



July 24, 2025

TECHNICAL STAFF REPORT

TO: Prince George's County Planning Board

FROM: Shaquan Smith, PMP, Planner IV, Planning Director's Office

VIA: Lakisha Hull, AICP, LEED AP BD+C, Planning Director

SUBJECT: Legislative Drafting Request LDR-71-2025
Use Regulations – Permitted Uses – Quick Service Restaurants with Drive Through

The Prince George's County Planning Department's legislative team has reviewed the proposed legislative amendment to the Zoning Ordinance and presents the following evaluation and findings leading to a recommendation of **NO POSITION**, as described in the Recommendation section of this technical staff report.

I. EVALUATION CRITERIA

Proposed legislative amendments to the Prince George's County Zoning Ordinance are reviewed under the requirements of Section 27-3501, Legislative Amendment, of the Zoning Ordinance. The Department has considered the following in reviewing this proposed legislative amendment:

- A. The Prince George's County Zoning Ordinance;
- B. The *Plan Prince George's 2035 Approved General Plan*;
- C. The current area master plans, sector plans, and functional master plans for Prince George's County;
- D. The Prince George's County Climate Action Plan; and
- E. Referral comments.

II. COMPLIANCE WITH LAW, ASSESSMENT OF TECHNICAL DRAFTING CONVENTIONS, AND PROPOSED AMENDMENTS

Section 27-3501(c)(2)(A) of the Prince George's County Zoning Ordinance states in part that **"the Council's Legislative Counsel shall prepare the proposed amendment in consultation with the Planning Director..."** The Planning Department is submitting this memorandum to provide clarification and any recommendations for consideration.

Pursuant to Section 27-3501(c)(2)(C), this technical staff report “**shall contain an independent, non-substantive assessment of the technical drafting conventions of the proposed legislative amendment, in order to ensure consistency with the legislative style and conventions of the current Zoning Ordinance.**” As such, The Department has determined that LDR-71-2025 was not drafted in a manner consistent with the legislative style and conventions of the current Zoning Ordinance.

To ensure consistency with the technical drafting conventions of the Zoning Ordinance, and if the proposed legislation were to move forward, LDR-71-2025, the Planning Department should offer its recommended revised draft attached with this staff report. In summary, the following are proposed revisions for specific drafting comments:

- A. The language of the special exception (SE) standards referenced in **27-5101. Principal Use Tables** of LDR-71-2025 is incorrect. For Tables 27-5101(c), (d), and (e), the references to “27-5102(e)(5)(A)” should be removed from the use-specific standards column and replaced with “Refer to special exception standards.” The use is proposed to be subject to SE review and approval in any zone in which it would be permitted, so there is no longer any need to refer to Section 27-5102, Requirements for Permitted Principal Uses.

Additionally, instead of citing specific Zoning Ordinance sections that cover the standards for specific special exception uses, the drafting convention of the Zoning Ordinance is to refer generally to the special exception standards because there are several standards/Sections that may apply to review of any special exception application. This phrase is typically written as “Refer to special exception standards.” Section 27-3604, proposed in LDR-71-2025 as a use-specific standard reference, does not pertain to special exception standards applicable to individual uses but instead outlines the process for submittal, review, and approval of SE applications. Therefore, it should not be referenced in the use-specific standards column.

- B. **Page 7, Line 27**, references Section 27-3605 as containing “requirements” for special exceptions. However, Section 27-3605 only addresses detailed site plans and has no bearing on special exception applications or reviews. The reference point on Page 7, Line 27 should instead be to Section 27-3604, which covers special exception applications and requirements thereto.

III. BACKGROUND

- A. **Purpose:** LDR-71-2025 proposes to limit the location of new quick-service restaurants with drive throughs by prohibiting such uses in residential zones and allowing such uses by special exception in certain commercial zones to address the unique impacts associated with quick-service restaurants with drive throughs.
- B. **Impacted Property:** This proposed legislative amendment would impact all property zoned Residential, Multifamily-20 (RMF-20), Residential, Multifamily-48 (RMF-48), Commercial, Service (CS), Commercial, General and Office (CGO), Industrial, Employment (IE), Town Activity Center - Edge (TAC-E), Residential Planned Development (R-PD), and Industrial/Employment Planned Development (IE-PD) in Prince George’s County.

