speeding cars during rush hour. Requests from our administration to install a traffic light have not been granted.

The McDonald's site is on a perilous segment of East-West Hwy (MD-410) at the intersection with Riggs Road, which is just to the north of our school. This one-mile corridor has been ranked the 5th most hazardous in Prince George's County

according to data from Vision Zero, a collaboration with MOOT State Highway Administration and MD Highway Safety Office. The addition of a drive-through McDonald's in such close proximity to our school will increase traffic congestion and ultimately endanger young lives.

Cesar Chavez Community Testimony, 3/25/2025.

Lisa Entzminger — Entzminger testified concerning the impacts of the proposed site plan on public health, pedestrian safety and traffic congestion. Concerning pedestrian safety and traffic congestion, Entzminger testified as follows:

Pedestrian Safety Concerns

The proposed location is adjacent to high-pedestrian-traffic areas, including residential neighborhoods, schools, and transit hubs. Introducing a high-volume drive-through restaurant at this intersection poses serious risks to pedestrians, particularly children and the elderly. Increased vehicle movement at a busy crossing could result in more accidents, endangering the safety of residents who rely on walking and public transportation. Given the County's commitment to Vision Zero and improving walkability, approving this development would contradict those goals.

Traffic Congestion

The intersection of Ager Road and East-West Highway is already congested, especially during peak commuting hours. A McDonald's drive-through would further exacerbate traffic bottlenecks, increasing delays and frustration for drivers and transit users alike. The addition of drive-through lanes would encourage more vehicle idling, leading to greater air pollution and negatively impacting the surrounding community. It is crucial that the County considers traffic implications and avoids developments that would worsen existing conditions.

Entzminger Testimony, 3/25/2025.

Melissa A. Schweisguth — Schweisguth provided extensive testimony and data concerning traffic as follows:¹⁵

As a Hyattsville resident who regularly drives, bikes and runs near the proposed McDonald's drive through in DSP-20001, I am writing to ask that you disapprove DSP-22001. It would have unacceptable negative impacts on public safety, related specifically to an increased risk of crashes that particularly affect vulnerable road users such as pedestrians and cyclists, such that approval would be counter to the purposes of the zoning ordinance.

¹⁵ Schweisguth written testimony also included photographs and video recordings.

Adjacent Roadway and Zoning Ordinance

(photos and video here and below, all taken 9/23 ~1:30 PM) Site observations and crash data indicate the roadway along the site has a disproportionate number of crashes, as detailed below, and is prone to traffic jams that compromise level of service and increase crash risk. The site is within the watershed of two elementary schools, next to three bus stops that serve high-volume routes and surrounded by dense residential areas, making the site a high-pedestrian location and desirable bike commuting route. Section 27-102 of the Zoning Ordinance states that its purposes include: ***“To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County” and “to lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions.”*** The Applicant has not provided evidence that the Proposed Development meets these purposes, other than a cursory analysis of impacts on level of service. (Emphasis in original).

Crash Data and Increased Crash Risks

The proposed drive-through will exacerbate road safety issues and increase the risk of crashes, especially for vulnerable road users such as cyclists and pedestrians, because it will bring increased traffic to a section of a high-volume arterial (Westbound East West Highway/410) that lies between intersections with two other high-volume arterials (MD 212/Riggs and Ager Road). (Note: while the site address is 6565 Ager, it fronts East West Highway/410 and SHA’s “Know Your Roads” Map and County Road map indicate SHA owns and maintains the road in front of the proposed development. Ager and East West/410 overlap along the site, with Ager running south of and parallel to East West Highway/410 from 19th Place to Tuckermann and the proposed development sitting on the north side of East West Highway/410.)

Maryland State Police Crash data for approved crash reports indicate that, from 2021-2023, there were 176 crashes within 800 feet (0.15 miles) of the site, a conservative radius that extends just past the intersections of East West Highway/410 with Riggs/212 and Ager (Figure 1). Of these crashes, three were fatalities, all of which were pedestrians, and 25 were injury crashes, two of which were pedestrians (Figure 2). If we zoom out one-half mile from the site, it is visually apparent that the development lies in a local hotspot for crashes (Figure 3). This is a chronic, long-term issue: considering the most vulnerable road users - pedestrians and cyclists - there were three pedestrian fatalities, and additional bike and pedestrian injury crashes within one-quarter mile of the site from 2018-2021 (Figure 4). Pedestrians regularly cross East West Highway between signalized intersections (Riggs/212 and Ager) to access bus stops, the shopping center and their homes across the street, as they would have to walk up to ¼ mile if using the intersections to cross the road (see photo and Figure 5). The increased traffic, including illegal U-turns, traffic crossing multiple lanes will increase the risk of crashes.



