



The Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 301-952-3530

Note: Staff reports can be accessed at <http://mncppc.iqm2.com/Citizens/Default.aspx>

Departure from Parking and Loading Spaces **DPLS-472**
Departure from Design Standards **DDS-656**
Departure from Sign Design Standards **DSDS-700**
McDonald's at University Boulevard

REQUEST	STAFF RECOMMENDATION
DPLS-472: A departure from Section 27-568(a) of the Zoning Ordinance DDS-656: A departure from Section 4.2 of the 2010 <i>Prince George's County Landscape Manual</i> DSDS-700: A departure from Section 27-614 of the Zoning Ordinance	APPROVAL with conditions

Location: On the north side of MD 193 (University Boulevard), approximately 0.5 mile east of its intersection with Riggs Road.	
Gross Acreage:	1.08
Zone:	C-S-C
Gross Floor Area:	4,372 sq. ft.
Lots:	0
Parcels:	2
Planning Area:	65
Council District:	02
Election District:	17
Municipality:	N/A
200-Scale Base Map:	209NE02
Applicant/Address: McDonald's Real Estate Company 110 N. Carpenter Street Chicago, IL 60607	
Staff Reviewer: Eddie Diaz-Campbell Phone Number: 301-952-3665 Email: Eddie.Diaz-Campbell@ppd.mncppc.org	



Planning Board Date:	05/21/2020
Planning Board Action Limit:	N/A
Staff Report Date:	05/06/2020
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Informational Mailing:	06/14/2019
Acceptance Mailing:	01/02/2020
Sign Posting Deadline:	04/21/2020

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THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Departure from Parking and Loading Spaces DPLS-472
Departure from Design Standards DDS-656
Departure from Sign Design Standards DSDS-700
McDonald's at University Boulevard

The Subdivision and Zoning staff has reviewed the above requested departures for the subject property and presents the following evaluation and findings leading to a recommendation of APPROVAL with conditions, as described in the Recommendation section of this report.

EVALUATION

This departure from design standards was reviewed and evaluated for compliance with the following criteria:

- a. The requirements of prior approvals;
- b. The requirements of the Prince George's County Zoning Ordinance;
- c. The requirements of the 2010 *Prince George's County Landscape Manual*;
- d. The requirements of the Tree Canopy Coverage Ordinance; and
- e. Referral comments

FINDINGS

1. **Request:** The site is occupied by an existing restaurant with drive-through service. The applicant is proposing changes to the site layout, in order to accommodate the Maryland State Highway Administration's (SHA) partial condemnation of the property for installation of Purple Line tracks. The area condemned varies in width, but reaches 22 feet, 7 inches at its widest point, as measured from the existing front property line. Within this area, 12 parking spaces and approximately 10 feet of landscape buffering are to be razed. The existing signage near the driveway entrance will also have to be relocated. The applicant proposes 6 new parallel parking spaces to replace the 12 to be removed; new landscaping at the front of the property, outside the condemnation area; and relocated signage. A departure is requested, in association with each of these three proposals, as follows:

- a. The applicant is requesting a Departure from Parking and Loading Spaces (DPLS-472), in order to allow a reduction in the number of parking spaces required, pursuant to Section 27-568(a) of the Prince George’s County Zoning Ordinance, Schedule of spaces required, generally. This departure seeks to reduce the number of existing parking spaces provided on-site from 53 to 47. The number of parking spaces required on-site by zoning is 75.
- b. The applicant is requesting a Departure from Design Standards (DDS-656), in order to allow a lesser standard of landscaping than required, for conformance with Section 4.2, Requirements for Landscape Strips Along Streets, of the 2010 *Prince George’s County Landscape Manual* (Landscape Manual). As a result of Purple Line development, the width of the frontage on MD 193 (University Boulevard) will be significantly reduced and will not provide adequate space to accommodate a landscape strip, as required by Section 4.2. The width of the proposed landscape strip varies between zero and about 5 feet, where a 10-foot width is required.
- c. The applicant is requesting a Departure from Sign Design Standards (DSDS-700), in order to allow relocation of the existing freestanding sign 5 feet behind the new post-condemnation right-of-way line. Section 27-614 of the Zoning Ordinance, Freestanding signs, requires a 10-foot setback from the right-of-way line.

2. **Development Data Summary:** The following chart summarizes the approved development for the subject property.

	EXISTING
Zone	C-S-C
Use(s)	Commercial
Total Acreage	1.07
Number of Parcels	2
Gross Floor Area	4,372 sq. ft.

- 3. **Location:** The subject site consists of two parcels, known as Parcel A of the Coopersmith Tract (the east parcel), and Parcel A of the Karl M. Hohensee Et Ux Property (the west parcel). The site is in the Commercial Shopping Center (C-S-C) Zone and is located on the north side of MD 193, approximately 0.5 mile east of its intersection with Riggs Road. The site is accessed from MD 193.
- 4. **Surrounding Uses:** The subject site is bound on the north and east by other commercial uses in the C-S-C Zone; to the south by MD 193, with additional commercial uses in the C-S-C Zone, and single-family detached dwellings in the One-Family Detached Residential (R-55) Zone beyond; to the west by a gas station in the C-S-C Zone; and to the northwest by transmission line right-of-way, owned by the Potomac Electric Power Company, in the R-55 Zone.
- 5. **Previous Approvals:** A restaurant with drive-through service has existed on-site since the 1960s. The use became certified nonconforming in 1984, in conjunction with Permit #50520-84U, but is no longer deemed nonconforming, due to the provisions of Section 27-461(b) of the Zoning Ordinance, Footnote 24. Four special exceptions have been approved for renovations of the McDonald’s; the first, SE-3527, was approved in 1984 for

expansion of the existing restaurant building. The second, SE-4006, was approved in 1993 to add a soft playland. The third, SE-4201, was approved in 1997 to enclose the playland, though this enclosure was never built.

The fourth and current Special Exception, SE-4686, along with associated departures DDS-611, DPLS-361, and DSDS-669, and Alternative Compliance AC-11028, were approved by the Prince George's County District Council in January 2013. SE-4686 authorized razing the existing restaurant building and building a new one of about the same size in a different location on the property. AC-11028 allowed parking and the trash enclosure to be located within the landscape bufferyard required by Section 4.7, Buffering Incompatible Uses, along the northwestern property line. DDS-611 allowed for a departure from the Section 4.7 landscape bufferyard requirement, along the northern and eastern property lines. DPLS-361 allowed a reduction in the number of required parking spaces from 75 to 53, and DSDS-669 allowed the property to retain its existing freestanding sign five feet behind the street line. The previously approved departures are discussed further in this technical staff report where they impact the presently requested ones.

An application to revise the current Special Exception SE-4686, known as Revision of Site Plan RO SP-4686-01, was accepted on February 25, 2020 and is pending Planning Director review following the Prince George's County Planning Board action on the subject departures.

6. **Zoning Ordinance Parking and Loading Standards:** Section 27-568(a)(5)(d) sets forth the required number of parking spaces for eating and drinking establishments with drive-through service. In this instance, the 4,384-square-foot eating and drinking establishment requires one parking space per three seats in the establishment, as well as one space per 50 square feet of gross floor area (GFA), excluding any area used exclusively for storage or patron seating, and any exterior patron service area. The plan includes 87 seats and 2,322 square feet of nonexcluded GFA. Therefore, a total of 75 parking spaces are required. The site has a previously approved DPLS-361, which was approved on April 12, 2012 by the Planning Board and affirmed on January 28, 2013 by the District Council. This departure authorized a reduction in the minimum number of parking spaces from 75 spaces to 53 required spaces. The applicant is now requesting DPLS-472, in order to allow a further reduction in the minimum number of parking spaces required from 53 to 47, a net reduction of 6 spaces.

Departure from Parking and Loading Spaces: When the requested departure is from the number of parking or loading spaces required, the required findings for approval are set forth in Section 27-588(b)(7)(A) of the Zoning Ordinance. The required findings are shown in **BOLD** below, with staff responses in plain text following:

Section 27-588. Departures from the number of parking and loading spaces required.

Section 27-588(b)(7) Required Findings:

(A) In order for the Planning Board to grant the departure, it shall make the following findings:

- (i) The purposes of this Part (Section 27-550) will be served by the applicant's request;**

[Section 27-550. Purposes

- (a) The purposes of this Part are:**
- (1) To require (in connection with each building constructed and each new use established) off-street automobile parking lots and loading areas sufficient to serve the parking and loading needs of all persons associated with the buildings and uses;**
 - (2) To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points;**
 - (3) To protect the residential character of residential areas; and**
 - (4) To provide parking and loading areas which are convenient and increase the amenities in the Regional District.]**

Staff finds that the four purposes listed under Section 27-550 of the Zoning Ordinance will be served by the applicant's request. According to the applicant, the fast food restaurant on the site has operated since 1960, and in that time, it has been demonstrated that most of its customers are served by the existing dual drive through. The proposed site changes will remove 12 parking spaces from the front of the property and replace them with 6 parallel parking spaces, resulting in a net reduction of 6 spaces. Even with this net reduction however, the parking on-site will continue to adequately serve the needs of all persons associated with the building and use. The remaining spaces will adequately serve the minority of customers who choose to park and walk in rather than use the drive through. It is unlikely that patrons will use nearby public streets for parking, given that MD 193 is a busy street with no parking on it, and patrons would have to cross this road in order to reach the restaurant if they parked on nearby neighborhood streets. The new parking spaces will be convenient to the restaurant, helping it to in turn continue acting as an amenity to the surrounding area.

There may be some impact on the character of the residential area across the street, due to the construction of the Purple Line. However, this impact is beyond the applicant's control. The applicant has responded appropriately to the Purple Line's construction by providing landscaping around the new parking spaces and next to the front property line, which will increase the aesthetic appeal of the property.

- (ii) The departure is the minimum necessary, given the specific circumstances of the request;**

The requested departure is the minimum necessary. The six parking spaces proposed by the applicant are the most they can recover given the area of SHA's condemnation and related site constraints.

- (iii) **The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the County which were predominantly developed prior to November 29, 1949;**

The requested departure is necessary, in order to alleviate the applicant from circumstances related to the installation of the Purple Line and the loss of approximately 4,830 square feet of land area. The lack of space makes it difficult for the applicant to provide the required number of parking spaces and a dual drive through. Thus, the site is compact, and a departure is necessary, in order to maintain the site's functionality.

- (iv) **All methods for calculating the number of spaces required (Division 2, Subdivision 3, and Division 3, Subdivision 3, of this Part) have either been used or found to be impractical; and**

The applicant has employed all methods of calculating the number of spaces required.

- (v) **Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.**

The parking and loading needs of the adjacent residential area will not be infringed upon if the departure is granted. The residential area across MD 193 from the site is served by on-street parking along 24th Avenue and private driveways belonging to individual dwellings. Based on the traffic pattern and road design of MD 193, both before and after the construction of the Purple Line, it would be impractical for patrons of the restaurant to park in this residential area.

Based on the preceding analysis, staff finds that the required findings for approval set forth in Section 27-588(b)(7)(A) are met for DPLS-472.

- 7. **2010 Prince George's County Landscape Manual Requirements:** The site and proposed revisions to the landscaping are subject to the requirements of the Landscape Manual. Specifically, Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; and Section 4.9, Sustainable Landscape Requirements, are applicable. Conformance with the Landscape Manual was previously found in 2013 when SE-4686 was approved; while strict conformance was not possible, alternative compliance and a departure were approved alongside the special exception. Approval of AC-11028 allowed for parking and the trash enclosure to be located within the landscape bufferyard required by Section 4.7, Buffering Incompatible Uses, along the northwestern property line. Approval of DDS-611 allowed for a departure from the Section 4.7 landscape bufferyard requirement, along the northern and eastern property lines.

DDS-656 is a newly requested departure, separate from and additional to the DDS applications previously approved. This new departure would relieve the property from strict conformance with Section 4.2, Requirements for Landscape Strips Along Streets. The applicant proposes a landscape strip between zero and about 5 feet wide, where a 10-foot-wide landscape strip is normally required.

Departure from Design Standards: When the requested departure is from the design standards of the Landscape Manual, the required findings for approval are set forth in Section 27-239.01(7)(A) and (B) of the Zoning Ordinance. The required findings of Section 27-239.01(7)(A) are shown in **BOLD** below, with staff responses in plain text following:

(i) The purposes of this Subtitle will be equally well or better served by the applicant's proposal;

The site is too compact to accommodate the existing fast-food restaurant and impending Purple Line construction, and to simultaneously comply with the current standards regarding landscaping. However, there is still an opportunity to improve the property in a manner that closely aligns with the purposes and objectives of Section 4.2, Requirements for Landscape Strips Along Streets, namely to "enhance a business's commercial viability by improving its aesthetic appeal as viewed from the street to potential customers, investors, or passersby." The applicant's landscape plan advances this objective.

(ii) The departure is the minimum necessary, given the specific circumstances of the request;

The requested departure is the minimum necessary, especially given the fact that the area upon which the applicant can install/reinstall landscaping is extremely limited due to limitations imposed by SHA.

(iii) The departure is necessary in order to alleviate circumstances, which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949;

The requested departure is necessary, in order to alleviate circumstances which are special to the subject property. SHA is removing approximately 10 feet of landscape buffering due to its partial condemnation of the property for the installation of the Purple Line tracks. The applicant will not be able to fully comply with the requirements of the Landscape Manual with the land area they have left to use, while still having space for other needed site features such as parking and driveways. These circumstances are unique to the properties, which will be affected by Purple Line condemnation proceedings.

(iv) The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

Landscaping will be reinstalled on the property in the wake of SHA's Purple Line construction, and the new landscaping will help revitalize the property and increase its visual appeal. The new landscaping will also be installed in such a way that it will not impact traffic circulation in the vicinity. SHA will handle the installation of a new relocated stormwater pipe, inlets, and associated connections. Based on these factors, the departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

The required finding of Section 27-239.01(7)(B) is shown in **BOLD** below, with staff response in plain text following:

- (B) For a departure from a standard contained in the Landscape Manual, the Planning Board shall find, in addition to the requirements in paragraph (7)(A), above, that there is no feasible proposal for alternative compliance, as defined in the Landscape Manual, which would exhibit equally effective design characteristics.**

With respect to the specific departure requested, the applicant cannot provide a feasible proposal for alternative compliance that would exhibit equally effective design characteristics. The applicant proposed and was denied alternative compliance through application AC-11028-01. In its denial, the Alternative Compliance Committee noted "Spatial limitations on the subject site's frontage created by the public infrastructure project do not allow for normal compliance, or equally effective design, with the requirements of Section 4.2 for both the required landscape strip width and the number of plant units. Due to the limited frontage, the alternative design proposed in this application cannot be found to be equally effective as normal compliance with the requirements of Section 4.2(c)(3)(A)(i), Requirements for Landscape Strips Along Streets, along the MD 193 frontage." The design provides for landscape strip plantings consisting of trees and shrubs where it can reasonably be accommodated in the remaining limited frontage area.

Based on the preceding analysis, staff finds that the required findings for approval set forth in Section 27-239.01(7)(A) and (B) are met for DDS-656.

8. **Zoning Ordinance Requirements for Freestanding Signs:** Section 27-614 provides the following freestanding sign regulations, which pertain to the subject site:

(a) Location.

- (1) In all Commercial and Industrial Zones (except the I-3 and U-L-I Zones), signs shall only be located on property where the main building associated with the sign is located at least forty (40) feet behind the front street line. This shall not apply to integrated shopping centers, other commercial centers with three (3) or more businesses served by common and immediate off-street parking and loading facilities, industrial centers, or office building complexes.**

While the front street line will be moving due to Purple Line construction, the building will remain more than 40 feet behind the front street line. Therefore, a freestanding sign can still be permitted. The property is not in an integrated shopping center, a commercial center with three or more businesses, an industrial center, or an office building complex.

(4) Notwithstanding any other provisions of this Subtitle addressing setbacks and yards, in all Commercial and Industrial Zones (except the I-3 Zone), signs need only be located ten (10) feet behind the street line. Where the street line is situated behind the actual existing street right-of-way line, freestanding on-site signs may be temporarily located within the area between the street line and the existing street right-of-way line (the area of proposed future widening of an existing street), provided that:

- (A) The land area involved has not been, and is not in the process of being, acquired for street purposes;**
- (B) The sign is located at least ten (10) feet behind the existing street right-of-way line; and**
- (C) A written agreement between the owner and the Department of Permitting, Inspections, and Enforcement assures that the sign will be removed, at the owner's expense, at the time of acquisition of that area for street purposes.**

The applicant is requesting a DSDS for the location requirements because they propose to locate the property's freestanding sign five feet behind the street line. The street line will not be situated behind the street right-of-way line in this case, and the sign's new location will not be in an area proposed for future street widening. Rather, the applicant proposes moving the sign because its old location is in an area marked for future street widening with the Purple Line.

The site has a previous Departure from Sign Design Standards (DSDS-699), which was approved on April 12, 2012 by the Planning Board and affirmed on January 28, 2013 by the District Council. This departure authorized the property's existing freestanding sign to remain in place five feet behind the street line, so it did not have to move to come into conformance with the sign requirements at that time. With DSDS-700, the applicant now does seek to move the sign, but allow it to retain its position relative to the street line, which is also moving. They are requesting to relocate the sign so it will be five feet behind the new street line.

Departure from Sign Design Standards: When the requested departure is from the permissible locations for a sign, the required findings for approval are set forth in Section 27-239.01(7)(A). The required findings are shown in **BOLD** below, with staff responses in plain text following:

- (i) The purposes of this Subtitle will be equally well or better served by the applicant's proposal;**

In general, the purposes of the Sign Ordinance are to regulate unsightly and hazardous signs, to provide adequate identification and advertisement, to promote the general welfare of the residents of the county, and to foster the appropriate use of land, buildings, and structures. Although the required 10-foot setback is not being met, the applicant's goal is to retain the sign in its current position, relative to the front property line. Currently the sign is approved for a 5-foot setback through DSDS-669; the applicant is requesting that once condemnation is complete and the site's front property line is moved back, the setback be allowed to remain at five feet in its revised location. Retention of the existing sign in its current position, relative to the property line, would provide necessary visibility for the use in an appropriate manner, especially since the adjacent vehicular and pedestrian travel lanes will also be undergoing realignment. The height and area of the sign meet the requirements of the Prince George's County Code.

(ii) The departure is the minimum necessary, given the specific circumstances of the request;

The freestanding sign will be positioned so that it is not obstructive to pedestrians and motorists. The applicant is not requesting a departure that is more than necessary; the freestanding sign's noncompliance is a result of SHA's condemnation of the property's frontage.

(iii) The departure is necessary in order to alleviate circumstances, which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949;

The requested departure is necessary, in order to alleviate circumstances which are special to the subject property. The departure is necessary to alleviate the applicant from setback violations caused by SHA's partial condemnation (and subsequent reconfiguration of property lines) and to ensure that the site maintains its commercial image. These circumstances are unique to properties which will be affected by Purple Line condemnation proceedings.