Attachment A presents two maps outlining potential locations for quick-service restaurants with drive throughs, organized per Councilmanic District. Map 1 indicates the current zones permitted by right: RMF-20, RMF-48, CS, CGO, IE, TAC-E, R-PD, and IE-PD. Meanwhile, Map 2 identifies the zones proposed by LDR-71-2025 permitted by special exception: CS, CGO, and R-PD. Map 2 illustrates a significant reduction in the allowed use of quick-service restaurants with drive throughs across the County when compared to Map 1.

C. Policy Analysis

LDR-71-2025 is an amendment to the Zoning Ordinance's Principal Use Table for specific zones by amending a principal use type in the Eating or Drinking Establishment Uses category.

The bill will: 1) prohibit quick-service restaurants with drive throughs from operating in Residential, Multifamily-20 (RMF-20), Residential, Multifamily-48 (RMF-48), Industrial, Employment (IE), Town Activity Center - Edge (TAC-E), and Industrial/Employment Planned Development (IE-PD) Zones, and 2) require special exception approval for quick-service restaurants with drive throughs in Commercial, Service (CS), Commercial, General and Office (CGO), and Residential Planned Development (R-PD) Zones. The following comments address this intent:

- (i) Upon receipt of LDR-71-2025, the Planning Department conducted research to determine the best course of action, ensuring that this request includes preliminary information to support the proposed amendments for quick-service restaurants with drive throughs and their unique impacts on communities. The research included reviewing regulations and standards for Maryland Counties, local plan consistencies, and nationwide trends on this topic, including relevant case law.
- (ii) **Page 1, Lines 2-6**, proposes limiting the use of quick-service restaurants with drive throughs as a means of limiting the location of new fast-food restaurants. In defining restaurant uses generally, the code focuses on the speed and manner of service rather than the types of food sold. Currently, the Zoning Ordinance has both "Restaurant, Quick Service" and "Restaurant, Quick Service (with drive through)" uses. Accordingly, the bill only regulates whether quick service restaurants may have a drive through. Therefore, it would limit the ability of traditional fast-food restaurants (i.e. McDonalds, Popeyes, etc.), as well as other quick service restaurants (Starbucks, Chipotle, Panera, etc.) to construct drive throughs, in areas that may need further review of transportation options. It would not limit fast food more generally. If the drafters' intent is to limit traditional "fast-food" restaurants, rather than drive throughs alone, the bill would need to be redrafted to define and regulate a "fast-food" use.
- (iii) In addition, to ensure that public health and land use are at the forefront to support future policy and legislative updates, a Health Atlas Study is proposed for Fiscal Year 2026, in cooperation with the Health Department. CR-54-2025 (Health Atlas Study) will enable a more comprehensive analysis of strategies for improved planning of public health and land use throughout the County. The development of a Health Atlas Study would be best performed before finalizing

this bill, as the study will then support the creation of zoning legislation and ensure compliance with the adopted sector and master plans, as well as indicators from Plan 2035, the County's Adopted General Plan.

- (iv) This bill addresses fast-food uses under the current Zoning Ordinance. Such uses may still be allowed pursuant to the prior Zoning Ordinance, for sites meeting grandfathering provisions. This comment is provided for awareness in the instance that this legislation does not fully capture the intended outcome. Any intention to regulate this use in all instances should also be addressed in the grandfathering provisions of Section 27-1700 *et seq.*
- (v) The bill seeks to limit the use of quick-service restaurants with drive throughs by only allowing it through special exception approval in certain zones. Special exceptions are uses that are considered *prima facie* making it compatible with the zone in which they are allowed, but require a case-by-case evaluation to ensure they do not have unique adverse effects on the surrounding neighborhood where they are proposed to be conducted. Some adverse effects are inherent in the use and cause off-site impacts, no matter where they are conducted. Other adverse effects are non-inherent, meaning they are acceptable in certain locations and not in others. The proposed additional requirements consist of both inherent and non-inherent impacts.