Westbound East West Highway/410 (oriented Northwest bound along development site) has a ***high volume of drivers rapidly crossing lanes*** between its intersections with Ager and Riggs in order to move from one road to another, which is already precarious for drivers (e.g., Ager westbound to 212 northbound, 410 westbound to Riggs southbound, 410 eastbound turning left to remain on 410 or veering right to take Ager). There is an unsignalized mid-block turn lane where drivers make left turns onto 19th place or U-turns to Eastbound East West/410, often backing up as they wait for a break in oncoming traffic (see photo). There is a red-light camera at 410 westbound where Ager merges with it, just before the entry for McDonald's, given repeated ***illegal right turns on red***. The proposed development would add high-volume drive through traffic entering and exiting the drive through just past the merger, ***increasing the risk of crashes***. The driveway into McDonald's is quite steep, forcing cars entering the proposed development to slow down suddenly, exacerbating current backups (see photo) and the risk of rear end crashes (video [here](#)). (Emphasis in original).



Pedestrians who cross mid-block dart among this erratic traffic and ***will be at greater risk*** with more cars in more erratic traffic patterns. Finally, it is likely that more drivers will use the left turn cutout, which already experiences backups, to make U-turns onto Eastbound East West Highway/410, increasing the risk of rear end crashes or crashes with Westbound drivers (see [video](#)). (Emphasis in original).

Eastbound East West Highway/410 (Southeast bound along development site): While DSP 20001 states that drivers will be able to make only right turns in and out of the site (to and from East West Highway westbound), it is certain that eastbound East West Highway/410 drivers who plan to walk into the McDonald's will use an existing left turn cutout for the adjacent shopping center buildings on East West Highway/410 eastbound. Such drivers would cross three lanes of busy, rapidly moving and lane-changing westbound traffic to park in the adjacent area of the shopping center and run into the McDonald's. During morning and evening mealtimes on weekdays in particular, drivers that are waiting to turn left at this cutout already have a very precarious route because westbound East West Highway becomes backed up from Ager to 212 (Riggs). Adding a high-volume drive through will make the situation even more dangerous for all road users, especially for those waiting at or walking to the bus stop in front of the site, and pedestrians who cross-mid block to avoid walking up to 0.25 mile to access the shopping center from across the street. Additionally, drivers on eastbound East West Highway/410 already make illegal U-turns where East West Highway/410 meets Ager, which requires a very tight turn, and it is certain more drivers will do so to access the McDonald's (see photo above).



Given the above issues, please disapprove DSP-22001 on account of the increased safety risks and congestion it will bring to a road segment that is already prone to ongoing slowdowns and is a hotspot for vehicular crashes, unfortunately including vulnerable road users such as cyclists and pedestrians.

Schweisguth Testimony, 3/25/2025. Schweisguth also provided figures and charts that catalogued the number of past crashes within the vicinity of the proposed site plan to demonstrate that the proposed site plan will exacerbate traffic safety issues and accidents. Id.

L. Conclusion

Under the prior Zoning Ordinance, Planning Board *may* approve a Detailed Site Plan if it finds that the plan represents a reasonable alternative for satisfying the site design guidelines, but if it cannot make these findings, it *may*, by statute, *disapprove* the proposed site plan. PGCC § 27-285(b). *See* PGCC § 27-142 (the applicant bears the burden of proof in any zoning). *See also Southland Corp. 7-Eleven Stores v. Laurel*, 75 Md. App. 375, 541 A.2d 653 (1988) (holding that even though the proposed use was a permitted use under the zoning ordinance, the proposed site plan may be *rejected* through the site plan review procedure on traffic safety issues). (Emphasis added).

On remand, Planning Board shall reopen the record, take further testimony, and reconsider its decision subject to the following:

1. Stacking of Vehicles and Space for Queuing of Proposed Site Plan for an Eating and Drinking Establishment with Double Drive Through Lanes

After reopening the record to take further testimony, as outlined above, on the purposes of the prior Zoning Ordinance, the 1989 Plan, the general purposes of the Commercial Zone, the purposes of the C-S-C Zone, the definition and application of an eating and drinking establishment, the purposes of a Detailed Site Plan, Site Design Guidelines, the impact of a Health Assessment Review from the Health Department on the proposed site plan, and testimony from Citizen Opposition on all issues raised, including traffic safety concerns, the Resolution of Planning Board shall satisfy its articulation obligations, under Maryland law, and the prior Zoning Ordinance, to include the appropriate legal analysis, explanation or basis given for the conclusion to support whether or not the proposed site plan represents a reasonable alternative for satisfying the site design guidelines in PGCC § 27-274 — without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use — including whether or not the proposed site plan for an eating and drinking establishment may be approved without a drive-through component.

2. Traffic Circulation and Pedestrian Safety of Proposed Site Plan for an Eating and Drinking Establishment with Double Drive Through Lanes

After reopening the record to take further testimony, as outlined above, on the purposes of the prior Zoning Ordinance, the 1989 Plan, the general purposes of the Commercial Zone, the purposes of the C-S-C Zone, the definition and application of an eating and drinking establishment, the purposes of a Detailed Site Plan, Site Design Guidelines, the impact of a Health Assessment Review from the Health Department on the proposed site plan, and testimony from Citizen Opposition on all issues raised, including traffic safety concerns, the Resolution of Planning Board shall satisfy its articulation obligations, under Maryland law, and the prior Zoning Ordinance, to include the appropriate legal analysis, explanation or basis given for the conclusion to support whether or not the proposed site plan represents a reasonable alternative for satisfying the site design guidelines in PGCC § 27-274 — without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use — including whether or not the proposed site plan use for an eating and drinking establishment may be approved without a drive-through component.