(iv) The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

A freestanding sign is necessary to provide adequate identification for the existing fast-food/drive-through use. The requested departure permits the freestanding sign to continue to communicate the presence of the fast-food establishment without compromising the character of the surrounding area or overpowering other nearby commercial uses. The freestanding sign in its new location will not have an impairing visual impact on the adjacent residential area, any more than it does in its current location.

Based on the preceding analysis, staff finds that the required findings for approval set forth in Section 27-239.01(7)(A) are met for DSDS-700.

9. **Referrals:** The relevant comments submitted from referred agencies for this application were included in this technical staff report. The following referral memorandums were received, and are incorporated by reference herein:

- Community Planning Section, dated March 13, 2020 (Hartsfield to Diaz-Campbell)
- Urban Design Section, dated April 2, 2020 (Bossi to Diaz-Campbell)
- Transportation Planning Section (Trails referral), dated March 9, 2020 (Ryan to Diaz-Campbell)
- Police Department, dated February 19, 2020 (Contic to Development Review Division)
- SHA, dated February 20, 2020 (Woodroffe to Diaz-Campbell)

RECOMMENDATION

Based upon the foregoing evaluation and analysis, the Subdivision and Zoning staff recommends that the Planning Board adopt the findings of this report and APPROVE Departure from Parking and Loading Spaces DPLS-472, Departure from Design Standards DDS-656, and Departure from Sign Design Standards DSDS-700 for McDonald's at University Boulevard, subject to the following conditions:

1. Prior to approval of permits, a Certificate of Landscape Maintenance shall be submitted, in accordance with Section 1.7 of the 2010 *Prince George's County Landscape Manual*. The new landscape strip plantings and any dead or missing plant material identified for replacement through the Certificate of Landscape Maintenance, shall be shown on the permit plans and installed upon completion of on-site construction activities.
2. Prior to certification of the departure site and landscape plans, the plans shall be revised to:
 - a. In the Zoning Requirements table on the coversheet, provide under "parking stall sizes" information on the regular and compact parallel parking spaces provided.
 - b. In the Zoning Requirements table on the coversheet, under "parking lot requirements," indicate that a departure has been approved, rather than alternative compliance requested.
 - c. Remove the approval blocks from all sheets. In the lower right corner of the plans, leave a 2-inch square blank space for placement of a new certification block, to be provided by the Development Review Division.
 - d. In the general notes of the as-built survey, provide the source of the bearings shown on the plan for the Coopersmith Tract.
 - e. In the general notes of the as-built survey, remove Note 4, as there is a known proposed change in the street right-of-way line shown on the plans.

- f. On the landscape plan, ensure no new plant materials are shown within the Maryland State Highway Administration right-of-way, and that old plant materials within the right-of-way are labeled as to be removed.