The most important factor for the Council to consider in any legislation that imposes a special exception is to make it clear in the legislative history that the purpose behind categorizing the use as a special exception is that the use has unique adverse impacts that should be evaluated at the location where the use is proposed to be conducted. Recategorizing a use as a special exception just to frustrate the development of such uses by making it more expensive and time-consuming is not appropriate.

For example, if a fast-food restaurant operating after 11:00pm causes adverse effects regardless of its location, then this is not an appropriate standard for evaluating this special exception use. Instead, the Council should simply adopt a law prohibiting every fast-food restaurant from operating after 11:00pm.

If, instead, operating after 11:00pm is a problem in some neighborhoods but not others, the Council could consider an additional requirement that the permitted hours of operation shall be restricted to 11:00pm in locations adjacent to zones permitting Household Living Uses or whatever standard the Council feels will address the unique adverse impacts of this use in certain locations.

The bill establishes additional requirements for special exception use, and the following comments address these additional requirements:

- (i) **Page 8, Lines 12-14**, states that an approved application filed prior to July 1, 2025 “**shall not be subject to this provision and shall be deemed a conforming use.**”
 - a. As this legislation had not been introduced on July 1, 2025, an applicant may not have submitted an application pending disposition of this

proposed bill. Staff recommend altering this to the effective date of the bill or a later date to allow applicants a chance to submit applications prior to the provision taking effect.

- b. The phrase “shall be deemed a conforming use” could be misunderstood or misapplied to uses that are nonconforming to other parts of the Zoning Ordinance.
- (ii) Zoning regulations should be uniform and objective. The following terms within the Additional Requirements for Restaurant, quick-service (with drive through) special exception approval are not defined, could be considered subjective, and, as written, would require findings the Zoning Hearing Examiner and/or the County Council may not have sufficient information to determine:

Page	Line	Subjective term
7	20	Fumes
7	20	Odors
7	21	Traffic Hazard
7	21	Traffic Nuisance
8	6	Need
8	8	Need
8	10	Excessive
8	10-11	Similar Uses

IV. COMPLIANCE WITH EVALUATION CRITERIA

- 1. Section 27-3501(c)(2)(B) of the Zoning Ordinance requires the Planning Director to issue a technical staff report on any proposed legislative amendment to the Zoning Ordinance within 14 calendar days of the transmittal of the proposed amendment by the Clerk of the Council. This Section also requires, at minimum, an analysis of the extent to which the proposed legislative amendment complies with six criteria.

- A. This proposed legislative amendment meets the requirements of Section 27-3501(c)(2)(B) as follows:

- (i) **Is consistent with the goals, policies, and strategies of Plan Prince George’s 2035 (or any successor General Plan), area master plans, sector plans, functional master plans, and any other applicable approved plans;**

Consistency with General Plan

- a. Plan Prince George’s 2035 (Plan 2035, p. 222) acknowledges the challenges created by unhealthy food options:

Our commitment to pursuing healthier diets is further constrained by the abundance of unhealthy food options in the County, such as fast food restaurants and convenience stores that carry foods high in fat, sodium, and sugar. 71 percent of all restaurants in the County are fast

food restaurants, 11 percentage points higher than in the whole State of Maryland.

- b. LDR-71-2025 is consistent with Plan 2035 and directly implements Strategy HC2.2:

Evaluate and revise, as appropriate, the County Code and incentive programs to reduce the prevalence of food swamps.

- c. LDR-71-2025 also aspires to implement Policy TM5:

Improve overall safety levels within the County’s transportation network.