3. Right-In-Right-Out-Site Access of Proposed Site Plan for an Eating and Drinking Establishment with Double Drive Through Lanes

After reopening the record to take further testimony, as outlined above, on the purposes of the prior Zoning Ordinance, the 1989 Plan, the general purposes of the Commercial Zone, the purposes of the C-S-C Zone, the definition and application of an eating and drinking establishment, the purposes of a Detailed Site Plan, Site Design Guidelines, the impact of a Health Assessment Review from the Health Department on the proposed site plan, and testimony from Citizen Opposition on all issues raised, including traffic safety concerns, the Resolution of Planning Board shall satisfy its articulation obligations, under Maryland law, and the prior Zoning Ordinance, to include the appropriate legal analysis, explanation or basis given for the conclusion to support whether or not the proposed site plan represents a reasonable alternative for satisfying the site design guidelines in PGCC § 27-274 — without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use — including whether or not the proposed site plan use for an eating and drinking establishment may be approved without a drive-through component.

4. Health Impact Assessment Review for Proposed Site Plan for an Eating and Drinking Establishment with Double Drive Through Lanes

After reopening the record to take further testimony, as outlined above, on the purposes of the prior Zoning Ordinance, the 1989 Plan, the general purposes of the Commercial Zone, the purposes of the C-S-C Zone, the definition and application of an eating and drinking establishment, the purposes of a Detailed Site Plan, Site

Design Guidelines, the absence of the impact of a Health Assessment Review from the Health Department on the proposed site plan, and testimony from Citizen Opposition on all issues raised, including traffic safety concerns, the Resolution of Planning Board shall satisfy its articulation obligations, under Maryland law, and the prior Zoning Ordinance, to include the appropriate legal analysis, explanation or basis given for the conclusion to support whether or not the proposed site plan represents a reasonable alternative for satisfying the site design guidelines in PGCC § 27-274 — without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use — including whether or not the proposed site plan use for an eating and drinking establishment may be approved without a drive-through component.

5. Supplementation of Record with All Technical Staff Reports and Traffic Studies for Proposed Site Plan for an Eating and Drinking Establishment with Double Drive Through Lanes

After reopening the record to take further testimony, as outlined above, on the purposes of the prior Zoning Ordinance, the 1989 Plan, the general purposes of the Commercial Zone, the purposes of the C-S-C Zone, the definition and application of an eating and drinking establishment, the purposes of a Detailed Site Plan, Site Design Guidelines, the absence of the impact of a Health Assessment Review from the Health Department on the proposed site plan, and testimony from Citizen Opposition on all issues raised, including traffic safety concerns, the Resolution of Planning Board shall satisfy its articulation obligations, under Maryland law, and the prior Zoning Ordinance, to include the appropriate legal analysis, explanation or basis given for the conclusion to support whether or not the proposed site plan represents a reasonable alternative for satisfying the site design guidelines in PGCC § 27-274 — without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use — including whether or not the proposed site plan use for an eating and drinking establishment may be approved without a drive-through component.

6. Supplementation of the Record with Legal Owner of the Subject Property

After reopening the record to take further testimony, as outlined above, Applicant shall supplement the record with the appropriate legal owner of the subject property.

7. Grave Sites or Artifacts of Slavery

After reopening the record to take further testimony, as outlined above, the Resolution of Planning Board shall contain findings and conclusions of whether the site or subject property contains any grave sites or artifacts of slavery, and if any, the appropriate mechanism for disposition and storage by Applicant and/or County Agency.


8. Hearing Notification

Prior to reopening the record to take further testimony, appropriate hearing notification shall be sent to all parties affected by the proposed site plan use for an eating and drinking establishment with double drive-through lanes — including bilingual notification for wider accessibility and understanding of the proposed site plan.

ORDERED this 22nd day of April 2025, by the following vote:

In Favor: Council Members Blegay, Burroughs, Dernoga, Fisher, Harrison, Ivey, Olson, Oriadha and Watson.
 Opposed:
 Abstained:
 Absent: Council Member Hawkins.
 Vote: 9-0.

COUNTY COUNCIL OF PRINCE GEORGE'S
 COUNTY, MARYLAND, SITTING AS THE
 DISTRICT COUNCIL FOR THAT PART OF
 THE MARYLAND-WASHINGTON REGIONAL
 DISTRICT IN PRINCE GEORGE'S COUNTY,
 MARYLAND

By: 
 Edward P. Burroughs, III, Chair

ATTEST:



Donna J. Brown
 Clerk of the Council