ITEM: 5, 6 & 7

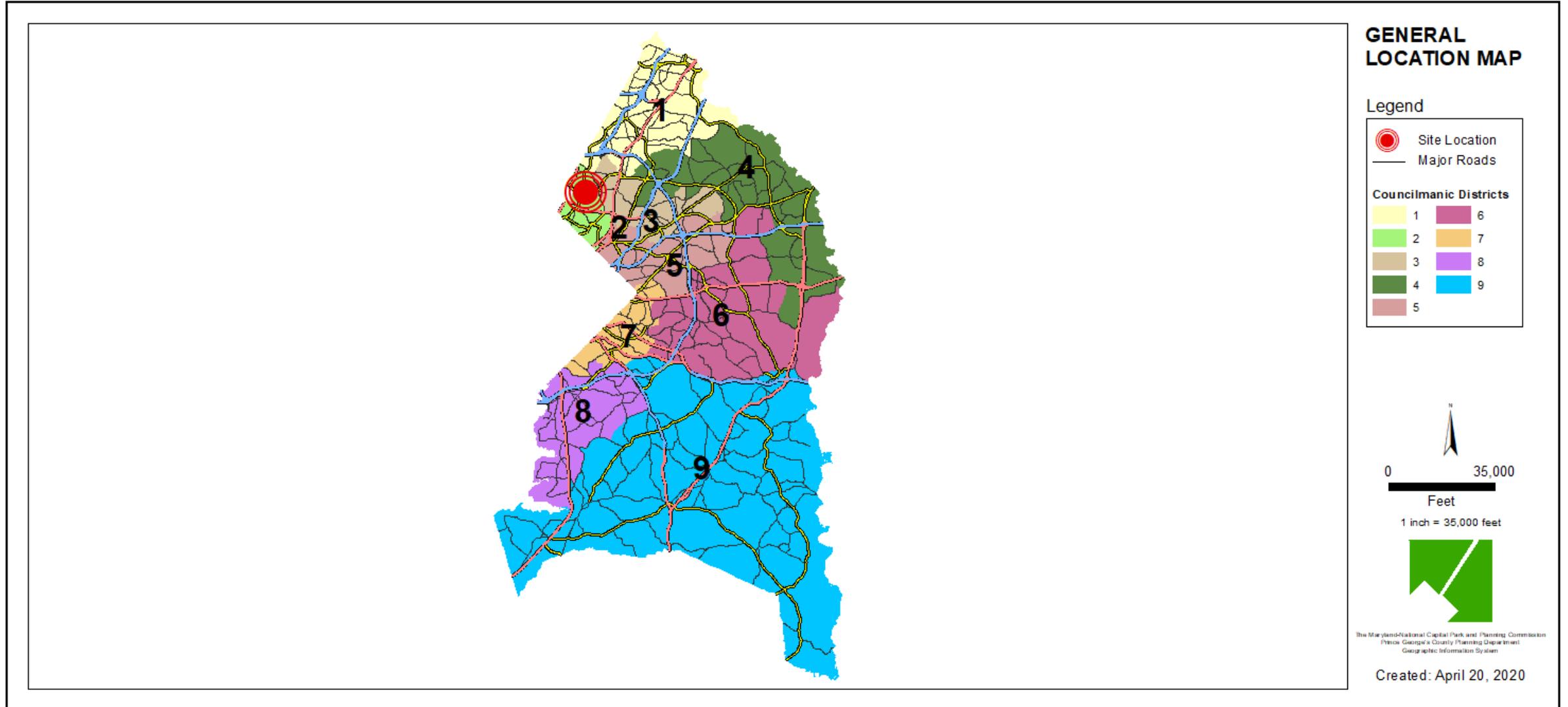
CASE: DPLS-472 & DSDS-700 & DDS-656

MCDONALD'S UNIVERSITY BOULEVARD

THE PRINCE GEORGE'S COUNTY PLANNING DEPARTMENT



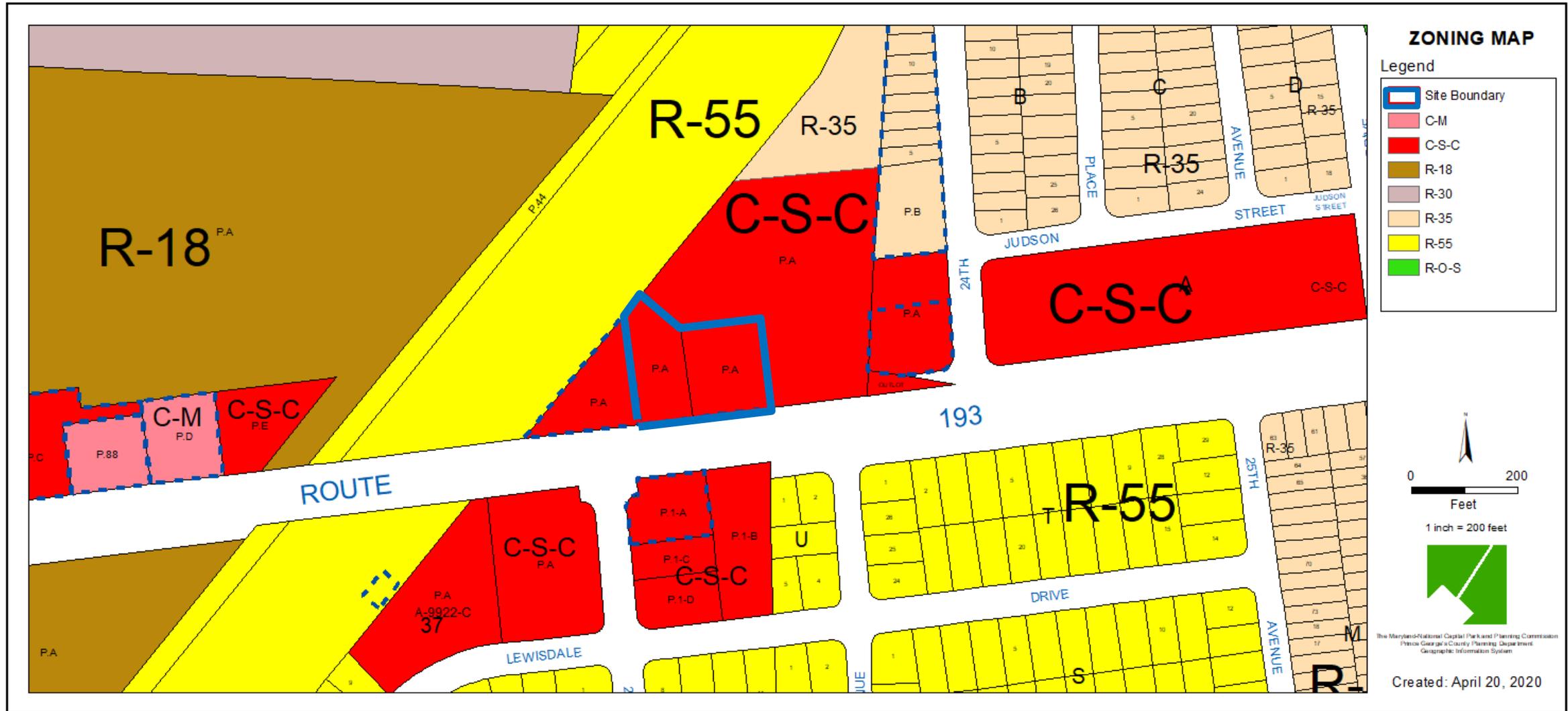
GENERAL LOCATION MAP



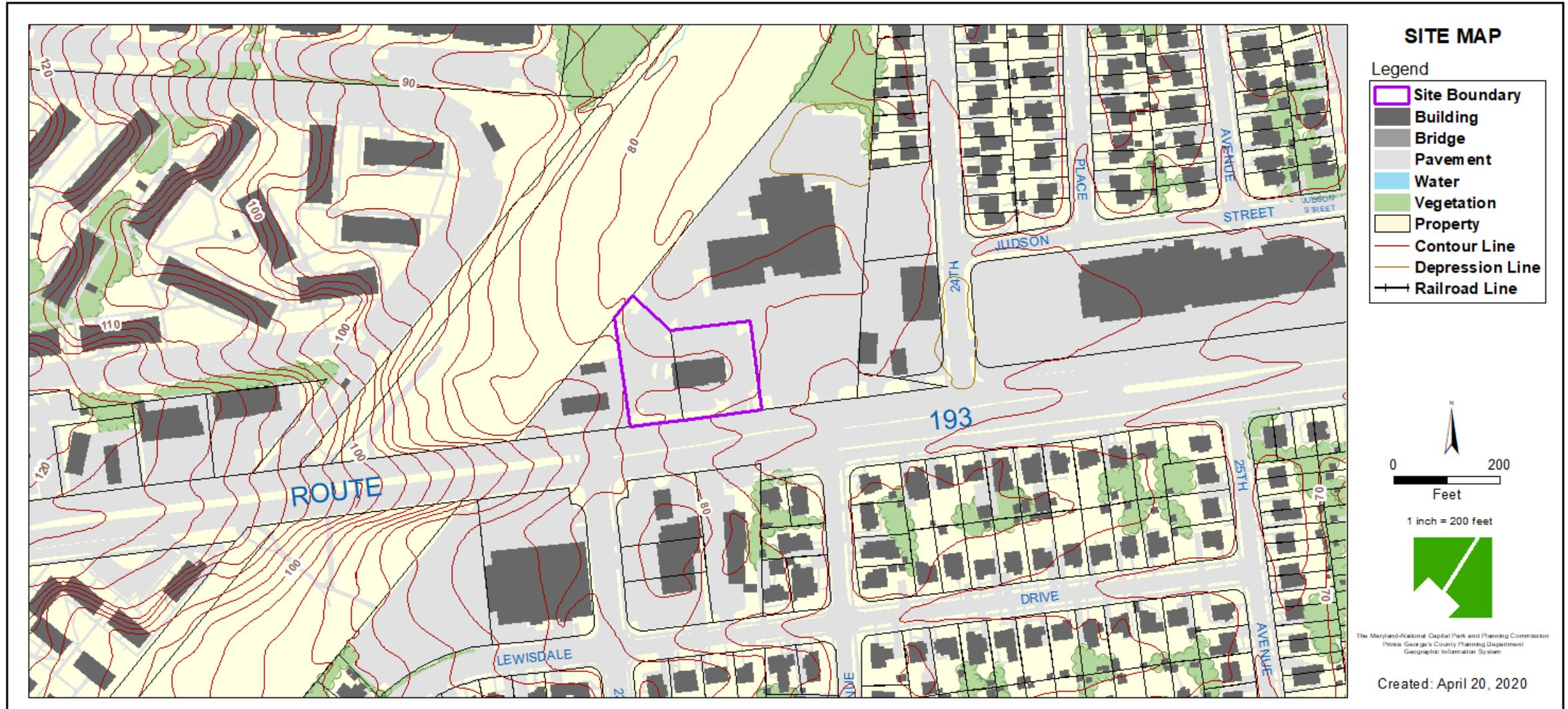
SITE VICINITY



ZONING MAP



SITE MAP



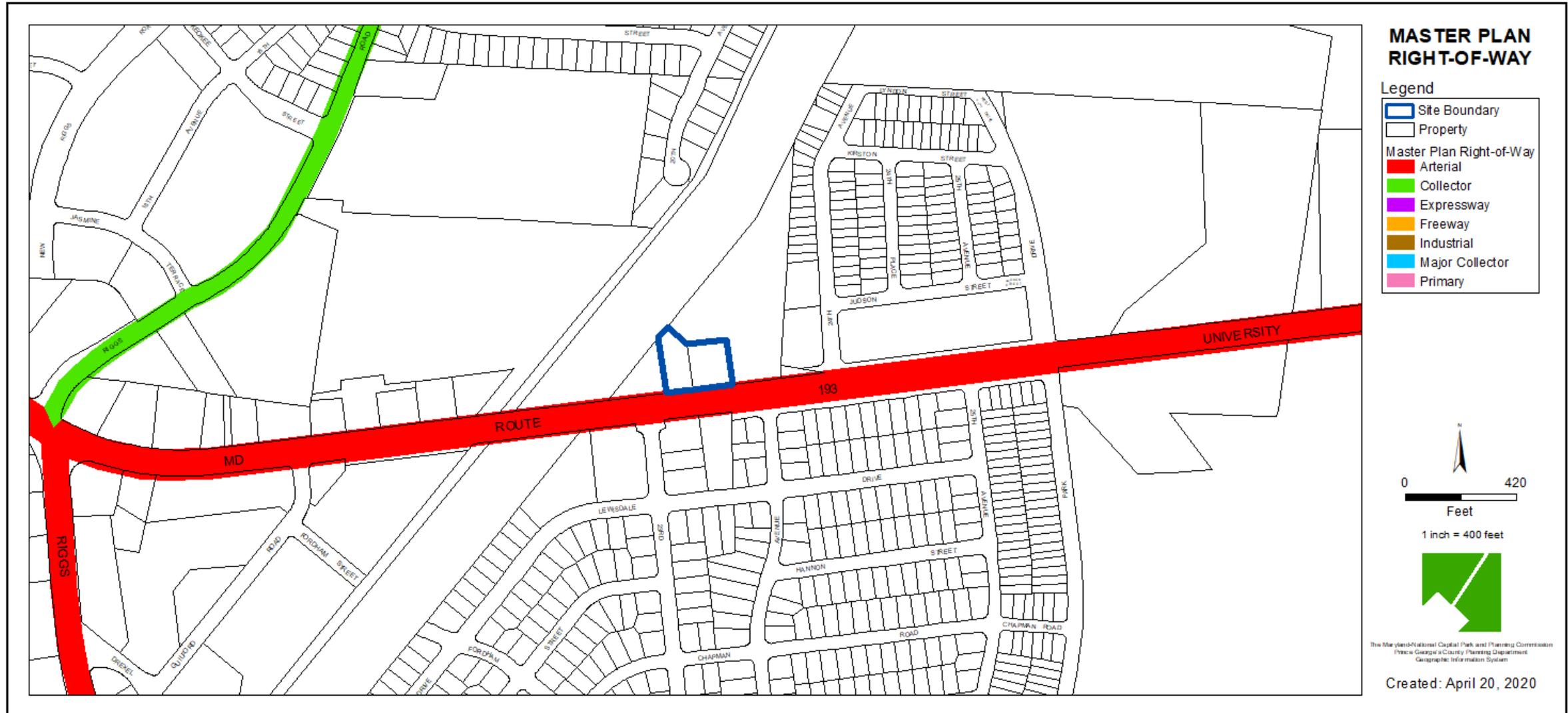
AERIAL MAP



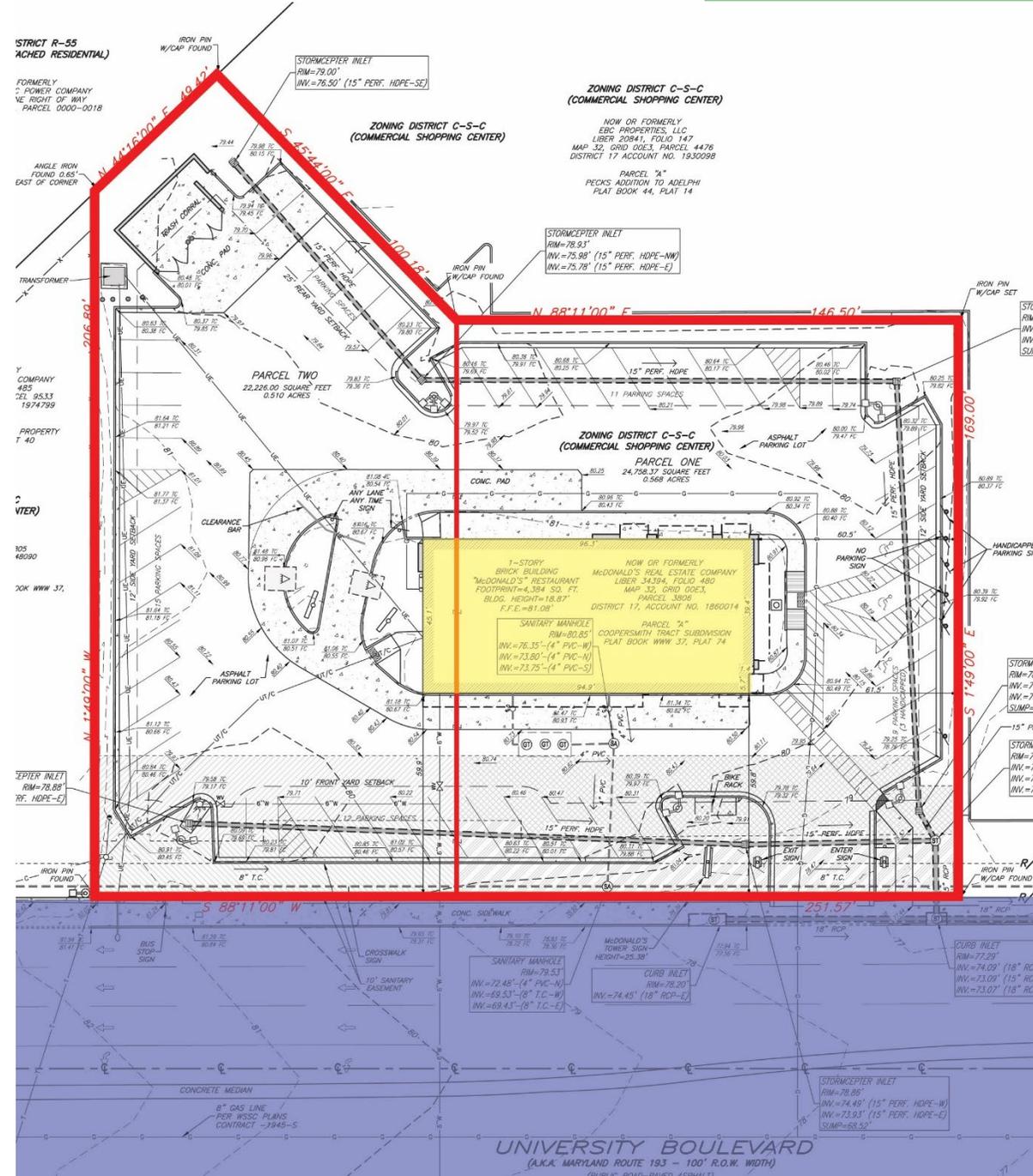
BIRD'S-EYE VIEW



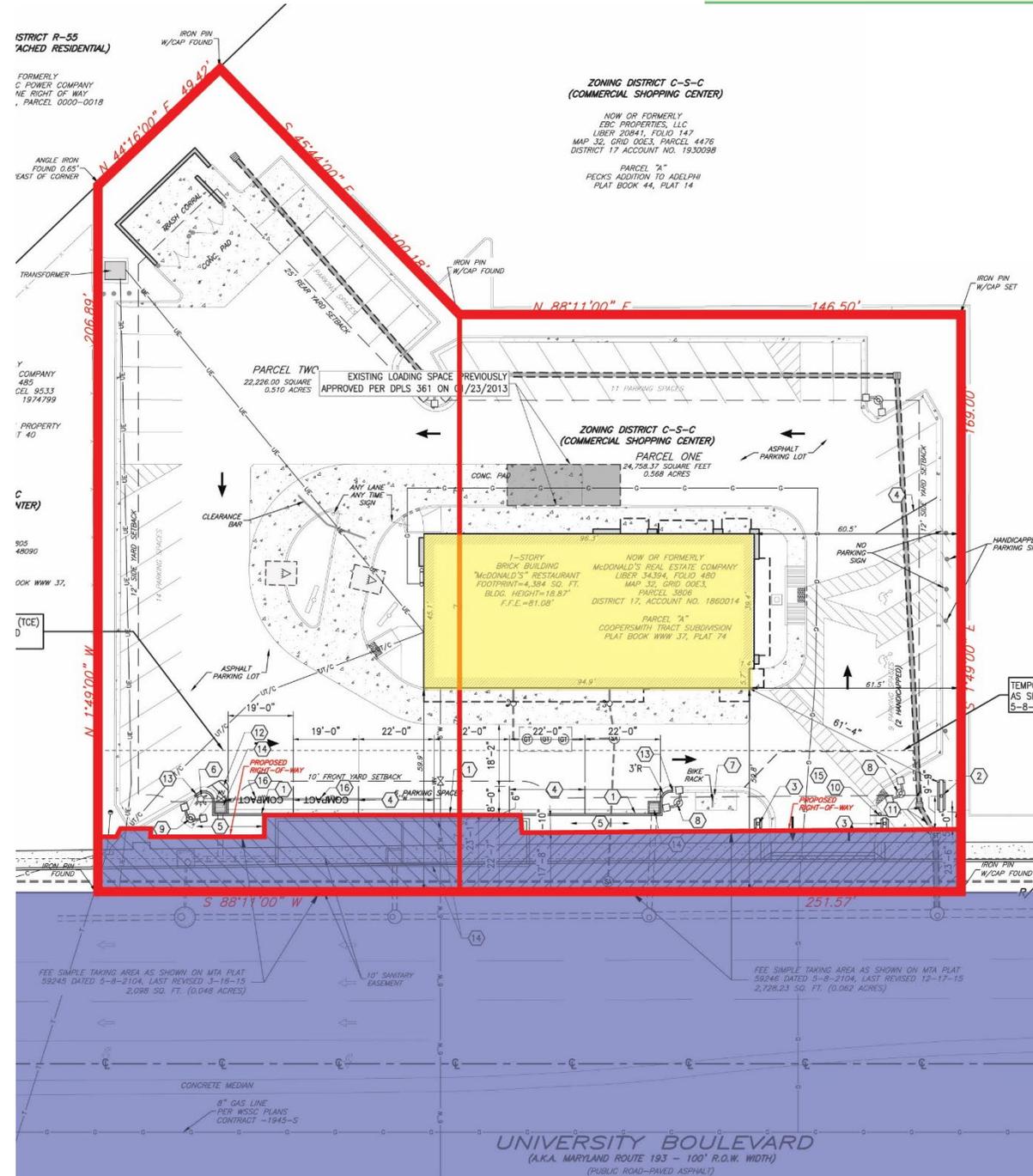
MASTER PLAN RIGHT-OF-WAY MAP



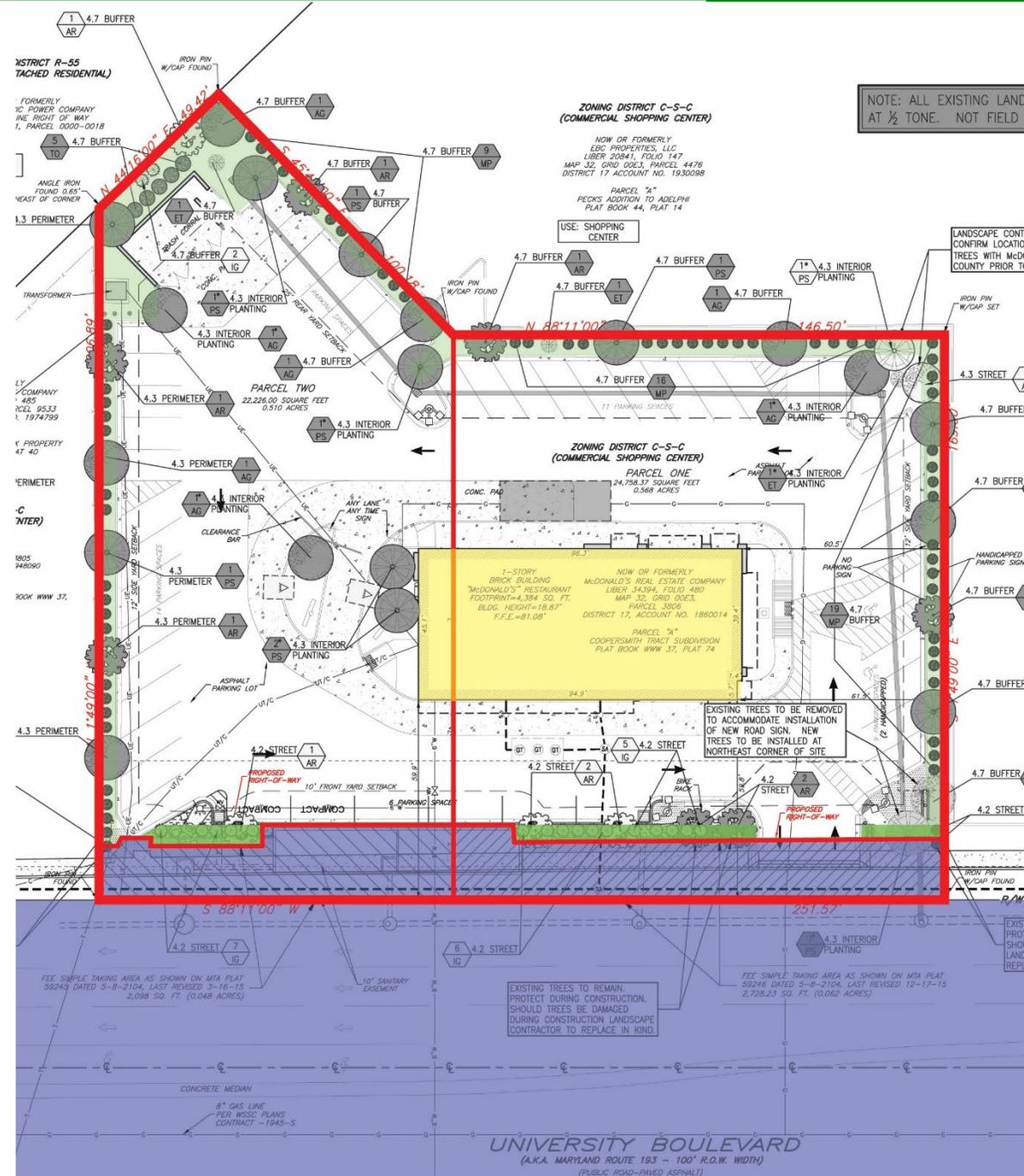
EXISTING CONDITIONS PLAN



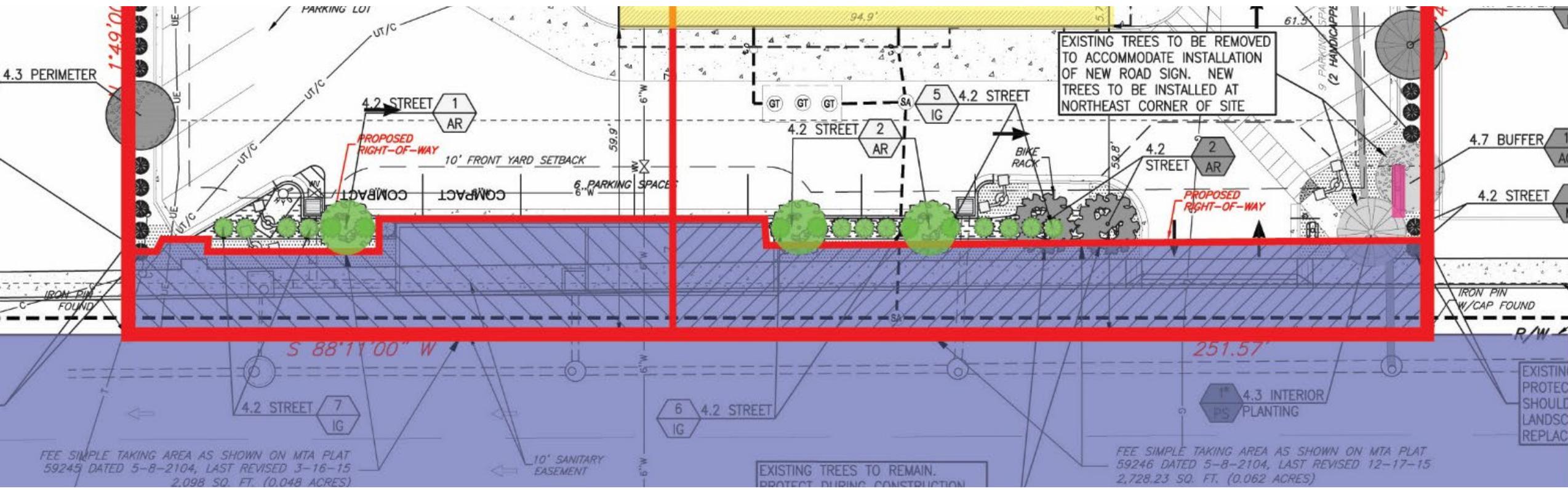
SITE PLAN



LANDSCAPE PLAN



FRONTAGE DETAIL



I. INTRODUCTION

McDonald's Corporation (hereinafter the "Applicant") by and through its attorneys, Lerch, Early & Brewer, Chartered, submits this revision of Special Exception Site Plan (hereinafter "ROSP") justification statement (hereinafter the "Statement") to demonstrate that the proposed improvements to the existing fast food restaurant and drive-through on the subject property are in compliance with the applicable provisions of Subtitle 27 of the Prince George's County Code (hereinafter the "Zoning Ordinance"), the *1989 Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity* (hereinafter the "Master Plan"), the *1990 Adopted Sectional Map Amendment for Planning Areas 65, 66, and 67* (hereinafter the "SMA"), and other applicable review requirements and criteria. The subject property is comprised of approximately 1.07 acres and is located at 2306 University Boulevard, Hyattsville, Maryland, along the northern edge of University Boulevard East (MD 193) (hereinafter the "Property"). The Property is currently zoned C-S-C (Commercial Shopping Center) and is subject to the recommendations of the Master Plan.

As described in detail herein and shown on ROSP-4686-01, the Applicant proposes to install six parallel parking stalls along the University Boulevard frontage and new landscaping. These modifications will contribute important functional and aesthetic enhancements at this location. Essentially, this ROSP application is necessitated by the Maryland State Highway Administration's (hereinafter referred to as "SHA") partial condemnation of the Property for the installation of Purple Line tracks along the University Boulevard frontage. As discussed herein, the proposed ROSP allows the Planning Director to make the required findings, and for the Planning Board to allow the requested departures, including: a departure from parking and loading standards, a departure from sign design standards, and a departure from landscaping standards.

The Applicant is also seeking Alternative Compliance ("AC") pursuant to the criteria in the *2010 Prince George's County Landscape Manual* (hereinafter the "Landscape Manual"), and specifically from the design guidelines and requirements under Section 4.2. Accordingly, the Applicant respectfully requests Planning Director approval of ROSP-4686-01 and AC-11028-01, and Planning Board approval of the requested departures.

II. PROPERTY DATA

- A. Location: Along the northern edge of University Blvd. East, approximately 2,400 feet to the east of its intersection with Riggs Rd. (MD 212).
- B. Tax Map #: 32-E3.
- C. Frontage: University Boulevard to the south.
- D. Election District: 17.
- E. Legislative District: 21.
- F. Councilmanic District: 2.
- G. Municipality: N/A.
- H. Acreage: ± 1.07 acres.
- I. Zoning: C-S-C.
- J. Subdivision: Coopersmith Tract (Parcel 'A') (± .57 acres); Karl M. Hohensee ET UX Property (Parcel 'A') (± .51 acres).
- K. Existing Water Company: W-3.
- L. Existing Sewer Company: S-3.
- M. Historic: N/A.
- N. Master Plan & SMA: *1989 Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and 1990 Adopted Sectional Map Amendment for Planning Areas 65, 66, and 67.*
- O. General Plan: *Plan Prince George's 2035.*
- P. Special Exception: SE-3527.
SE-4096.
SE-4201.
SE-4686 – operative.

III. LAND USE HISTORY

A fast food restaurant use with drive-thru element has existed on the Property since approximately 1960. In 1984, this use became certified nonconforming due to changes in the Zoning Ordinance¹, and the Planning Board approved SE-3527 for the expansion of the existing restaurant building. Subsequently, the District Council approved SE-4006 to add a soft playland in 1993, and SE-4201 to enclose the playland in 1997. The playground enclosure was ultimately never built.

Today, under the Property's C-S-C zoning², the existing fast food restaurant with drive-thru is considered a legal use, and its underlying special exception approvals may be modified pursuant to the existing provisions of the Zoning Ordinance.³

IV. OPERATIVE APPROVALS AND EXISTING CONDITIONS

The Property is now covered by SE-4686, approved by the District Council on January 28, 2013, which allowed a special exception for the alteration/expansion – i.e., a more comprehensive renovation – of the existing fast food restaurant. The Property is also covered by various departures, each approved by the District Council on January 28, 2013, as follows:

- Departure from Design Standards (DDS-611), which permitted a departure of 14.4 feet from the landscape yard width requirements under Section 4.7 (“Buffering Incompatible Uses”) of the Landscape Manual.
- Departure from Parking and Loading Standards (DPLS-361), which permitted a departure of 18 parking spaces from the required 76 parking spaces.
- Departure from Sign Design Standards (DSDS-669), which permitted a departure of 5 feet from the required 10-foot setback for freestanding sign.

In connection with the SE-4686, the District Council also approved AC-11028 from Section 4.7 of the Landscape Manual (“Buffering Incompatible Uses”), which allowed the location of a dumpster with screen wall and surface parking within a portion of

¹ See Permit No. 50520-84U.

² The subject site was placed in the C-S-C Zone upon adoption of the Sectional Map Amendment for Planning Areas 65, 66, and 67 in 1990.

³ See Sec. 27-461, Fn. 24.

the required buffer yard.⁴ Additionally, a Natural Resources Inventory (NRI) Equivalency Letter (NRO-100-11) was issued for the Property on June 10, 2011.⁵

As alluded to above, in 2012, the Applicant undertook a substantial rebuild and obtained the necessary approvals to modernize and update the existing structure. It is currently improved with an approximately 4,600-square foot fast food restaurant building that includes a dual drive-through service element, as well as 53 parking spaces. There is one point of vehicular access from University Boulevard that allows ingress and egress into and out of the Property, however it can only accommodate right turns.

V. NEIGHBORHOOD AND SURROUNDING USES

The Property is located along the northern side of University Boulevard, approximately 2,400 feet to the east of its intersection with Riggs Road (MD 212). The appropriate neighborhood to be considered in this case is bounded on the northwest by a PEPCO (Potomac Electric Power Company) transmission line, on the east by the Northwest Branch and on the south by University Boulevard. This neighborhood includes a mixture of commercial and residential uses. Commercial development dominates the University Boulevard frontage. Medium density, single-family attached houses characterize the interior of the neighborhood. This is the same neighborhood which was adopted in Special Exceptions SE-3527, SE-4906, SE-4201, and SE-4686.

The Property is surrounded by the following uses:

- North: A shopping center in the C-S-C Zone and a Pepco power line in the R-55 Zone.⁶
- East: Across 24th Avenue, a shopping center in the C-S-C Zone.
- South: Across University Boulevard is a gas station, convenience store, and auto shop in the C-S-C Zone.
- West: A gas station in the C-S-C Zone.