Consistency with Area Master and Sector Plans

- a. In general, LDR-71-2025 is “consistent with the goals, policies and strategies of area master plans, sector plans, functional master plans, and any other applicable approved plans” pursuant to Section 27- 3501(c)(2)(B)(i) of the Zoning Ordinance.
- b. Several approved master and sector plans recommend prohibiting or increasing restrictions on quick-service restaurants with drive throughs (outside of the Transit-Oriented/Activity Center Zones, where they are already prohibited), including, but not limited to:

Table 1: Policies and Strategies of Master and Sector Plans Recommending Prohibition or Restrictions on Quick Service Restaurants with Drive Throughs Outside of Transit-Oriented and Activity Center Zones

Plan	Page	Policy/Strategy	Recommendation
2009 Approved Landover Gateway Sector Plan	58	Design Guidelines Policy 1, Strategy 3, Design Guideline 6, sub-bullet 1.	<i>Prohibit drive-through commercial services.</i>
	61	Design Guidelines Policy 1, Strategy 4, Design Guideline 3, sub-bullet 1.	
2009 Approved Port Towns Sector Plan	103	Community Health and Wellness Policy 1, Strategy 1	<i>Fast food establishments with drive-through windows are not allowed...</i>
2010 Approved Central US 1 Corridor Sector Plan	64	Corridorwide Policies Policy 5, Strategy 1	<i>Restrict fast-food establishments with drive-through windows, and ensure that fast-food outlets provide healthy- choice offerings, such as fresh fruit, vegetables, and salads.</i>
2010 Approved Glenn Dale- Seabrook-Lanham and Vicinity Sector Plan	162	Transportation Goal 1, Policy 3, Strategy 2, Bullet 4	<i>Access management criteria may include...Drive-through facilities designed as integral parts of buildings, with access that minimizes conflicts between pedestrian and vehicular traffic.</i>
2010 Approved Subregion 4 Master Plan	105	Living Area B Special Focus on Community Health And Wellness: Policy 1, Strategy 1	<i>Fast food establishments with drive-through windows are not allowed.</i>
2013 Approved Central Branch Avenue Corridor Revitalization Sector Plan	154	CR-24-2013, Amendments to zoning recommendations for the Beech Road Focus Area	<i>Avoid the saturation of certain uses along the St. Barnabas Road corridor such as liquor stores. gas stations, fast food restaurants...in order to enhance the public health, safety and welfare.</i>
2013 Approved Greenbelt Metro Area and MD 193 Corridor Sector Plan	157	Quality of Life Community Health and Wellness: Policy 1, Strategy 1.1	<i>Discourage fast food establishments with drive-through lanes and windows.</i>
2015 Approved College Park-Riverdale Park Transit District Development Plan	104	Healthy Communities: Health Impact Assessment: Policy 1, Strategy 1.2	<i>Discourage fast food establishments and other eateries that do not provide adequate access to healthier menu choices.</i>

However, the proposed prohibition of quick service restaurants with drive through in the IE Zone would render LDR-71-2025 inconsistent with the requirements of Section 27- 3501(c)(2)(B)(i).

The following master and sector plans recommend expanding dining options in industrial/employment areas outside of the Transit-Oriented/Activity

Center Zones; prohibiting quick service restaurants with drive throughs in the IE Zone could have a chilling effect on restaurant development in that zone and is inconsistent with these recommendations, as well as various transportation recommendations to reduce vehicle miles traveled.

Table 2: Policies and Strategies for Dining Opportunities in Industrial and/or Employment Areas

Plan	Page	Policy/Strategy	Recommendation
2010 Approved Glenn Dale- Seabrook-Lanham and Vicinity Sector Plan	197	Commercial and Employment Areas Goal 3, Policy 1, Strategy 2	<i>Support the development of convenience retail, restaurant, hospitality, and service business uses within the Washington Business Park and other sector plan area employment centers.</i>
2018 Approved Greater Cheverly Sector Plan	44	Strategy LU 4.2	<i>Allow the inclusion of retail and commercial uses in the industrial areas to serve residents, businesses, and their employees.</i>
	48	Strategy LU 8.1	<i>Ensure that zoning for parcels fronting MD 201 (Kenilworth Avenue) and MD 769 (52nd Avenue) allow the inclusion of employment-serving retail, commercial, and mixed uses.</i>
	56	Strategy EP 6.2	<i>Encourage the inclusion of new smaller-scale retail to provide dining and convenience shopping options for employees and consumers.</i>
2022 Approved Bowie-Mitchellville and Vicinity Master Plan	72	LU 13.2	<i>Add limited retail, service, and eating and drinking establishments within Collington Local Employment Area to serve employees within the employment center...</i>
	78	LU 20.1	<i>As US 301 is upgraded to a limited-access freeway (F-10), concentrate retail and service commercial development on the west side of planned interchanges at Leeland Road and MD 214 to reduce the burden on existing infrastructure and conserve sensitive environments, such as woodland, wetlands, and farmland. Discourage commercial land use elsewhere along the corridor.</i>
	87	CZ 9.1	[Recommends rezoning properties on Leeland Road to IE to implement Strategy LU 20.1]

(ii) Addresses a demonstrated community need;

"Identified community need" is not defined by the Zoning Ordinance, but the goals discussed above in the General Plan, and a cross section of master plans, suggest that limiting quick-service restaurants with drive throughs could benefit the community by discouraging unhealthy food options provided by fast-food restaurants.

- (iii) **Is consistent with the purpose and intent of the zones in this Ordinance, or would improve compatibility among uses and ensure efficient development within the County;**

As mentioned above in this staff report, the proposed bill would impact all properties in Residential, Multifamily-20 (RMF-20), Residential, Multifamily-48 (RMF-48), Commercial, Service (CS), Commercial, General and Office (CGO), Industrial, Employment (IE), Town Activity Center - Edge (TAC-E), Residential Planned Development (R-PD), and Industrial/Employment Planned Development (IE-PD) Zones. This change is consistent with the purposes of the affected zones. Specifically, the LDR is consistent with the purposes and intent of the residential zones, as well as the TAC-Edge and R-PD Zones outlined in the Zoning Ordinance, which promotes developments that enhance residential living and walkability. Quick service restaurants with drive throughs do not contribute to these purposes

However, LDR-71-2025 does not align with the purpose and intent of the CS Zone. The CS Zone is designed to "provide for a concentration of retail sales and services (including auto-oriented commercial uses), offices, and eating or drinking establishments" Section 27-4203(c)(1)(A) (emphasis added). Quick service restaurants with drive throughs are auto-oriented commercial uses, which are appropriate for and, therefore, should be permitted in the CS Zone.

- (iv) **Is consistent with the implementation of the strategies and priority recommendations of the Prince George's County Climate Action Plan;**

The draft Climate Action Plan (CAP) presents strategies to achieve a carbon-free County by addressing County operations, reducing the County's contribution to greenhouse gas emissions, and taking steps to prepare for the coming impacts of a changing climate.

- (v) **Is consistent with other related State and local laws and regulations; and**

LDR-71-2025 complies with this criterion.

- (vi) **Would avoid creating significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.**

LDR-71-2025 complies with this criterion.

- B. Pursuant to Section 27-3501(c)(2)(C), this technical staff report **"shall contain an independent, non-substantive assessment of the technical drafting conventions of the proposed legislative amendment, in order to ensure consistency with the legislative style and conventions of the current Zoning Ordinance."**

This analysis was provided above in Section II of this technical staff report.

- C. Finally, Section 27-3501(c)(2)(D) requires the Planning Board to make a recommendation on the proposed amendment in accordance with the Legislative Amendment Decision Standards that guide the District Council's final decision on the approval of a proposed legislative amendment.

Analysis of the Legislative Amendment Decision Standards is contained in a separate subsection of this technical staff report below.

2. Referral Comments

Staff referred LDR-71-2025 to colleagues throughout the Planning Department and received referral comments that were reviewed and integrated into this staff report.