⁴ See Zoning Ordinance No. 1-2013 for approval with SE-4686.

⁵ Another NRI Equivalency Letter, NRI-100-11-01 was recently accepted for review on April 24, 2019.

⁶ Although this PEPCO site is residentially zoned, it is unlikely to ever be improved with a residential development, given that it is utilized for utility transmission purposes.

VI. SHA PARTIAL CONDEMNATION FOR PURPLE LINE

The Applicant's proposed improvements, discussed in greater detail in Section VI of this Statement, are necessary to accommodate SHA's partial condemnation of the Property for the installation of Purple Line tracks. The light rail tracks will be located along the University Boulevard frontage. Accordingly, SHA intends to take a portion of the Applicant's Property, amounting to approximately 4,830 square feet of land area. The inevitable reconfiguration of the Property will result in the gross loss of 12 parking spaces along the University Boulevard frontage, approximately 10 feet of landscape buffering, and substantial changes to the current stormwater management system. Additionally, the fast food restaurant's entrance and exit signage will need to be relocated.

Thus, the work needed to install the Purple Line tracks will involve extensive changes to the Property. Major construction is expected to commence in late 2019, which will involve roadway closures, sidewalk and roadway reconstructions, and ultimately the track infrastructure installation. SHA is to handle all demolition in the permanent and temporary taking areas, and is assuming financial responsibility for the reinstallation of certain site structures (e.g., lot lights, signage, and a new bike rack) following construction. SHA will also handle the demolition and installation of a new, relocated stormwater pipe, inlets, and associated connections. As described herein, the Applicant will install new landscaping, as permitted, in specific areas designated by SHA. (*See* Landscape Plan, submitted concurrently as Sheet C-2).

VII. PROPOSED DEVELOPMENT

SHA's partial condemnation and related improvements for the Purple Line prompt this ROSP application, as the Applicant will have to make certain modifications to maintain the functionality of the site. As indicated on ROSP-4686-01, the Applicant will install six parking stalls, approximately 20' in length, on the south side of the Property along the University Boulevard frontage. The Applicant is also seeking AC to install four deciduous trees and 18 shrubs in the front yard buffer areas that were designated by SHA as suitable for landscaping. (*See* Landscape Plan). These improvements enhance the aesthetics of the site and ensure that the fast food establishment/drive-through continues to operate as a viable use on the Property.

VIII. PLANNING

The Property is within the area covered by the Master Plan, which is organized by three communities and eight subcommunities. The Property is specifically located in

Planning Area 65, and within the Adelphi-Langley Park Subcommunity. The Adelphi-Langley Park subcommunity recommends “intensive screening and/or other creative site planning techniques . . . to any redevelopment of commercial establishments.” (See Master Plan, pg. 70). As demonstrated throughout this Statement, the ROSP strives to meet this recommendation to the fullest extent possible.

The Property is also located within the commercial area that is designated as Adelphi Plaza. (See Master Plan, Map No. 7). The Master Plan provides several urban design guidelines regarding improvements within commercial areas that address landscaping and the exterior environment, façade, signage, structural condition, circulation, parking facilities, and buffering. (See Master Plan, pgs. 107-109). Additionally, the Master Plan provides 26 general guidelines for the redevelopment/expansion of commercial areas. (See Master Plan, pg. 109). As discussed below in Section VIII, the Applicant’s ROSP strives to advance many of the urban design guidelines in the Master Plan.

IX. ANALYSIS

~ Revision of Special Exception Site Plan ~

A. Sec. 27-325 – Minor Changes.

(c) Minor Changes, Planning Director.

- 1. The Planning Director is authorized to approve minor changes administratively, without public hearing, in cases listed in (b), but only if the proposed minor changes are limited in scope and nature, including an increase in gross floor area or land covered by a structure other than a building up to ten percent (10%). The Director shall deny any administrative approval request proposing site plan changes which will have a significant impact on adjacent property.*

Comment: The proposed minor changes are very limited in scope and nature and merit Planning Director review. The proposed improvements fall under the cases listed under Section 27-325(b)(1); the ROSP does not propose any increase of gross

floor area of the existing restaurant structure or land area covered by a structure, and involves a parking and landscaping redesign of minimal impact. The proposed site changes are prompted by SHA's condemnation and related improvements for the Purple Line. Furthermore, M-NCPPC Staff has indicated to the Applicant that the subject ROSP application is appropriate for Planning Director approval.

2. *Before approving a minor change, the Director shall make all findings the Planning Board would be required to make, if it reviewed the application.*

Comment: As addressed below in Section IX.B of this Statement, the Director can approve the proposed minor changes and make all the findings the Planning Board would be required to make, if it reviewed the subject application.

3. *The Director is not authorized to waive requirements in this Subtitle, grant variances, or modify conditions, considerations, or other requirements imposed by the Planning Board or District Council in any case.*

Comment: The Applicant is not requesting the Director to waive any requirements of the Zoning Ordinance, grant any variances, or modify conditions, considerations, or other requirements.

4. *The applicant's property shall be posted within ten (10) days of the Director's acceptance of filing of the application. Posting shall be in accordance with Section 27-125.03. On and after the first day of posting, the application may not be amended.*

Comment: The Applicant will make a posting as required by this provision and Section 27-125.03 of the Zoning Ordinance.

5. *The Director may waive posting after determining, in writing, that the proposed minor change is so limited in scope and nature that it will have no appreciable impact on adjacent property.*

Comment: The Applicant has no comment with respect to this provision.

6. *If posting is waived or a written request for public hearing is not submitted within the posted time period, then the Director may act on the application. The Director's approval concludes all proceedings.*

Comment: The Applicant has no comment with respect to this provision.

7. *If the Director denies the application or a timely hearing request is submitted, then the application shall be treated as re-filed on the date of that event. The applicant, Director, and Technical Staff shall then follow the procedures for Planning Board review in (a) above.*

Comment: The Applicant will be prepared to respond accordingly if the Director denies the application or a timely hearing request is submitted, pursuant to the procedures for Planning Board review.

B. Sec. 27-317 – Required Findings

The Planning Board has already made the findings required by Section 27-317(a)(1)-(7) of the Zoning Ordinance when it approved and adopted the resolution for SE-4686. (See PGCPB No. 12-29, attached hereto as Exhibit A), The Applicant references and incorporates those findings into this Statement, and offers the following supplementary comments:

(a) *A special exception may be approved if:*

1. *The proposed use and site plan are in harmony with the purpose of this Subtitle;*

Comment: Section 27-102 of the Zoning Ordinance delineates fifteen distinct purposes, one of which is “to promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development.” The proposed ROSP is consistent with this purpose, as it enables the landowner to redesign the site (i.e., add six parking spaces and reinstall landscaping) and mitigate the adverse impacts of SHA’s partial condemnation, and related improvements for Purple Line installation. Additionally, the Applicant’s proposed ROSP is complementary to the construction of the Purple Line, and will facilitate SHA’s prompt and efficient construction. This dynamic aligns with another purpose of the Zoning Ordinance, which is “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 planning functions.” The Applicant’s design is appropriately accommodating to SHA’s needs and will allow for the continued usefulness of the Purple Line.

2. *The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;*

Comment: With the approval of the proposed ROSP improvements, departure approvals, and AC request, the existing fast food restaurant drive-thru use will comply with all applicable Zoning Ordinance requirements and regulations.

3. *The proposed use will not substantially impair the integrity of any validly approved Master Plan or Function Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;*

Comment: The nature and intensity of the use will not be changed, so the Master Plan's commercial use recommendation will not be impaired; nor the 60-year history of the fast food restaurant use's compatibility at this location. Thus, the continued use will not substantially impair the integrity of the Master Plan.

4. *The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;*

Comment: The installation of the six parallel parking stalls and landscaping modifications will help to improve the aesthetics and walkability of the site, and not adversely affect the health, safety, or welfare of residents or workers in the area.

5. *The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and*

Comment: The continuation of the fast food restaurant use will not be detrimental to the use or development of adjacent properties or the general neighborhood. As indicated earlier, the Applicant plans to install six parallel parking stalls and make some landscaping modifications in response to SHA's partial taking for the Purple Line Project (*see* Section V of this Statement). The Applicant does not propose any sort of expansion of the existing restaurant building; conversely, the Applicant intends to redevelop the same area of the Property that is currently developed. Given

the predominately commercial nature of the surrounding neighborhood, and the long-standing presence of the restaurant at the subject location, the subject ROSP will not cause any detrimental impacts.

6. *The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and*

Comment: This Property is exempt from the provisions of the Woodland Conservation and Tree Preservation Ordinance because the site contains less than 10,000 square feet of woodland. An NRI Equivalency Letter (NRI-100-11-01) is currently pending review.

7. *The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130(b)(5).*

Comment: There are no regulated environmental features on the site.

~ Departures ~

C. Departure from Parking and Loading Standards

Pursuant to Section 27-588(a), the Planning Board is authorized to permit a departure from parking and loading standards (hereinafter “DPLS”) required for a fast-food establishment. As reflected on ROSP 4686-01, the Applicant is providing 47 parking spaces, resulting in a delta of six spaces from the 53 parking spaces that are currently required pursuant to DPLS-361.⁷ Accordingly, the Applicant is requesting a departure to permit the reduction of six additional spaces, and provides the following justifications to allow the Planning Board to make the requisite findings under Section 27-588(b)(7):

b) Procedures.

⁷ As mentioned above in Section III of this Statement, DPLS-361 permitted a departure of 18 parking spaces from the baseline requirement of 76 parking spaces. At that time, the Transportation Planning Section (TPS) of M-NCPPC indicated that the 53 parking spaces would be adequate for the proposed rebuild of the fast food restaurant.

7. *Required Findings.*

(A) *In order for the Planning Board to grant the departure, it shall make the following findings:*

i. *The purposes of this Part (Section 27-550) will be served by the Applicant's request;*

Comment: The four purposes listed under Section 27-550 will be served:

- Sec. 27-550(a)(1) [Purpose No. 1]: *To require (in connection with each building constructed and each new use established) off-street automobile parking lots and loading areas sufficient to serve the parking and loading needs of all persons associated with the buildings and uses;*

Sub-Comment: The proposed ROSP complies with this purpose. The Applicant has operated a fast-food restaurant on this site since 1960 and has determined that a significant amount of its business is associated with the drive-through service. The net reduction of six spaces will continue to adequately serve the parking needs of customers and employees.

- Sec. 27-550(a)(2) [Purpose No. 2]: *To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points;*

Sub-Comment: The proposal complies with this purpose because the majority of the fast-food establishment's customers are served via the dual drive-through element. As such, it is highly unlikely that patrons will need to utilize public streets for parking.

- Sec. 27-550(a)(3) [Purpose No. 3]: *To protect the residential character of residential areas; and*

Sub-Comment: Although this site adjoins property located in a residential zone, that property is developed with a PEPCO transmission line.

- Sec. 27-550(a)(4) [Purpose No. 4]: *To provide parking and loading areas which are convenient and increase the amenities in the Regional District.*

Sub-Comment: The six additional parking spaces that the Applicant proposes will be located even closer to the restaurant's main entrance than

those that are currently existing along the Property's frontage (to be removed by SHA). Landscaping on and around the parking spaces will increase the amenities and aesthetic appeal of the Property.

- ii. *The departure is the minimum necessary, given the specific circumstances of the request;*

Comment: The requested DPLS is the minimum necessary. The six parking spaces proposed by the Applicant are the most the Applicant can "recover" due to SHA's partial taking and related site constraints.

- iii. *The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the County which were predominantly developed prior to November 29, 1949;*

Comment: The requested DPLS is necessary in order to alleviate the Applicant from circumstances related to the installation of the Purple Line and the loss of approximately 4,830 square feet of land area occupied by a fast-food/drive-through establishment. The lack of space makes it difficult for the Applicant to provide the required number of parking spaces and a dual-drive through. Thus, the site is compact and a departure is necessary in order to maintain the site's functionality.

- iv. *All methods of calculating the number of spaces required (Division 2, Subdivision 3, and Division 3, Subdivision 3, of this Part) have either been used or found to be impractical; and*

Comment: The Applicant has employed all methods of calculating the number of spaces required.

- v. *Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.*

Comment: The parking and loading needs of the adjacent residential area will not be infringed upon if the departure is granted. The residentially-zoned land that abuts the Property to the northwest is developed with a PEPCO transmission line.

D. Departure from Sign Design Standards

Pursuant to Section 27-612 of the Zoning Ordinance, the Planning Board is authorized to grant Departures from Sign Design Standards (hereinafter “DSDS”), subject to the findings provided under Section 27-239.01(7)(A). Because the University Boulevard right-of-way will ultimately be adjusted by SHA's condemnation and Purple Line related improvements, the existing sign must be relocated. Accordingly, the Applicant requests that the Planning Board grant a DSDS from Section 27-614 of the Zoning Ordinance (“Freestanding signs”) to: (1) permit a freestanding sign to be located within 5 feet behind the new right-of-way line⁸; and (2) to permit a freestanding sign to be located within 40 feet of the front façade of the fast-food restaurant building. The following comments demonstrate that relevant criterion under Section 27-239.01(7)(A) are satisfied:

b) *Procedures.*

7. *Required Findings.*

(A) *In order for the Planning Board to grant the departure, it shall make the following findings:*

i. *The purposes of this Subtitle will be equally well or better served by the applicant’s proposal;*

Comment: The purposes listed under Section 27-589 of the Zoning Ordinance (hereinafter the “Sign Ordinance”) serve to regulate unsightly and hazardous signs, to provide adequate identification and advertisement, to promote the general welfare of the residents of the country, and to foster the appropriate use of land, buildings, and structures. Although the required setbacks are not being met, the proposed location is appropriate and provides necessary visibility for the fast-food use. The

⁸ The proposed relocation of the existing freestanding sign requires a new DSDS request from the 10-foot setback requirement under Sec. 27-614(a)(4) of the Zoning Ordinance.

departure ensures that the installation of the Purple Line tracks will not entirely overwhelm and/or eliminate the presence of the fast-food use on the Property.

- ii. The departure is the minimum necessary, given the specific circumstances of the request;*

Comment: The freestanding sign will be carefully positioned so that it is not obstructive to pedestrians/motorists and maintains a substantial distance from the University Boulevard right-of-way and front façade of the fast-food building. The Applicant is not requesting a departure that is more than necessary; the freestanding sign's noncompliance is a result of SHA's partial taking of the Property's frontage.

- iii. The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949;*

Comment: The circumstances are unique in this situation. Although a freestanding sign has existed on the Property for many years, it has always been considered to be attractive and recognizable. Additionally, the Property is located in an older area of Prince George's County that is developed with older commercial uses. The departure is necessary to alleviate the Applicant from setback violations caused by SHA's partial taking (and subsequent reconfiguration of Property lines) and to ensure that the site maintains its longstanding commercial image.

- iv. The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.*

Comment: A freestanding sign is necessary to provide adequate identification for the existing fast-food/drive-through use. The requested DSOS permits the freestanding sign to continue to communicate the presence of the fast-food establishment without compromising the character of the surrounding area or overpowering other nearby commercial uses. Additionally, there are no nearby residential subdivisions that would be visually impacted by the freestanding sign.

- (B) For a departure from a standard contained in the Landscape Manual, the Planning*

Board shall find, in addition to the requirements in paragraph (7)(A), above, that there is no feasible proposal for alternative compliance, as defined in the Landscape Manual, which would exhibit equally effective design characteristics.

Comment: This provision is not applicable to the requested DSDS for the placement of the freestanding sign.

E. Departure from Landscaping Standards

Pursuant to Section 27-239.01, the Planning Board is authorized to permit a departure from the design standards (hereinafter “DDS”) contained in the Landscape Manual. The Applicant’s Landscape Plan does not fully comply with certain standards that are required along the Property’s frontage, specifically Section 4.2(c)(3)(A) of the Landscape Manual – “Requirements for Landscape Strips Along Streets.” Accordingly, the Applicant is requesting a departure from this section. The Planning Board is enabled to make the necessary findings under Section 27-239.01(7)(A), as follows:

b) Procedures.

7. Required Findings.

(A) In order for the Planning Board to grant the departure, it shall make the following findings:

i. The purposes of this Subtitle will be equally well or better served by the applicant’s proposal;

Comment: The site is too compact to accommodate the existing fast-food restaurant and impending Purple Line construction, and simultaneously comply with the current standards regarding landscaping. However, there is still an opportunity to improve the Property in a manner that closely aligns with the purposes and objectives of Section 4.2 (“Requirements for Landscape Strips Along Streets”), namely to “enhance a business’s commercial viability by improving its aesthetic appeal as

viewed from the street to potential customers, investors, or passersby.” The Applicant’s Landscape Plan advances this objective.

- ii. The departure is the minimum necessary, given the specific circumstances of the request;*

Comment: The requested DDS is the minimum necessary, especially given the fact that the area upon which the Applicant can install/reinstall landscaping is extremely limited due to limitations imposed by SHA.

- iii. The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in the areas of the County developed prior to November 29, 1949;*

Comment: The requested DDS is necessary in order to alleviate circumstances which are special to the subject use. SHA is removing approximately 10 feet of landscape buffering due to its partial taking for the installation of Purple Line tracks along the University Boulevard frontage. It is highly unlikely that the Applicant will be able to fully comply with the requirements of the Landscape Manual when it has even less land area to utilize. This is a unique case that warrants a departure.

- iv. The departure will not impair the visual, functional, or environmental quality of the site of the surrounding neighborhood.*

Comment: The Applicant’s proposed ROSP provides an opportunity to reinstall landscaping in the wake of SHA’s Purple Line construction, and revitalize the Property with visually appealing landscaping. The proposed improvements will supplement the rebuild that the Applicant undertook in 2012.

- (B) For a departure from a standard contained in the Landscape Manual, the Planning Board shall find, in addition to the requirements in paragraph (7)(A), above, that there is no feasible proposal for alternative compliance, as defined in the Landscape Manual, which would exhibit equally effective design characteristics.*

Comment: With respect to the specific DDS requested, the Applicant cannot provide a feasible proposal for AC that would exhibit equally effective design characteristics.

~ Alternative Compliance ~

F. Alternative Compliance – Landscape Manual Section 1.3

An Applicant may obtain approval for AC if there are conditions where normal compliance (with the Landscape Manual) is impractical or impossible, or where maximum achievement of Landscape Manual purposes can only be obtained through AC. Accordingly, the Applicant is requesting Planning Director approval of alternative standards for the proposed landscaping along the University Boulevard frontage, which deviates from the requirements under Section 4.2(c)(3)(A) of the Landscape Manual. Pursuant to Section 1.3 of the Landscape Manual, requests for AC may be approved when one or more of the following conditions are present:

- *Topography, soil, vegetation, or other site conditions are such that full compliance with the requirements is impossible or impractical; improved environmental quality would result from the alternative compliance.*

Comment: This condition is not applicable to the Applicant's request for AC.