V. PLANNING BOARD PUBLIC HEARING

Section 27-3501(c)(2)(D) requires the Prince George's County Planning Board to hold a public hearing and make comments on the proposed legislative amendment within 30 days of the date of the transmittal of the Clerk of the Council. Said public hearing must be noticed by electronic mail at least 21 days prior to the public hearing, sent to every community organization in the County registered pursuant to Section 27-3407(b)(3) of the Zoning Ordinance, and to any person or organization registered pursuant to Section 27-3402(d) of the Zoning Ordinance.

Notice for the public hearing on LDR-71-2025 was sent on July 3, 2025, as required by the Zoning Ordinance. The Planning Board public hearing will be held on July 24, 2025, thus meeting the notice requirement of the Zoning Ordinance.

Comments offered by the public prior to and during the Planning Board's public hearing will be summarized, along with the Planning Board's comments, in the Board's recommendation to the Clerk of the Council.

VI. ANALYSIS OF LEGISLATIVE AMENDMENT DECISION STANDARDS

LDR-71-2025 has been reviewed for consistency with Section 27-3501(d), Legislative Amendment Decision Standards, of the Zoning Ordinance. Staff find the following:

The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the County Council sitting as the District Council and is not controlled by any one factor. Within each zone listed in the Classes of Zones (Section 27-4102), the (D)istrict (C)ouncil may regulate the construction, alteration, and uses of buildings and structures and the uses of land, including surface, subsurface, and air rights. The provisions for each zone shall be uniform for each class or kind of development throughout the zone, and no legislative amendment may create different standards for a subset of properties within a zone, unless such standards are necessary to implement development policies within the applicable Area Master Plan, Sector Plan, development policies of the General Plan, or other approved development district; however, any differentiation of a subset of properties within a zone shall be reasonable and based upon the public policy to be served.

The Department finds that LDR-71-2025 meets the criteria that the provisions for each zone shall be uniform for each class or kind of development throughout the zone because the amendment does not create different standards for a subset of properties Countywide, regardless of zoning. The proposed amendments contained in LDR-71-2025 would therefore be consistently applied to each affected zone across the County.

VII. PROPOSED AMENDMENTS

Following review of LDR-71-2025, the Department has offered the necessary technical drafting convention edits that are necessary for this proposed bill in Section II, above. As to the substantive aspects of the bill, the Department recommends that the Planning Board support the following amendments to LDR-71-2025:

- A. **Revise Page 7, Line 18:** from “Hours of operation shall be limited to the hours of 6:00am to 11:00pm;” to “Hours of operation may be limited by the Zoning Hearing Examiner where necessary to promote compatibility with surrounding development;” or delete the hours restriction entirely.

Justification: The hours of operation should be amended to allow the Zoning Hearing Examiner to determine the proper hours based on the proposed location in which the use is to be conducted. As discussed above, special exceptions are uses that are considered prima facie compatible with the zone in which they are allowed but require a case-by-case evaluation to ensure they do not have unique adverse effects on the surrounding neighborhood where they are proposed to be conducted. Applying hourly restrictions on a case-by-case basis depending on the character of the surrounding area is more consistent with the nature of special exception uses.

In addition, limiting the hours of operation of this use prevents the generation of tax revenue by these uses during the prohibited hours. Such lost revenue could be significant in areas along major regional and national highways, such as I-95, I-95/495 (the Capital Beltway), US 50, and US 301, where interstate traffic is expected to increase.

- B. **Revise Page 7, Line 19-21:** from (B) The proposed use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed; to “The proposed use will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories: noise, illumination, fumes, odors, or physical activity.”

Justification: The County has laws that prohibit every business from causing a nuisance. If there are unique nuisances associated with fast-food drive throughs, such as excessive noise and smoke from idling cars, then those should be specifically identified so the Zoning Hearing Examiner can evaluate the site-specific impact those nuisances may have.

Rather than “nuisance,” a term that is more in line with special exception law is “a non-inherent adverse effect.” Similarly seen in peer jurisdictions like Montgomery County, the following language would be recommended to use for revisions: “The proposed use will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories: noise, illumination, fumes, odors, or physical activity.”

- C. **Revise Page 7, Lines 21-26:** from (C) The proposed use will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity; to include language requiring the use of a Health Atlas Study to further analyze nuisance uses and community impacts, including environmental, public health, traffic, etc., per the Planning industry standards through data and metrics. The study will then support the creation of zoning legislation and ensure compliance with adopted master and sector plans, as well as Plan 2035 indicators.

Justification: The term “nuisance” is specific and used correctly in this section. However, no business is allowed to create a traffic hazard or traffic nuisance. The standards in this section could equally apply to any commercial parking lot in the County. Instead, the standard should address the unique traffic impacts associated with drive throughs, such as cars entering and exiting drive-through lanes, and pedestrian conflicts that have adverse impacts on the use of roadway systems, including bicyclists and pedestrians. The Health Atlas Study would allow for more time to evaluate a process with a more thorough analysis on traffic, while incorporating other related analyses, such as environmental and public health impacts.

- D. **Replace “proposed buildings” at Page 7, Lines 23-24:** with “in relation to other buildings or approved buildings”

Justification: Tying a finding to the location of a proposed use in relation to “proposed buildings” may be challenging to meet, as “proposed” is not defined and could be interpreted in various ways that an applicant cannot predict in advance. Consider the use of the phrase “in relation to other buildings or approved buildings.”

- E. **Replace “27-3605” from Page 7, Line 27:** with “27-3604(c)(5)(F)”

Justification: Section 27-3605 references site plan standards for a detailed site plan (DSP). However, attaining special exception approval exempts development from DSP. Section 27-3604(c)(5)(F) of the Zoning Ordinance outlines the site plan requirements for a special exception application, which should be referred to in lieu of Section 27-3605.

- F. **Delete Page 7, Line 31:** (B) The location and type of trash enclosures.

Justification: This is not an additional requirement as it is already required for all site plans, including special exception site plans.

- G. **Delete Page 8, Lines 1-3:** (3) Upon the abandonment, the Special Exception shall terminate. For the purpose of this Subsection, the term “abandonment” shall mean non-operation of the drive through for a period of twenty-four (24) months.

Justification: Section 27-3604(j) contains the general revocation provisions for a special exception (SE). After two years of non-use, the Department of Permitting, Inspections and Enforcement (DPIE) director may request revocation. This provision would remove the

procedural protections for revocation due to nonuse, including the right to a Zoning Hearing Examiner (ZHE) hearing. Delete this section to provide holders of an SE for quick-service restaurants with drive throughs with the same protection as other SE holders.

- H. **Revise Page 8, Lines 6-9:** to only apply one of the following: “(A) A need exists for the proposed use for service to the population in the community considering the present availability of such use to the community;” or “(B) A need exists for the proposed use due to an insufficient number of similar uses presently available to serve existing population concentrations in the neighborhood;” and

Justification: Subsections “A” and “B” appear to be redundant. “A” deals with need in the “community” while “B” deals with need in the “neighborhood.” It is unclear what the difference is between “community” and “neighborhood.” Without a defined difference in meaning, using both terms appears redundant. The drafter should either make the difference clear or select one of these requirements. Planning staff recommend eliminating “A” and retaining “B”. The term “neighborhood” is more easily understood and capable of definition.

- I. **Revise 8, Lines 12-14,** from “BE IT FURTHER ENACTED that any special exception or detailed site plan application filed prior to July 1, 2025, and approved shall not be subject to this provision and shall be deemed a conforming use.” To “BE IT FURTHER ENACTED that any Restaurant Quick-Service (with drive through) for which a special exception or detailed site plan application filed prior to the effective date of this bill, and approved shall be reviewed under the requirements in effect at the time of acceptance and, once established, shall be deemed a conforming use.”

Justification: See Section III.C of this report.

VIII. RECOMMENDATION

Based upon the foregoing evaluation and analysis, the Planning Department’s legislative team recommends that the Planning Board adopt the findings of this report. The Planning Department’s legislative team further recommends that the Planning Board take **NO POSITION** on LDR-71-2025 but transmit the comments herein to the County Council.