- *Space limitations, unusually shaped lots, prevailing practices in the surrounding neighborhood, in-fill sites, and improvements and redevelopment in older communities.*

Comment: Given this condition of the Property, AC is appropriate and may be approved. The proposed Landscape Plan (Sheet C-2) will enhance the visual appeal of the surrounding neighborhood in ways that are not currently provided by adjoining and confronting properties. Additionally, the space limitations created by SHA's installation of the Purple Line create a situation where the Applicant cannot strictly comply with the Landscape Manual.

- *Change of use on an existing site increases the buffer required by Section 4.7, Buffering Incompatible Uses, more than it is feasible to provide.*

Comment: This condition is not applicable; the proposed development does not involve a change of use that increases the buffer required by incompatible uses.

- *Safety considerations make alternative compliance necessary.*

Comment: The Applicant's proposed Landscape Plan is needed to ensure the safety of pedestrians and motorists on the Property. The ultimate operation of the Purple Line and running of light-rail cars along the southern portion of the Property will generate new safety hazards that have never existed on the site. As such, the Applicant must provide landscaping that creates a comfortable environment for motorists and pedestrians. The proposed Landscape Plan achieves this very purpose.

- *An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the design criteria in Section 3, Landscape Elements and Design Criteria.*

Comment: The Applicant's AC proposal is equally effective in its ability to fulfill the design criteria. The proposed Landscape Plan represents a satisfactory alternative given the constrained opportunities due to SHA's condemnation and Purple Line related improvements.

X. Conclusion

The Applicant respectfully requests the Planning Director approve ROSP-4686-01 and AC-11028-01 for the proposed minor site changes, which include the addition of six parking spaces, as well as the installation of new landscaping following the installation of Purple Line tracks along the Property's University Boulevard frontage. These improvements will maintain adequate parking on-site and enhance the pedestrian experience on and around the Property. As demonstrated throughout this statement, the ROSP and AC applications satisfy the required findings that the Planning Director must make to approve each application in accordance with the Zoning Ordinance, Landscape Manual, and other applicable criteria. The above analysis also allows the Planning Board to grant the requested Departures in accordance with the relevant provisions of the Zoning Ordinance.

RESPECTFULLY SUBMITTED,

LERCH, EARLY & BREWER, CHTD

By:


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March 13, 2020

MEMORANDUM

TO: Eddie Diaz-Campbell, Senior Planner, Subdivisions, Development Review Division
VIA: David A. Green, MBA, Master Planner, Community Planning Division AD
FROM: Christina Hartsfield, Planner Coordinator, Placemaking Section, Community Planning Division *CH*
SUBJECT: DDS-656/DSDS-700/DPLS-472 McDonalds on University Boulevard

DETERMINATIONS

Pursuant to Part 27-239.01(b)(7) of the Zoning Ordinance, Master Plan conformance is not required for this application.

BACKGROUND

Application Type: Departure from the required number of parking spaces and landscape requirements.

Location: 2306 University Blvd, Hyattsville, Md 20783

Size: Appx. 1.07 ac

Existing Uses: Fast-food restaurant (McDonalds)

Proposal: Removal of 6 surface parking spaces and alterations to the approved landscape

GENERAL PLAN, MASTER PLAN, AND SMA

General Plan: This application is in the Established Communities. The vision for Established Communities is context-sensitive infill; low- to medium-density development; and maintaining and enhancing existing public services, facilities, and infrastructure in these areas (p. 20).

Master Plan: The 1989 Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity recommends commercial land uses on the subject property.

In addition, the Master Plan also makes the following recommendations that affect the subject property:

- Where feasible, adjacent parking areas should be linked, improving internal circulation and reducing curb-cuts.
- During the permit review process, owners should be encouraged to provide landscaping along highways and internal landscaping by redefining parking layout for better circulation and creating suitable islands for landscaping.
- Facades and signage should be unified.
- Businessmen and owners desirous of making improvements to a particular section and willing to follow through with implementation should request the County for a greater in - depth study to include graphic details under the PAMC program (p. 102).

The proposed alterations are necessitated by improvements to University Blvd., initiated by State Highway Administration (SHA), for the installation of the Purple Line within the right-of-way. The requested departures should not be detrimental to the vision or intent of the master plan.

Planning Area: 65

Community: Langley Park and Vicinity

Aviation/MIOZ: This application is not located within an Aviation Policy Area or the Military Installation Overlay Zone.

SMA/Zoning: The Adopted Sectional Map Amendment for Planning Areas 65, 66 and 67 reclassified the subject property into the C-S-C zone.

c: Long-range Agenda Notebook

April 2, 2020

MEMORANDUM

TO: Eddie Diaz-Campbell, Senior Planner, Subdivision and Zoning Section

VIA: Henry Zhang, Master Planner, Urban Design Section

FROM: Adam Bossi, Planner Coordinator, Urban Design Section

SUBJECT: **DDS-656, DPLS-472 and DSDS-700, McDonalds, University Boulevard**

The Urban Design Section has reviewed the package accepted on February 10, 2020 for Departure from Design Standards DDS-656, Departure from Parking and Loading Spaces DPLS-472, and Departure from Sign Design Standards DSDS-700. The departure requests are companion to Revision to Special Exception Site Plan ROSP-4686-01. The departures cumulatively propose a series of changes to the subject site's frontage on MD 193 (University Boulevard) necessitated by the construction of the Purple Line. The subject 1.07-acre site is located at 2306 University Boulevard in the Commercial Shopping Center (C-S-C) Zone, approximately 2,400 feet east of its intersection with Riggs Road and is developed with a McDonald's restaurant with drive-through service.

Based upon the review of the application package, the Urban Design Section offers the following comments:

Conformance with the Requirements of Previous Approvals

The existing restaurant with drive-through service use has existed on-site since the 1960s, and became a certified non-conforming use in 1984, due to changes in the Zoning Ordinance. Since that time, four special exceptions were approved for renovations of the McDonald's. The current Special Exception SE-4686 and associated departures, DDS-611, DPLS-361, and DSDS-669 were approved by the District Council in January 2013. Also approved at that time was Alternative Compliance AC-11028, which allowed for parking and the trash enclosure to be located within the landscape bufferyard required by Section 4.7, Buffering Incompatible Uses, along the northwestern property line. DDS-611, allowed for a departure from the Section 4.7 landscape bufferyard requirement along the northern and eastern property lines.

Based upon review of existing conditions plans submitted with the current departure requests, the site appears to be in general conformance with prior approvals.

Conformance with the Requirements of the Prince George's County Zoning Ordinance

The departure requests cumulatively seek to modify the frontage area of the existing McDonald's site to accommodate construction of the Purple Line within the public right-of-way of MD 193. The southern property boundary abuts MD 193 and was subject of public fee-simple takings totaling 4,826 square feet to expand the right-of-way of MD 193 into the subject site for the development of the Purple Line. Additionally, plans indicate a temporary construction easement is provided deeper into the site, beyond the expanded right-of-way, to further support Purple Line construction. As a result, McDonald's will lose its existing landscape strip along the roadway, need to relocate a sign, and reconfigure the portion of its parking lot adjacent to MD 193. The departure requests satisfy criteria for approval as set forth in Section 27-588 (b) (7) and Section 27-239.01(b) (7) of the Zoning Ordinance respectively.

Departure from Parking and Loading Spaces DPLS-472

Reconfiguration of parking in the site's frontage along MD 193 is necessitated due to the development of the Purple Line. This departure seeks to reduce the number of existing parking spaces provided on-site from 53 to 46 with six spaces to be removed from the frontage area. Front-in parking will be replaced by parallel parking in the site's frontage area. The applicant contends that this reduction still leaves enough parking on-site to serve workers and customers as most customers utilize drive-through service.

The Urban Design Section finds the DPLS request to be the minimum needed to accommodate both on-site parking needs and frontage layout changes to support Purple Line development and recommends approval of DPLS-472.

Departure from Sign Design Standards DSDS-700

This DSDS proposes to relocate an existing freestanding McDonald's sign slightly northward, to a location outside of the frontage area to be impacted by the Purple Line project. This move would not conform with required setbacks. This existing sign is proposed to be moved five-feet north of its current location, behind the new right-of-way line and within 40-feet of the front façade of the McDonald's, which does not conform with applicable design standards and necessitated this departure request.

The Urban Design Section finds the DSDS to be the minimum necessary to meet the intent of applicable design standards given the circumstances associated with Purple Line development that prompted the request.

Departure from Design Standards DDS-656

This request seeks to provide landscaping to a lesser standard than required for normal conformance with Section 4.2 of the 2010 *Prince George's County Landscape Manual*, Requirements for Landscape Strips Along Streets. As a result of Purple Line development, the width of the frontage on MD 193 will be significantly reduced and will not provide adequate space to accommodate a landscape strip as required by Section 4.2. The applicant proposed and was denied alternative compliance (AC) seeking to provide a lesser landscape strip through AC-11028-01. In its denial, the Alternative Compliance Committee noted " Spatial limitations on the subject site's frontage created by the public infrastructure project do not allow for normal compliance, or equally effective design, with the requirements of Section 4.2 for both the required landscape strip width and the number of plant units. Due to the limited frontage, the alternative design proposed in this

application cannot be found to be equally effective as normal compliance with the requirements of Section 4.2(c)(3)(A)(i), Requirements for Landscape Strips Along Streets, along the MD 193 frontage.” The DDS provides for landscape strip plantings consisting of trees and shrubs where it can reasonably be accommodated in the limited frontage area resulting from the Purple Line project.

During review of the AC request, the applicant was notified that as part of this departure, a Certificate of Landscape Maintenance is required in accordance with Section 1.7 of the Landscape Manual. Given the subject site is likely to be impacted by Purple Line construction for a prolonged period, the applicant requested to provide the Certificate at a later time and install landscape strip plantings, and replacement plantings as determined by the Certificate, after Purple line construction on-site is completed.

The Urban Design Section finds the departure request of DDS-656 to be acceptable and recommends approval subject to the following two conditions:

- a. Submit a Certificate of Landscape Maintenance in accordance with Section 1.7 of the Landscape Manual. Any dead or missing plant material identified by the Certificate must be shown on the plans to be replaced.
- b. The landscape strip plantings and any plant material identified for replacement through the Certificate of Landscape Maintenance shall be installed upon completion of on-site construction activities.

Conformance with the Requirements of the 2010 Prince George’s County Landscape Manual

The proposed development is subject to the requirements of the *2010 Prince George’s County Landscape Manual*. Specifically, Section 4.2, Requirements for Landscape Strips Along Streets, Section 4.3, Parking Lot Requirements; and Section 4.4, Screening Requirements and Section 4.9, Sustainable Landscape Requirements are applicable. Conformance with the Landscape Manual was found at the time of prior approvals; while strict conformance was not possible, alternative compliance and departures were approved.

DDS-656 requests an additional departure to Section 4.2 of the Landscape Manual as discussed above.

Conformance with the Requirements of Tree Canopy Coverage Ordinance

This application is exempt from the requirements of the Tree Canopy Coverage Ordinance. Section 25-128 of the County Code requires a minimum percentage of tree canopy coverage on projects that propose more than 5,000 square feet of disturbance. This applicant proposes less than 5,000 square feet of disturbance.

Urban Design Section Recommendation

Based on the above analysis, the Urban Design Section has no objections to the approval of DPLS-472 and DSDS-700 for McDonald’s, University Boulevard. In regards to DDS-656, approval is recommended, subject to the two conditions previously noted.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
 Upper Marlboro, Maryland 20772
 TTY: (301) 952-4366
 www.mncppc.org/pgco

Countywide Planning Division
 Transportation Planning Section

301-952-3680

March 9, 2020

MEMORANDUM

TO: Eddie Diaz-Campbell, Senior Planner, Subdivision & Zoning Section, DRD

FROM: Benjamin Ryan, Planner, Transportation Planning Section, CWPD

VIA: Bryan Barnett-Woods, Supervisor, Transportation Planning Section, CWPD

SUBJECT: **Detailed Site Plan Review for Pedestrian and Bicycle Transportation Master Plan Compliance**

The following detailed site plan (DSP) was reviewed for conformance with the *Approved Countywide Master Plan of Transportation (MPOT)* and the 1989 *Approved Master Plan for Langley Park – College Park – Greenbelt and Vicinity* to provide the appropriate pedestrian and bicycle transportation recommendations.

Detailed Site Plan Number: DDS-656, DPLS-472, DSDS-700

Development Case Name: McDonald's Hyattsville

Type of Master Plan Bikeway or Trail

Municipal R.O.W.	<u> </u>	Public Use Trail Easement	<u> </u>
PG Co. R.O.W.	<u> </u>	Nature Trails	<u> </u>
SHA R.O.W.	<u> X </u>	M-NCPPC – Parks	<u> </u>
HOA	<u> </u>	Bicycle Parking	<u> X </u>
Sidewalks	<u> X </u>	Trail Access	<u> </u>

Preliminary Plan Background	
Building Square Footage (non-residential)	4,600 Square Foot Fast Food Restaurant
Number of Units (residential)	N/A
Abutting Roadways	University Boulevard (MD 193)
Abutting or Nearby Master Plan Roadways	University Boulevard, Riggs Road
Abutting or Nearby Master Plan Trails	Existing Hard Surface Trails: Northwest Branch Trail Planned Shared Roadways: 23 rd Street Planned Side Path: University Boulevard Planned Bike Lane: University Boulevard
Proposed Use(s)	Fast Food Restaurant
Zoning	C-S-C

Centers and/or Corridors	University Boulevard Corridor
Prior Approvals on Subject Site	SE-4686, DDS-611, DPLS-361, DSDS-699

Previous Conditions of Approval

Approved Special Exception SE-4686 includes the following condition of approval related to bicycle parking, specific to the subject property. Condition 3 from SE-4686 is copied below:

3. The applicant shall install bicycle parking adjacent to the main entrance to the building. Bicycle parking shall be provided with u-shaped racks on a concrete pad.

Comment: The submitted plans are in conformance with this condition. Bicycle parking is displayed on the site plan.

Existing Conditions Sidewalks and Bike Infrastructure

The subject property is bound to the south by University Boulevard, which features sidewalks in place. The portion of University Boulevard in the vicinity of the subject property is a planned bike lane per the MPOT.

Review of Proposed On-Site Improvements

As part of the Maryland Transit Administration (MTA) Purple Line construction associated with this project, the sidewalks which front the subject property will be demolished and rebuilt. Maryland State Highway Administration (SHA) has indicated that the sidewalks will be rebuilt as part of the Purple Line construction. The Purple Line Transit Partners (PLTP) will construct new 5-foot ADA-compliant sidewalks along both sides of University Boulevard as part of the Purple Line project.

Review of Master Plan Compliance

The MPOT Complete Streets section makes the following recommendations:

- POLICY 2: All road frontage improvements and road capital improvements within the Developed and Developing Tiers shall be designated to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical. (p.10)
- POLICY 6: Work with the State Highway Administration and the Prince George's County Department of Public Works and Transportation to develop a complete streets policy to better accommodate the needs of all users within the right-of-way. (p.10)

Comment: The submitted plans are in conformance with MPOT Complete Streets recommendations and will greatly improve multimodal transportation in the area. As previously mentioned, this project is prompted by the MTA Purple Line light rail project which will establish a rail line in front of the subject property as part of a rail corridor that connects Bethesda and New Carrollton. Bicycle lanes at this location are proposed per the MPOT, and MTA and PLTP plans include a five-foot wide bicycle lane along (MD 193) University Blvd as part of the Purple Line project, fulfilling this recommendation.

Recommended Conditions of Approval:

The submitted plans in support of these Departures meet the necessary findings and criteria from the perspective of pedestrian and bicycle transportation. There are no recommended conditions of approval.



**INTER-OFFICE MEMORANDUM
PRINCE GEORGE'S COUNTY
POLICE DEPARTMENT**



M E M O R A N D U M

DATE: February 19, 2020
TO: Planning Coordinator, Urban Design Application Section
Development Review Division
FROM: Captain Wendy Contic, Assistant Commander, Planning & Research Division
SUBJECT: DDS-656 McDonalds at University Blvd.

Upon review of these site plans, there are no comments at this time.

Diaz-Campbell, Eddie

From: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>
Sent: Thursday, February 20, 2020 12:23 PM
To: Diaz-Campbell, Eddie
Cc: PGCTReferrals
Subject: RE: EPlan ACCEPTANCE Referral for DDS-656/DSDS-700/DPLS-472 McDonald's Hyattsville; SHA; KW

Hello Eddie,

I reviewed the subject referral and have the following comments:-

The Purple Line project acquired right of way along the frontage of this property for the Purple Line proposed improvements. The proposed McDonald's improvements will not be impacted by the Purple Line improvements.

Let me know if you have any questions.

Thanks, Kwesi

Kwesi Woodroffe
Regional Engineer
District 3 Access Management
MDOT State Highway Administration
KWoodroffe@mdot.maryland.gov
301-513-7347 (Direct)
1-888-228-5003 – toll free
9300 Kenilworth Avenue,
Greenbelt, MD 20770
<http://www.roads.maryland.gov>



From: Summerlin, Cheryl <Cheryl.Summerlin@ppd.mncppc.org>
Sent: Monday, February 10, 2020 1:51 PM
To: ePlan <ePlan@ppd.mncppc.org>; tschum@collegeparkmd.gov; Miriam Bader <mbader@collegeparkmd.gov>; townhall@upmd.org; jchandler@hyattsville.org; Katie Gerbes <kgerbes@hyattsville.org>; Brake, Michelle <Michelle.Brake@ppd.mncppc.org>; Henderson, Tamika <Tamika.Henderson@ppd.mncppc.org>; Franklin, Judith <Judith.Franklin@ppd.mncppc.org>; Green, David A <davida.green@ppd.mncppc.org>; Masog, Tom <Tom.Masog@ppd.mncppc.org>; Zhang, Henry <Henry.Zhang@ppd.mncppc.org>; Kosack, Jill <Jill.Kosack@ppd.mncppc.org>; Dixon, June <june.dixon@ppd.mncppc.org>; Chaconas, Sheila

<Sheila.Chaconas@ppd.mncppc.org>; Larman, Brooke <Brooke.Larman@ppd.mncppc.org>; 'DARichards@co.pg.md.us' <DARichards@co.pg.md.us>; tgaskins@co.pg.md.us; De Guzman, Reynaldo S. <rsdeguzman@co.pg.md.us>; mcgiles@co.pg.md.us; rlattivor@co.pg.md.us; Snyder, Steven G. <SGSnyder@co.pg.md.us>; mabdullah@co.pg.md.us; Formukong, Nanji W. <nwformukong@co.pg.md.us>; mtayyem@co.pg.md.us; cdsalles@co.pg.md.us; Beckert, Erv T. <ETBeckert@co.pg.md.us>; Elkabbani, Sherif H. <SHElKabbani@co.pg.md.us>; Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>; Peter Campanides <PCampanides@mdot.maryland.gov>; Erica Rigby <ERigby@mdot.maryland.gov>; Michael Madden <MMadden@mdot.maryland.gov>; scsegerlin@wmata.com; NMAAlbert@wmata.com; realestate@wmata.com; #dsgintake@wsscwater.com; kenneth.l.barnhart@verizon.com; mark.g.larsen@verizon.com; jkoroma@pepco.com; wkynard@pepcoholdings.com; Curry, Charles M:(BGE) <Charles.Curry@bge.com>; Herb.Reigel@smeco.coop; Keith.Ulrich@SMECO.coop; kencrouse@comcast.net; gw1349@att.com; bm2692@att.com; ah5959@att.com; JS664t@att.com; PLANNING@hyattsville.org; pmartinez@washgas.com; Kate Powers <kpowers@hyattsville.org>
Cc: Diaz-Campbell, Eddie <Eddie.Diaz-Campbell@ppd.mncppc.org>; Conner, Sherri <sherri.conner@ppd.mncppc.org>; Lee, Randar <Randar.Lee@ppd.mncppc.org>; Townsend, Donald <Donald.Townsend@ppd.mncppc.org>; Fairley, Lillian <Lillian.Fairley@ppd.mncppc.org>; Davis, Lisa <Lisa.Davis@ppd.mncppc.org>; Grigsby, Martin <Martin.Grigsby@ppd.mncppc.org>; Graham, Audrey <Audrey.Graham@ppd.mncppc.org>; Checkley, Andree <andree.checkley@ppd.mncppc.org>; Dickerson, Garrett <Garrett.Dickerson@ppd.mncppc.org>
Subject: RE: EPlan ACCEPTANCE Referral for DDS-656/DSDS-700/DPLS-472 McDonald's Hyattsville (PB) via DROPBOX

All:

The referral cover is attached with dates and reminders to send comments to PGCReferrals.

Thank you,

Cheryl Summerlin

Applications Supervisor | Development Review Division

 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Prince George's County Planning Department

14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772

301-952-3578 | cheryl.summerlin@ppd.mncppc.org



From: ePlan <ePlan@ppd.mncppc.org>

Sent: Monday, February 10, 2020 1:15 PM

To: tschum@collegeparkmd.gov; Miriam Bader <mbader@collegeparkmd.gov>; townhall@upmd.org; jchandler@hyattsville.org; Katie Gerbes <kgerbes@hyattsville.org>; Brake, Michelle <Michelle.Brake@ppd.mncppc.org>; Henderson, Tamika <Tamika.Henderson@ppd.mncppc.org>; Franklin, Judith <Judith.Franklin@ppd.mncppc.org>; Green, David A <davida.green@ppd.mncppc.org>; Masog, Tom <Tom.Masog@ppd.mncppc.org>; Zhang, Henry <Henry.Zhang@ppd.mncppc.org>; Kosack, Jill <Jill.Kosack@ppd.mncppc.org>; Dixon, June <june.dixon@ppd.mncppc.org>; Chaconas, Sheila <Sheila.Chaconas@ppd.mncppc.org>; Larman, Brooke <Brooke.Larman@ppd.mncppc.org>; 'DARichards@co.pg.md.us' <DARichards@co.pg.md.us>; tgaskins@co.pg.md.us; De Guzman, Reynaldo S. <rsdeguzman@co.pg.md.us>; mcgiles@co.pg.md.us; rlattivor@co.pg.md.us; Snyder, Steven G. <SGSnyder@co.pg.md.us>; mabdullah@co.pg.md.us; Formukong, Nanji W. <nwformukong@co.pg.md.us>; mtayyem@co.pg.md.us; cdsalles@co.pg.md.us; Beckert, Erv T. <ETBeckert@co.pg.md.us>; Elkabbani, Sherif H. <SHElKabbani@co.pg.md.us>; kwoodroffe@sha.state.md.us; pcampanides@sha.state.md.us; erigby@sha.state.md.us; mmadden@mtamaryland.com; scsegerlin@wmata.com; NMAAlbert@wmata.com; realestate@wmata.com; #dsgintake@wsscwater.com; kenneth.l.barnhart@verizon.com; mark.g.larsen@verizon.com; jkoroma@pepco.com;

wkynard@pepcoholdings.com; Curry, Charles M:(BGE) <Charles.Curry@bge.com>; Herb.Reigel@smeco.coop; Keith.Ulrich@SMECO.coop; kencrouse@comcast.net; gw1349@att.com; bm2692@att.com; ah5959@att.com; JS664t@att.com; PLANNING@hyattsville.org; pmartinez@washgas.com; Kate Powers <kpowers@hyattsville.org>
Cc: Diaz-Campbell, Eddie <Eddie.Diaz-Campbell@ppd.mncppc.org>; Conner, Sherri <sherri.conner@ppd.mncppc.org>; Lee, Randar <Randar.Lee@ppd.mncppc.org>; Townsend, Donald <Donald.Townsend@ppd.mncppc.org>; Fairley, Lillian <Lillian.Fairley@ppd.mncppc.org>; Davis, Lisa <Lisa.Davis@ppd.mncppc.org>; Grigsby, Martin <Martin.Grigsby@ppd.mncppc.org>; Summerlin, Cheryl <Cheryl.Summerlin@ppd.mncppc.org>; Graham, Audrey <Audrey.Graham@ppd.mncppc.org>; Checkley, Andree <andree.checkley@ppd.mncppc.org>; Dickerson, Garrett <Garrett.Dickerson@ppd.mncppc.org>
Subject: EPlan ACCEPTANCE Referral for DDS-656/DSDS-700/DPLS-472 McDonald's Hyattsville (PB) via DROPBOX
Importance: High

Hello,

This is an EPlan ACCEPTANCE referral for DDS-656/DSDS-700/DPLS-472 McDonald's Hyattsville. These departures were officially accepted on today, February 10, 2020.

Please submit ALL comments to Eddie Diaz-Campbell (email attached). Click on the hyperlink to view the case: <https://www.dropbox.com/sh/lj1qwauioh9hfup/AAAZFq1Bb9q15Y-30ocBQVrfa?dl=0>

This email was sent on behalf of Cheryl Summerlin

Thank you,

Martin Grigsby

Principal Planning Technician | Development Review Division

 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Prince George's County Planning Department
14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772
301-952-3772 | Martin.Grigsby@ppd.mncppc.org



DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF ZONING HEARING EXAMINER

SPECIAL EXCEPTIONS
3527 & 3536

DECISION
September 10, 1984

Applications: Fast Food Restaurants
Applicant: McDonald's Corporation
Opposition: None
Hearing Date: August 8, 1984
Hearing Examiner: Richard A. Romine
Disposition: Denial

NATURE OF PROCEEDINGS

Special Exception 3527 is a request for permission to enlarge a nonconforming fast food restaurant on approximately 46,977 square feet of C-1 and C-G zoned property located on the north side of University Boulevard, approximately 550 feet west of 24th Avenue.

Special Exception 3536 is a request for permission to expand a nonconforming fast food restaurant and, in the alternative, for a grant of a special exception for a fast food restaurant for approximately 1.0542 acres of C-S-C zoned land on the south side of George Palmer Highway, approximately 150 feet north of Cabin Branch Drive. The property is located in the Town of Seat Pleasant which has no objection to the request.

FINDINGS

Requests

(1) Your examiner would, on the merits, approve the expansion requested in S. E. 3527 and approve a special exception in S. E. 3536. However, the corporate applicant in the cases has decided not to file the required disclosure statement listing residential addresses of the corporate directors and officers. The grounds given is that the information is private.

CONCLUSIONS

(1) Section 27-568.3 reads:

"(a) In addition to any other requirements of specific sections of this Division, all applications or amendments thereto, in

zoning cases shall be accompanied by a statement listing the name or names as well as business and residence addresses of all those individuals having at least a five percent (5%) financial interest in the subject property.

(b) For the purposes of Section 27-568.3, the term 'owner' shall be deemed to include not only the owner(s) of record, but also any contract purchaser.

(c) If any owner is a corporation, there shall be filed with the application, a statement listing the officers of the corporation, their business and residence addresses, the date on which they assumed their respective offices, a list of the current Board of Directors and their business and residence addresses, as well as the date on which each Director assumed his office and the date on which his term as a Director shall expire (if any).

(d) If the owner is a corporation, in addition to the requirements set forth above, the owner must file a statement containing the names and residence addresses of those individuals owning at least five percent (5%) of the shares of any class of corporate security including but not limited to stocks of any type or class and serial maturity bonds of any type or class, provided that a corporation listed on a national stock exchange shall be exempt from the requirements of this paragraph." (Emphasis Added)

(2) The language is clear and unambiguous. "Shall", as used in Subsection (c) of 27-568.3, must be interpreted by the examiner as being mandatory. The complete statement must be filed "with the application."

DISPOSITION

DENIAL of S. E. 3527 and S. E. 3536.



THE PRINCE GEORGE'S COUNTY GOVERNMENT

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

SE 3527 (McDonald's Corp.)

NOTICE OF FINAL DECISION
OF THE DISTRICT COUNCIL

Pursuant to the provisions of Section 27-568.20 of the Zoning Ordinance of Prince George's County, Maryland, requiring service 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 your case on November 26, 1984.

CERTIFICATE OF SERVICE

This is to certify that on December 3, 1984, the above notice and attached Council Order were mailed, postage prepaid, to the following named persons of record in the subject case:

Edward C. Gibbs, Jr., Esquire

Applicant or Applicant's Representative

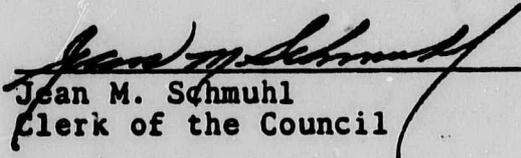
MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PEOPLE'S ZONING COUNSEL

DEPARTMENT OF ASSESSMENTS

PROPERTY STANDARDS DIVISION

McDonald's Corporation


Jean M. Schmuhl
Clerk of the Council

Case No.: S.E. 3527

Applicant: McDonald's Corporation

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

ZONING ORDINANCE NO. 61 -1984

AN ORDINANCE to approve a special exception.

WHEREAS, an application has been filed for property described as approximately 46,977 square feet of land, in the C-1 and C-G Zones, at 2306 University Boulevard, Hyattsville, Maryland, on the north side of University Boulevard approximately 550 feet west of its intersection with 24th Avenue, for a special exception for the expansion of a non-conforming fast-food restaurant; and

WHEREAS, the application was advertised and the property was posted prior to public hearing, in accordance with all requirements of law; and

WHEREAS, the application was reviewed by the Technical Staff and was also reviewed in public hearing before the Zoning Hearing Examiner, all of whom have filed recommendations with the District Council; and

WHEREAS, having reviewed the record, the District Council has determined that the application should be granted as recommended by the Technical Staff; and

WHEREAS, to protect adjacent properties in the neighborhood, this special exception is granted subject to conditions; and

WHEREAS, as the basis for this action, the District Council adopts the Technical Staff Report, as its findings and conclusions in the case, with the following additions:

- A. The District Council adopts in its entirety the Technical Staff Report in this case. In addition, Council finds that with the conditions imposed, the proposed expanded nonconforming use will have no detrimental effect on adjacent properties or the neighborhood, because of vehicular or pedestrian traffic.
- B. Council also finds that the proposed use will be in harmony with the purpose and intent of the Zoning Ordinance; will not substantially impair the integrity

of the Langley Park-College Park-Greenbelt Master Plan; will not affect adversely the health and safety of residents or workers in the area; and will not be detrimental to the use or development of adjacent properties or the general neighborhood.

- C. As to expansion of this particular nonconforming use, Council finds that expansion is permitted in the Zoning Ordinance only for nonconforming uses involving buildings. The purpose of this requirement is to ensure that expansion is allowed only for those nonconforming uses for which substantial expenditures have been made by a property owner.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

Section 1. The Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, is hereby amended to show an approved special exception for the expansion of a nonconforming fast-food restaurant on the property which is the subject of Application No. S.E. 3527. The expansion herein is limited to that shown on the applicant's amended site plan in the record.

Section 2. The special exception approved herein is subject to the following conditions:

1. The site plan in the record shall be amended to reflect the following:
 - (a) Demonstrate how the proposed compact spaces will be clearly marked.
 - (b) Screening along the 50± feet of land abutting the PEPCO transmission line right-of-way (R-55 Zone).
2. Prior to the issuance of a building permit for the enlargement and expansion the amended site plan shall be reviewed by the Planning Board or its designee to insure that the conditions recommended by the Technical Staff in its report have been implemented.

Section 3. This Ordinance shall take effect on the date of its enactment.

ENACTED this 26th day of November, 1984, by the following vote:

In Favor: Council Members Wilson, Amonett, Bell, Castaldi, Casula, Cicoria, and Mills

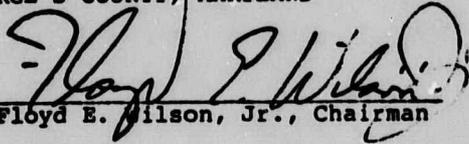
Opposed:

Abstained:

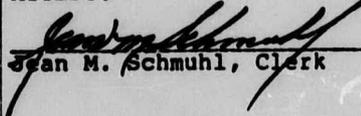
Absent: Council Members Herl and Pemberton

Vote: 7-0

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

BY: 
Floyd E. Wilson, Jr., Chairman

ATTEST:


Jean M. Schmuhl, Clerk



THE PRINCE GEORGE'S COUNTY GOVERNMENT

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

RE: SE-4006 (Washington/Baltimore Cellular One, Div. of SW Bell)

**NOTICE OF FINAL 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 your case on May 20, 1991.

CERTIFICATE OF SERVICE

This is to certify that on May 24, 1991, this notice and attached Council Order were mailed, postage prepaid, to all persons of record.

Maureen W. Epps
Maureen W. Epps
Acting Clerk of the Council

(3/91)

County Administration Building—Upper Marlboro, Maryland 20772

Case No.: S.E. 4006

Applicant: Washington/Baltimore
Cellular One, Div. of SW Bell

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

ZONING ORDINANCE NO. 22 -1991

AN ORDINANCE to approve a special exception.

WHEREAS, an application has been filed for property containing approximately 2,975 square feet, zoned C-O, described as 12753 Old Fort Road, Block M, located on the east side of Indian Head Highway at the intersection with Old Fort Road, for approval of a special exception for PUBLIC UTILITY USE OR STRUCTURE (installation of a monopole for mobile telephone transmission) and variances, and

WHEREAS, the application was advertised and the property posted prior to public hearing, in accordance with all requirements of law; and

WHEREAS, a public hearing on the application was held before the Zoning Hearing Examiner; and

WHEREAS, having reviewed the record, the District Council has determined that the application should be approved; and

WHEREAS, as the basis for this action, the District Council adopts the decision of the Zoning Hearing Examiner as its findings and conclusions in this case.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

Section 1. The Zoning Map of the Maryland-Washington Regional District in Prince George's County, Maryland, is hereby amended to show an approved special exception for PUBLIC UTILITY USE OR STRUCTURE and variances, for the property which is the subject of S.E. 4006.

Section 2. Special Exception 4006 and variance requests of Section 27-328.1 of the Zoning Ordinance are approved subject to the site plan, Exhibit 3, and conditions which are as follows:

- 1) The use is subject to the availability of access and parking on the adjoining C-0 zoned parcel;
- 2) The building shall be brick facade on all sides of the same color and pattern as the brick of the office building located nearest to it in the adjoining C-0 Zone; and
- 3) The building shall be equipped, if required by County law or regulations, with an automatic fire suppressant system.

Section 3. This Ordinance shall take effect on the date of its enactment.

Enacted this 20th day of May, 1991, by the following vote:

In Favor: Council Members Castaldi, Bell, Casula, Del Giudice, Fletcher, MacKinnon, Mills, Pemberton and Wineland

Opposed:

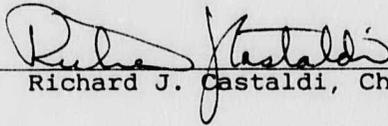
Abstained:

Absent:

Vote: 9-0

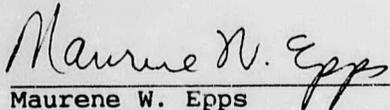
COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, SITTING AS THE DISTRICT
COUNCIL FOR THE MARYLAND-WASHINGTON
REGIONAL DISTRICT IN PRINCE
GEORGE'S COUNTY, MARYLAND

BY:



Richard J. Castaldi, Chairman

ATTEST:



Maureen W. Epps
Acting Clerk of the Council

OFFICE OF ZONING HEARING EXAMINER
FOR PRINCE GEORGE'S COUNTY, MARYLAND

SE-4006 (Washington/Baltimore Cellular One)
Case Number

NOTICE OF DECISION

On the 9th day of April, 1991, the attached Decision of the Zoning Hearing Examiner in Case No. SE-4006 was filed with the District Council. This is not the final decision, only the recommendation of the Hearing Examiner to the District Council.

Within 30 calendar days after the above date, any person of record may file exceptions with the Clerk of the Council to any portion of this Decision, and may request oral argument thereon before the District Council.* If oral argument is requested, all persons of record will be notified of the date scheduled for oral argument before the District Council. In the event no exception or request for oral argument is filed with the Clerk of the Council within 30 calendar days from the above date, the District Council may act upon the application and must decide within 120 days or the case will be considered denied. Persons of record will be notified in writing of the action of the District Council.

Zoning Hearing Examiner
County Administration Building
Upper Marlboro, MD 20772

* Instructions regarding exceptions and oral argument are found on the reverse side of this notice.

cc: Vernell Arrington, Esq., 99 Commerce Place, Upper Marlboro, MD 20772
Jerry L. Carbone, G.P., Washington Indian Head L.P., 6462 Little River
Turnpike, Alexandria, VA 22312
Joel Rozner, Esq., Peoples' Zoning Council, 2nd Fl., CAB, Upper Marlboro
MD 20772

DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF ZONING HEARING EXAMINER

SPECIAL EXCEPTION
4006

DECISION

Application: Public Utility Use or Structure and
Variances
Applicant: Washington/Baltimore Cellular One
Opposition: None
Hearing Date: February 27, 1991
Hearing Examiner: Barry S. Cramp
Recommendation: Approval

NATURE OF REQUESTS

Application is made for permission to construct a 150 foot high pole and antennae in the C-0 Zone. The pole is to support antennae for use in a commercial mobile phone system. The variances pertain to the setback requirements of the C-0 Zone to which the pole does not comply on all four sides of the property.

FINDINGS

- (1) The property is 2,975 square feet of a larger tract of C-0 zoned land located on Indian Head Highway at Old Fort Road. The large tract is 8.4 acres and known as Old Fort Square. Two office buildings are on the large site with four others proposed.
- (2) Across the Old Fort Road right-of-way is a small shopping center, Forest Plaza Shopping Center. Across Indian Head Highway is a church. Single-family detached homes are on lots developed north and east of the property. The neighborhood of the property is this residential area to the north and east of the property extending to Livingston Road between Indian Head Highway, Old Fort Road and Washington Lane. (Exh. 10, p.3)
- (3) The subject property adjoins R-R zoned land which is a wooded floodplain easement. The next adjoining area is the residential lots of Fort Washington Forest which front on Van Buren Drive. Homes are located here. The nearest home to the subject property is over 1,800 feet.
- (4) The applicant proposes to build a 150 foot high pole on the subject 2,975 square feet together with an electronics building of 420 square feet. The proposed uses will be surrounded by a 6 foot high chain link fence. (Exh. 3) This will be an unmanned facility, so it will not generate significant traffic or workers to the property. (Exh. 5, p.2) Access and parking are to be via the office complex parking lot to the south. A public utility use must conform to the regulations of the Zoning Ordinance. (Sec. 27-317(a)(2)) The proposed pole is not set back sufficiently from

any yard of the subject property. Variances are sought for all these nonconformities. We will address this issue later.

(5) The subject property is zoned C-0 which accords with the Master Plan for Subregion VII (1981). This Plan proposes office commercial use and public utilities are permitted in this zone by special exception. (Sec. 27-397) A variance of the setback requirements of a zone must not impair the intent, purpose or integrity of the General Plan or a Master Plan. (Sec. 27-320(a)(3)) A special exception use must not impair the integrity of a public plan. (Sec. 27-317(a)(3)) The proposal does not impair any public plan. (T. 49)

(6) The 150 foot pole proposed is to be located in an area of the property such that if it were to fall or collapse it could land on buildings or parking areas of Old Fort Square. The pole proposed is hollow, made of three sections, and is anchored in concrete. If it fell it would collapse upon itself and would not fall away from the base its full length. No such pole of Cellular One has ever collapsed or fallen over. Such poles are erected on school property, public building sites and along highways. (T. 30-31; Exh. 37) It will meet local standards for withstanding winds. It will handle winds of 90 miles an hour with a half-inch coat of ice on the pole. (T. 32) The pole proposed is only 6 feet in diameter at the base. (See photos, Exhibit 30; T. p.22-25) This means that although it will be visible off site in the residential zone, it is unlikely to be an eyesore even in winter months. (See photo, p.26, Exh. 30; T. 49-50)

(7) The testimony of Amy O'Rourke, real estate agent employed by applicant, addressed the issues of need and alternative sites. (Sec. 27-397(a)(1)) She told of her search for a site applicant needed based on minimum ground elevation. (T.8) This began with a personal search of the area for property with fixtures which could be used with the equipment in the cell system. Next, a search for available property to erect their own tower or pole which would be allowed by the zoning was made. Finally, after the first two searches proved unsuccessful, quasi-government public uses and residential areas were sought. The subject property was selected from a dozen potential sites which were identified and mapped. (T. 6-7; Exh. 28) The site here meets the demands for an ever increasing growth of business in corridors in south County. (T. 7)

(8) The need for mobile phone service was recognized by the District Council in 1985 when S.E. 3593 was before it requesting permission to erect a pole on Ft. Washington Road in the same search area. That application was denied but the antenna was eventually erected on the WSSC water tower on Ft. Washington Road. That tower is not available to the applicant. (T. 10 17-20, 40, 42 & 58) The same witnesses who searched the area for a site also stated that customer demand, enforced by FCC mandates, requires a site he acquired in the general area. (T. 15) The alternative to a pole at this site or in the search area is two towers up to 200

feet tall at other sites north and south of the property. (T. 14) We find that this site is the only available* site in the search area and this public utility is necessary to the public convenience and cannot be supplied with equal public convenience if located elsewhere.

CONCLUSIONS

(1) This application for public utility use was evaluated against the requirements of Section 27-397 to which we find it complies with all subparagraphs. The Staff feels that there may be a danger to workers in the office park, that the pole may collapse or fall. The Planning Board said it would not be a threat to public safety. We agree, the pole is safe. It is possible that the pole could fall due to poor construction or installation but this is not probable. Section 27-461(b), Table of Uses, should not be construed to propose perfectly safe conditions by requiring a special exception for public utility poles over 50 feet high. This same Section allows poles in the same zone without any height limit and without special exception if such pole is for nonprofit and noncommercial purposes. (Sec. 27-461(b)(8))

(2) The proposal, including the variances, is in the public interest. It will provide a public convenience in a location which is safe and where the setback requirements of Section 27-462(b) are not necessary for the public safety. Compliance with the strict letter of this section would unreasonably prevent the applicant/owner from using its property. No harm to adjoining property is probable by installing and maintaining the facility, so the relaxation of the requirement of Section 27-462 results in substantial justice to applicant as well as other property owners nearby. The variances of the setbacks will not impair the spirit of that Ordinance provision. Public safety and welfare are secured.

(3) Applicant has supplied the record with facts, unrebutted, that show the public utility facility is in the proper zone, conforms to the regulations of the C-O Zone, meets with the scheme of the Master Plan, comports with the purposes of the Zoning Ordinance, is compatible with the uses, properties and persons within the general neighborhood and area and does not come under the requirements for a tree conservation plan.

RECOMMENDATION

We recommend approval of the site plan Exhibit 3, Special Exception 4006 and the variances requested; Subject, However, to conditions as follows:

- 1) The use is subject to the availability of access and parking on the adjoining C-O zoned parcel;

- 2) The building shall be brick facade on all sides of the same color and pattern as the brick of the office building located nearest to it in the adjoining C-O Zone; and
- 3) The building shall be equipped, if required by County law or regulations, with an automatic fire suppressant system.

* The availability of other sites is critical to the determination of equal public convenience. There may be other sites which could supply the needs for the special exception use but may not be available. County Council for Prince George's County v. Potomac Electric Power Company, 282 A.2d 113, 121 (1971) The Court here was reviewing the same wording which now appears in Section 27-397(a)(1).



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
(301) 988-3600

February 3, 1997

RE: S. E. 4201 (McDonald's Corporation)

DECLARATION OF FINALITY OF THE ZONING HEARING EXAMINER'S DECISION

The decision of the Zoning Hearing Examiner in this case was filed with the District Council of Prince George's County, Maryland, on November 29, 1996. A copy of the decision was sent to all persons of record on that date. Since no appeal of that decision was filed with the District Council by any person of record or the People's Zoning Council, and since the District Council did not elect to make the final decision, the decision of the Zoning Hearing Examiner became final and effective on January 21, 1997, in accordance with the provisions of Section 27-312 of the Zoning Ordinance of Prince George's County, Maryland.

CERTIFICATE OF SERVICE

This is to certify that on February 3, 1997, this notice was mailed, postage prepaid, to all persons of record.


Joyce T. Sweeney
Clerk of the Council

(3/94)

County Administration Building — Upper Marlboro, Maryland 20772

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

**SPECIAL EXCEPTION
4391**

DECISION

Application: Alteration, Enlargement, Extension, or reconstruction of a Certified Non-Conforming Use (Fast Food Restaurant)
Applicant: McDonald's Corporation
Opposition: None
Hearing Date: September 20, 1995
Hearing Examiner: Richard A. Romine
Disposition: Approved with Conditions

NATURE OF PROCEEDINGS

(1) S.E. 4201 is a request for alteration, enlargement, extension or reconstruction of a certified non-conforming use, a fast food restaurant, on approximately 1.078(±) acres of C-S-C zoned land, located on the north side of University Boulevard, approximately 500 feet west of 24th Avenue, Hyattsville, Maryland.

FINDINGS

Subject Property

(1) The subject 1.078(±) acre property is improved with an existing McDonald's fast food restaurant with an outdoor play area in the front; menu board and drive-thru windows and, it appears, a 75 space parking lot. Landscaping is provided at a short boundary line in the northeast corner with the PEPCO Right-Of-Way and a 10 foot landscape strip is provided along University Boulevard.

Surrounding Property

(2) The surrounding properties, including the Adelphi Shopping Center, are developed commercial retail establishments (strip commercial) with large parking lots surrounding them. The subject property is bounded on the north by a shopping center in the C-S-C Zone and a PEPCO power line in the O-S Zone. It is bounded on the east by a shopping center in the C-S-C Zone; on the south across University Boulevard, by a gas station,

convenience store and laundromat in the C-S-C Zone and on the west by a gas station in the C-S-C Zone.

Neighborhood

(3) The neighborhood is bounded on the northwest by a PEPCO transmission line, on the east by the Northwest Branch and on the south by University Boulevard. This neighborhood includes a mixture of commercial and residential uses. Retail and service commercial development dominates the University Boulevard frontage. Medium density, single-family, attached houses characterize the interior of the neighborhood. This is the neighborhood which was adopted in previous special exception approvals for the subject property. (Exhibit 10)

Master Plan

(4) The subject property is in that area covered by the Langley Park-College Park-Greenbelt Master Plan approved by the District Council on October 31, 1989. "The . . . Master Plan . . . recommends retail commercial use for the subject property. The subject property is a part of the strip commercial development along University Boulevard between Riggs Road and 24th Avenue. The Master Plan notes that this strip commercial development has eight (8) gas stations, three (3) auto-related service commercial uses and six (6) fast-food restaurants which present a number of physical and visual deficiencies including inadequate parking problems (refer to page 89). The Master Plan recommends that where feasible, adjacent parking areas be linked (refer to page 102). However, the Master Plan is silent on the parking situation for the subject property." (Exhibit 19)

Zoning History

(5) The subject site was placed in the C-S-C Zone upon adoption of the 1990 Langley Park-College Park-Greenbelt Sectional Map Amendment (SMA). The subject use commenced in 1980 when the property was zoned C-1. In 1984, the use was certified nonconforming due to changes in the Zoning Ordinance and SE 3527 was approved for an expansion of the existing building (non-conforming use). The District Council approved SE 4066 on May 28, 1983, to add a soft playland. On March 11 1993, the Planning Board approved DPLS-158 to waive 5 spaces from the then required 80 parking spaces. (Exhibit 10)

Landscaping

(6) The subject property is exempt from the Woodland Conservation requirements of the County as the property contains less than 10,000 square feet of woodlands and there is no approved Tree Conservation Plan. (Exhibit 17) The landscaping provided appears to meet or exceed the requirements of the Landscape Manual, but, the plan does not contain the standard worksheets from which compliance can be determined. (Exhibit 29)

Applicant's Proposal

(7) Applicant proposes, in the request, to construct an enclosed play area in most of the area the existing unenclosed, "soft playland" is located. Because applicant is required by Section 27-462(b) to maintain a 10 foot setback from the "Street Line," the Master Plan right-of-way line in this case, applicant must reduce the depth of the play area from 27 feet to 22 feet. Applicant also proposes reducing the maximum width of the enclosed playground to 43 feet. Applicant is adding 908(±) sq. ft. of enclosed playland area to the existing building.¹ Access the new play area is to be only from inside the restaurant. (Exhibits 5, 10 and 24.)

(8) To the southeast, across University Boulevard, is located R-55 zoned land. The subject property is within 200 feet of the R-55 zoned land. However, University Boulevard has a 100 foot right-of-way (120 feet proposed) and a heavily traveled roadway. Applicant does not provide the required bike rack. There is a sidewalk in front of the site. Hence, the subject use has existed for 30(±) years on site without the bike walk.

Parking

(9) Applicant has an approval for the existing 75 parking space asphalt covered parking lot. This includes an excusal of 5 parking spaces by the Planning Board. The addition of the enclosed play area increases the parking space requirements pursuant to the following calculations:²

¹ Applicant's submitted site plan is simply an erasure, reproduced copy of the site plan approved in SE 4096. While the plan is "busy," it also is becoming difficult to read. Further, there appear to be writings above the plant list which are inconsistent with the plant list.

² Applicants note No. 9 on the proposed site plan, Exhibit 24, apparently calculates the parking requirements correctly, but does so in a confusing manner.

USES	REQUIREMENT	NO./SQ. FT.	REQUIRED/PROVIDED
Fast Food Restaurant	1 space/3 seats	141 seats	47
GFA exclusive of Storage/Patron area	1 space/80 sq. ft.	1680 sq. ft.	33
Playland Area	1 space/80 sq. ft.	908 sq. ft.	12
Total			92/75

(10) Applicant provides four (4) handicapped spaces, 25 compact spaces and 46 regular spaces on site, for a total of 75 parking spaces. Applicant requested a DPLS (No. 206) from the Planning Board for 17 parking spaces, which was granted. (Exhibit 24) Staff analyzed the request for reduced parking:

"Enclosure of the playland results in an added . . . (908±) . . . square feet of interior space to the restaurant which requires . . . (17) . . . spaces . . . (908±) . . . square feet + 80 square feet = . . . (12) . . . spaces). The existing use requires 80 spaces, five (5) of which were waived by the Planning Board on March 11, 1993. The site plan shows 75 spaces are provided. The subject application requests waiver of an additional . . . (12) . . . spaces, for a total of . . . (17) . . . spaces. The applicant contends that the proposed climate-controlled total playland will not change parking demand beyond that presently experienced. Staff concurs for the following reasons. No additional seating or services will be added as a result of enclosing the playland. Thus, parking demand on-site would increase minimally, if at all. In addition, the use has operated continuously since 1980 with existing on-site parking, with no adverse impacts to the surrounding properties. (Refer to memoranda from the Transportation and Public Facilities and Community Planning Divisions dated July 5, 1995 and June 19, 1995, respectively, Exhibits 19 and 21.) For these reasons, staff believes the subject request is reasonable. . . ." (Exhibit 10)³

LAW APPLICABLE

(1) Certified Non-conforming uses may be altered, extended or enlarged pursuant to the provisions of Section 27-242. Section 27-242(a) provides:⁴

³ Staff's initial recommended condition 1.c. and d. to DPLS-206, movement of handicapped spaces to next of the building with a new ramp, were subsequently found not necessary or practical.

⁴ The subject request does not qualify for one of the modifications that may be approved by the Planning Board. (Section 27-242(b)(4))

“(a) In general.

“(1) A nonconforming building or structure, or a certified nonconforming use (except as provided for in this section) may be altered, enlarged, or extended, provided that:

“(A) The alteration, enlargement, or extension conforms to the building line setback, yard, and height regulations of the zone in which the use is located; and

“(B) A special exception has been approved by the District Council, in accordance with Part 4 of this Subtitle.”

(2) A special exception may be approved if the request meets the requirements of Sections 27-304, 27-317 and other applicable sections delineating requirements for the zone and use, such as landscaping and parking.

(3) Section 27-304 provides, in pertinent part:

“(a) The alteration, enlargement, extension, or reconstruction of any nonconforming building or structure, or certified nonconforming use (except those certified nonconforming uses not involving buildings, those within the Chesapeake Bay Critical Area Overlay Zones as specified in paragraph 7, below, unless otherwise provided, and except for outdoor advertising signs), may be permitted subject to the following:

“(1) A nonconforming building or structure, or a building or structure utilized in connection with a certified nonconforming use, may be enlarged in height or bulk, provided that the requirements of Part 11 are met with respect to the area of the enlargement.

“(2) A certified nonconforming use may be extended throughout a building in which the use lawfully exists, or to the lot lines of the lot on which it is located, provided that:⁵

“(A) The lot is as it existed as a single lot under single ownership at the time the use became nonconforming; and

⁵ A “lot” is: “A designated area of land to be used, developed, or built upon as a unit (in accordance with this Subtitle), and having the minimum contiguous area required for a ‘Lot’ in the applicable zone and frontage on a public ‘Street,’ or private road, right-of-way, or easement approved in accordance with Subtitle 24. A ‘Lot’ shall be made up of one (1) or more entire ‘Record Lots.’” (Section 27-107.01(a)(129))

⁶ A “Record Lot” is: “An area of land designated as a separate parcel of land on a ‘Record Plat,’ or on a legally recorded deed (to land for which no ‘Subdivision’ plat is required pursuant to the provisions of Subtitle 24) filed among the Land Records of Prince George’s County, Maryland.” Section 27-107.01(a)(142))

7(b) The requirements of Part 11 are met with regard to the extended area.

7(d) When not otherwise allowed, a certified nons conforming use may be otherwise altered by the addition or relocation of improvements, such as fencing, landscaping, off-street parking and loading areas, and outdoor trash enclosures, or the relocation of buildings or other improvements within the boundary lines of the lot as it existed as a single lot under single ownership at the time the use became nons conforming.

7(b) Any new, or any addition to, or alteration or relocation of an existing building or other improvement (which is either nons conforming or utilized in connection with a certified nons conforming use), shall conform to the building line, setback, yard, and height regulations of the zone in which the certified nons conforming use is located. The District Council may further restrict the location and bulk of the building or structure where the evidence so warrants. If the use is presently permitted by Special Exception in the zone, the new building, improvement, or addition shall conform to all of the physical requirements of the specific Special Exception use.

7(b) Applications for this Special Exception shall be accompanied by a copy of the Use and Occupancy Permit for the certified nons conforming use, as provided for in Section 27-341(b). . . .

(4) Section 27-360 provides:

7(a) A drive-in or fast-food restaurant may be permitted, subject to the following:

7(1) All proposed buildings, structures, and outdoor facilities (including vehicle parking) shall be located at least two hundred (200) feet from the nearest property line of any land in any Residential Zone, or land proposed to be used for residential purposes on an approved Basic Plan for a Comprehensive Design Zone, approved Official Plan for an R-P-C Zone, or any approved Conceptual or Detailed Site Plan. The District Council may reduce this setback requirement when it determines that the landscaping, screening, and buffering requirements in the Landscape Manual, or other conditions, will adequately protect abutting residential property;

7(2) A bicycle rack for at least six (6) bicycles shall be provided on the premises, unless the applicant demonstrates to the satisfaction of the District Council that the requirement is inappropriate because of the location or nature of the establishment;

7(3) The use will not restrict the availability, or upset the balance, of land use in the neighborhood for other commercial uses; and

7(4) Special consideration shall be given to advertisement, outdoor display, outdoor activity, lighting, hours of operation, and other aspects of the proposed operation to assure that the health, safety, and general welfare of the community will be protected.

7(b) A special exception shall not be required for the conversion of a drive-in restaurant to a fast-food restaurant, or the conversion of a fast-food restaurant to a drive-in

restaurant, provided that no enlargement or extension takes place. The addition of a window or other facility to provide for drive-in service shall not be construed to be an enlargement or extension. The conversion shall be permitted for a drive-in or fast-food restaurant which has become a certified nonconforming use or was established pursuant to a Special Exception, provided that any conditions of the Special Exception remain in effect."

(5) Section 27-329.02 provides:

"(a) All landscaping required for a Special Exception shall be approved at the same time the Special Exception is approved. Except for uses which do not require the construction, enlargement, or extension of a building, all land uses requiring the approval of a Special Exception shall comply with the landscaping, buffering, and screening requirements set forth in the Landscape Manual through the approval of a landscape plan. In approving a Special Exception, the District Council may require additional landscaping, screening, or buffering if it determines that the amount required by the Landscape Manual is insufficient to adequately protect adjacent uses.

"(b) Amendments to landscaping, buffering, and screening required in a Special Exception shall be made in accordance with Section 27-329."

(6) Section 27-317 provides:

"(a) A Special Exception may be approved if:

"(1) The proposed use and site plan are in harmony with the purpose of this Subtitle;

"(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

"(3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;

"(4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;

"(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

"(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

(7) "[The] Court ... [of Appeals of Maryland]... has frequently expressed the applicable standards for judicial review of the grant or denial of a special exception use. The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating this presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

(8) "Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg, 275 Md. 183, 187-88, 282 A.2d 488, 502 (1970); Montgomery County v. Marston's Club, Inc., 202 Md. 278, 287, 98 A.2d 281, 284 (1963); Anderson v. Smutz, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974). These standards dictate that if a requested special exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied." Schultz v. Prills, 291 Md. 1, 432 A.2d 1318, 1325 (1981); Monahan v. Montgomery County, 107 Md. App. 1, 688 A.2d 1253 (1986).

(9) "...[T]he appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed and the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Dann v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31; 214 A.2d 148, 153 (1965); Anderson v. Smutz, 23 Md. App. 612, 617-18, 329 A.2d 716, 720, 724 (1974)." Schultz v. Prills, 291 Md. 1, 432 A.2d 1318, 1331 (1981); Monahan v. Montgomery County, 107 Md. App. 1, 688 A.2d 1253 (1986).

CONCLUSIONS

(1) The purposes of the Zoning Ordinance are listed in Section 27-102. Fifteen purposes are enumerated. However, the first purpose is a general statement that could be said to summarize the remainder: "To protect and promote the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the County." As discussed below, it is found the proposal is in harmony with the purpose of the Zoning Ordinance.

(2) The subject fast food restaurant was established in 1980 as a permitted use on site was certified as a non-conforming use because the Zoning Ordinance was changed and the uses in the C-1 Zone were made the same as those in the C-S-C Zone which required a fast food restaurant be approved by special exception. No special exception for the base use, fast food restaurant, has been approved, only special exception for the expansion of the non-conforming fast food restaurant have been approved.

(3) The building on site is to be not over 17 feet in height. Therefore, there are no side or rear yard setback requirements and applicant complies with the 10 foot front yard requirements for commercially zoned property as set forth in Section 27-402.

(4) The property subject of this request was issued a permit for a non-conforming fast food restaurant, Permit No. 80820-04-U. The permit references only deed Liber 3882 Folio 628. The applicant's for this expansion of a play area references also deed Folio 4304 Folio 615, an apparent discrepancy in land area. However, after referral for clarification, Staff states a comparison of the non conforming use file reveals the same land area and metes and bounds description for the property. (Exhibit 29) Thus, it can be found the subject lot is as it existed as a single lot under single ownership at the time the use became non-conforming. By the grant of DPLS 206 the requested expansion conforms with Part 11, Parking, of the Zoning Ordinance.

(5) The subject use has existed on site for 30(±) years without complying with the provision of Section 27-380(a)(1) and (2). Because of the long existing use, the distance the subject property is from residential land, and the nature of University Boulevard and its high vehicular use, there is no reason to require compliance with these Sections.

(6) While the application appears to comply with the requirements of the Landscape Manual, its standard worksheets need to be provided.

(7) Thus, it is found the request is in conformance with all the applicable requirements and regulations of the Zoning Ordinance. The proposed use will not impair the integrity of the Master Plan for Langley Park-College Park and Greenbelt. The proposed use will not adversely affect the health, safety of welfare of residents or workers in the area nor be detrimental to the use or development of adjacent properties or the general neighborhood.

SE 4201

Page 10

The subject property is exempt from the Woodland Conservation requirements of the County and State.

DISPOSITION

Special Exception 4201 is approved subject to the following conditions:

- 1. Applicant shall submit an amended site/landscape plan that complies with the requirements of this decision, the Zoning Ordinance and Landscape Manual, including standard landscape worksheets, with the Office of the Zoning Hearing Examiner prior to any permits being issued pursuant to this decision.**
- 2. Applicant is excused from the provisions of Sections 27-380(a)(1) and (2).**

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

**SPECIAL EXCEPTION
4686**

AND

**ALTERNATIVE COMPLIANCE
AC-11028**

DECISION

Application: Expansion of Nonconforming Use (Eating and Drinking Establishment) and Alternative Compliance (AC-11028)
Applicant: McDonald's Corp.
Opposition: None
Hearing Date: May 15, 2012
Hearing Examiner: Maurene Epps Webb
Disposition: Approval with Conditions

NATURE OF PROCEEDINGS

(1) Special Exception 4686 is a request for permission to expand an Eating or Drinking Establishment (formerly called Fast Food Restaurant) on approximately 1.07 acres of land in the C-S-C (Commercial Shopping Center) Zone, and to approve alternative compliance to a provision of the Landscape Manual. The property is located on the north side of University Boulevard, approximately 375 feet west of 24th Avenue, and identified as 2306 University Boulevard, Hyattsville, Maryland.

(2) There is no opposition to the Application. The Technical Staff and Planning Board recommended approval with the same three conditions. (Exhibits 13 & 29)

(3) At the close of the hearing, the record was left open to allow Applicant the opportunity to submit a Letter of Exemption from the Woodland Conservation Ordinance and copies of the Use and Occupancy permits issued for the site. (Exhibits 37(a)- (b) and 38 (a) – (d)). The Technical Staff was also allowed an opportunity to review the revised site plans. (Exhibit 39(a)) The last of these items was received on July 24, 2012, and the record was closed at that time.

FINDINGS OF FACT

(1) The subject property is an irregularly shaped lot which is improved with an existing 4,000 square foot McDonald's restaurant. Access to the subject property is from University

Boulevard via two (2) driveways. The existing McDonald's Restaurant has been on site since 1960-1961 and became a nonconforming use due to changes in the Zoning Ordinance. (Exhibit 13)

(2) The District Council approved Special Exception 3527 for an expansion of the existing McDonald's in 1984, and two (2) other Special Exceptions for a play area. Subsequent to this approval the District Council amended the Zoning Ordinance, changed the use to an "Eating or Drinking Establishment" and permitted it by right in the C-S-C Zone. However, a footnote was added that requires the instant Application. (See, Prince George's County Zoning Ordinance, Section 27-461(b), Fn. 24, which provides in pertinent part as follows: "Any fast-food restaurant operating pursuant to an approved Special Exception as of the effective date of CB-49-2005 shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such fast food restaurants and their underlying special exceptions may be modified pursuant to the existing provisions relating to revisions or amendments to special exceptions generally and fast-food restaurants specifically as they exist in the Zoning Ordinance.")

Neighborhood/Surrounding Use

(3) The neighborhood is bounded on the northwest by a Potomac Electric Power Company ("PEPCO") transmission line, on the east by the Northwest Branch, and on the south by University Boulevard.

(4) The subject property is surrounded by the following uses:

- North - A shopping center in the C-S-C Zone and a PEPCO transmission line in the O-S Zone
- South - Across University Boulevard is a gas station, convenience store and Laundromat in the C-S-C Zone
- East - A shopping center in the C-S-C Zone
- West - A gas station in the C-S-C Zone

Master Plan and Sectional Map Amendment

(5) The subject property is located in an area identified in the 2002 General Plan as the Developed Tier and the proposed development is in conformance with the applicable policies of the Developed Tier. The Application is in conformance with the land use recommendations for retail commercial land uses set forth in the 1990 Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Sectional Map Amendment for Planning Areas 65, 66 and 67. The Sectional Map Amendment retained the C-S-C Zone for the subject property.

(6) The subject property is not located within a Chesapeake Bay Critical Area Overlay Zone, nor within a 100- year floodplain. The property is exempt from the requirements of the Woodland and Wildlife Habitat Conservation Ordinance because there are no previously approved tree conservation plans for the site and because the property contains less than 10,000 square feet of woodland on-site. (Exhibit 37(b))

Applicant's Proposal

(7) The Applicant is proposing to raze the existing structure and construct a one-story, 4,372 square foot Fast Food Restaurant with a side-by-side drive-through window (two order stations side by side will queue into a single lane prior to payment and pick-up). The parking lot will be redesigned to provide better on-site circulation, and the number of access points to the site shall be reduced from two to one. (T. 8). There will be an 8-foot-tall masonry wall around the trash dumpster located in the northwest corner of the site. Applicant wishes to retain the existing freestanding sign that is only set back five (5) feet from the property line (and not the requisite ten (10) feet). The Planning Board has approved a Departure from Design Standards to allow the sign to remain. (Exhibit 30)

(8) Architectural details and elevations were submitted. (Exhibit 34 (i)) Applicant has provided a concrete pad with a "U-shaped" bicycle rack in the landscape island opposite the main entrance into the building. The Planning Board and Staff had requested that the rack be adjacent to the main entrance but Applicant's witness explained that it was moved slightly away to prevent any blockage of the handicap access ramp. (Exhibit 34, T. 14) Applicant intends to operate the restaurant twenty-four hours per day, seven days per week.

(9) Applicant submitted a copy of its stormwater concept plan as well as the Stormwater Management Concept Approval from the Department of Public Works and Transportation. (Exhibits 7 and 34 (f)) It also has a Natural Resource Inventory Equivalency Letter due, in part, to the lack of regulated environmental features on site. (Exhibit 8)

(10) Applicant submitted a copy of the Use and Occupancy permits for the nonconforming use. (Exhibit 38 (a)-(d))

Alternative Compliance

(11) The subject property must satisfy Sections 4.2, 4.4, 4.7 and 4.9 of the Landscape Manual. The Site Plan has the requisite 10-foot-wide buffer adjacent to University Boulevard. However, Applicant has requested Alternative Compliance from Section 4.7, (Buffering Incompatible Uses), in order to reduce the size of the landscape buffer required along the northwestern property line abutting a PEPCO right-of-way, and to reduce the size

of the landscape buffer and plant materials required along the northern and eastern property lines. Near the PEPCO land, Applicant proposes to install a dumpster with an 8-foot tall brick enclosure set back approximately 12 feet from the northwestern property line, and a mix of new evergreen and shade trees, an existing tree, and shrubs. (T. 6) Applicant proposed to add 59 plant units in this area, ten more than required. The Alternative Compliance Committee recommended approval of the request for the property adjacent to the PEPCO right-of-way since "the dumpster enclosure will additional[ly] serve as a wall to mitigate any incompatibility between the subject development and the adjacent public utility". (Attachment to Exhibit 13, 1/5/2012 Memorandum from Fields to Piret) The Planning Board approved a Departure from Design Standards that addressed the reduced bufferyard along the eastern and northern property lines, originally requested in its application for alternative compliance. (Exhibit 31; T. 11-12)

Agency Comment

(12) The Technical Staff recommended approval with conditions. (Exhibit 13) Applicant addressed each in its revised Site Plan; although as noted, *supra*, it did not place the bicycle rack in the exact location suggested. (Exhibit 34; T. 13-14)) Staff reviewed the revised Site Plan and noted that it "appears to address all of the conditions of approval set forth in the Technical Staff Report and Planning Board Resolution [and] the landscaping is consistent with the recommendation for AC-11028". (Exhibit 39(a))

(13) The Transportation Planning Section noted that the expansion would result in 19 additional AM peak hour vehicular trips and 13 additional PM peak hour vehicular trips. Staff considered the likely impact to be negligible:

Given that the expansion is fairly minor in consideration of the use that already exists, the proposal would have a very minimal impact regarding the health, safety, or welfare of residents and workers in the area. Any net impact by enlarging the use is very likely offset by eliminating one of the existing curb cuts along MD 193, and concentrating all traffic entering and leaving the site at a single location.... Access and on-site circulation are acceptable....

(Attachment to Exhibit 13, September 22, 2011 Memorandum from Mazog to Lockard)

(14) The Planning Board recommended approval of the instant request with conditions. (Exhibit 29) It also approved companion departures (DSDS-669, DDS-611, and DPLS-361) (Exhibits 30, 31, and 32) These approvals validate an existing sign that is located five (5) feet from the University Boulevard (MD 193) right-of-way, reduces the number of required parking spaces from 76 to 53, allows the substandard landscape yard for the portions of the site adjacent to the shopping center, and reduces the drive aisle that connects to the loading spaces from 22-feet to 20-feet.

LAW APPLICABLE

(1) As stated in Footnote 24 of Section 27-461(b), the enlargement and reconstruction of this certified nonconforming use is permitted in the C-S-C Zone in accordance with the requirements of Section 27-384 of the Zoning Ordinance. All Special Exceptions must be found in compliance with the general criteria of Section 27-317 of the Zoning Ordinance.

(2) Section 27-317 provides as follows:

Sec. 27-317. Required findings.

(a) A Special Exception may be approved if:

- (1) The proposed use and site plan are in harmony with the purpose of this Subtitle;
- (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;
- (3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;
- (4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;
- (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and
- (6) The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and
- (7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130 (b)(5).

(b) In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted:

- (1) where the existing lot coverage in the CBCA exceeds that allowed by this Subtitle, or
- (2) where granting the Special Exception would result in a net increase in the existing lot coverage in the CBCA.

(3) Section 27-384 provides, in pertinent part, as follows:

(a) The alteration, enlargement, extension, or reconstruction of any nonconforming building or structure, or certified nonconforming use (except those certified nonconforming uses not involving buildings, those within the Chesapeake Bay Critical Area Overlay Zones as specified in paragraph 7, below, unless otherwise provided, and except for outdoor advertising signs), may be permitted subject to the following:

(1) A nonconforming building or structure, or a building or structure utilized in connection with a certified nonconforming use, may be enlarged in height or bulk, provided that the requirements of Part 11 are met with respect to the area of the enlargement.

(2) A certified nonconforming use may be extended throughout a building in which the use lawfully exists, or to the lot lines of the lot on which it is located, provided that:

(A) The lot is as it existed as a single lot under single ownership at the time the use became nonconforming; and

- (B) The requirements of Part 11 are met with regard to the extended area.
- (3) A certified nonconforming use may be reconstructed, provided that:
- (A) The lot on which it is reconstructed is as it existed as a single lot under single ownership at the time the use became nonconforming;
- (B) Either the nonconforming use is in continuous existence from the time the Special Exception application has been filed through final action on the application, or the building was destroyed by fire or other calamity more than one (1) calendar year prior to the filing date;
- (C) The requirements of Part 11 are met with respect to the entire use; and
- (D) The Special Exception shall terminate unless a building permit for the reconstruction is issued within one (1) calendar year from the date of Special Exception approval, construction in accordance with the building permit begins within six (6) months from the date of permit issuance (or lawful extension), and the construction proceeds to completion in a timely manner.
- (4) When not otherwise allowed, a certified nonconforming use may be otherwise altered by the addition or relocation of improvements, such as fencing, landscaping, off-street parking and loading areas, and outdoor trash enclosures, or the relocation of buildings or other improvements within the boundary lines of the lot as it existed as a single lot under single ownership at the time the use became nonconforming.
- (5) Any new, or any addition to, or alteration or relocation of an existing building or other improvement (which is either nonconforming or utilized in connection with a certified nonconforming use), shall conform to the building line, setback, yard, and height regulations of the zone in which the certified nonconforming use is located. The District Council may further restrict the location and bulk of the building or structure where the evidence so warrants. If the use is presently permitted by Special Exception in the zone, the new building, improvement, or addition shall conform to all of the physical requirements of the specific Special Exception use.
- (6) The District Council may grant this Special Exception for property within a one hundred (100) year floodplain only after it has determined that the proposed enlargement, extension, reconstruction, or alteration will:
- (A) Not require additional filling in the floodplain;
- (B) Not result in an increase in elevation of the one hundred (100) year flood; and
- (C) Conform with all other applicable requirements of this Subtitle and of Division 2 of Subtitle 4, "Building," of this Code, entitled "Construction or Changes in Floodplain Areas."
- (7) In a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted where the existing lot coverage in the CBCA exceeds that allowed by Section 27-548.17, and which would result in a net increase in the existing lot coverage in the CBCA. In addition, a Special Exception shall not be granted which would result in converting a property which currently meets the lot coverage in the CBCA requirements of Section 27-548.17 to a nonconforming status regarding lot coverage in the CBCA, except if a finding of extenuating circumstances is made, such as the necessity to comply with other laws and regulations.
- (b) Applications for this Special Exception shall be accompanied by a copy of the Use and Occupancy Permit for the certified nonconforming use, as provided for in Section 27-241(b).

• * * * *

(4) The request must also comport with the purposes of the C-S-C Zone found in Section 27-454(a) of the Zoning Ordinance. This Section provides as follows:

(a) **Purposes.**

- (1) The purposes of the C-S-C Zone are:
- (A) To provide locations for predominantly retail commercial shopping facilities;

- (B) To provide locations for compatible institutional, recreational, and service uses;
- (C) To exclude uses incompatible with general retail shopping centers and institutions; and
- (D) For the C-S-C Zone to take the place of the C-1, C-2, C-C, and C-G Zones.

(5) The appropriate standard to be used in determining whether a requested Special Exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed and the particular location proposed would have any adverse effects above and beyond those inherently associated with such a Special Exception use irrespective of its location within the zone. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31; 214 A.2d 146, 153 (1965); Anderson v. Sawyer, 23 Md. App. 612, 617-18, 329 A.2d 716, 720, 724 (1974). Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1331 (1981). See, Mossberg v. Montgomery County, 107 Md. App. 1, 666 A2d 1253 (1995).

CONCLUSIONS OF LAW

(1) The instant Application is in conformance with the following purposes of the Zoning Ordinance (found in Section 27-102):

To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;

The reconstruction of an outdated restaurant use at this location will promote the safety, comfort, convenience and welfare of the present and future inhabitants of the County by providing a use that would support the needs of the residents and traveling public in the area.

To implement the General Plan, Area Master Plans, and Functional Master Plans;

Among the goals of the General Plan for the Developed Tier are: (1) to strengthen existing neighborhoods; (2) to encourage appropriate infill/redevelopment; (3) to expand tree cover through the increased planting of trees and landscaping; (4) to renew/redevelop commercial strips. (2002 General Plan, pgs. 31-32) By allowing the reconstruction of a use at an existing, developed site, the approval of this Application would strengthen the existing neighborhood, and provide for redevelopment and commercial renewal. This proposal is, therefore, in conformance with the goals of the General Plan for the Developed Tier. It also implements the goals of the Master Plan which recommends retail commercial use at the site.

To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;

Because this Application proposes the redevelopment of an existing site, approval of it would promote the conservation of an existing community and would not contribute to further strain on the existing public facilities and services.

To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;

Approval of the subject Application would result in orderly growth by eliminating the need for Applicant to construct the restaurant in a less suitable area of the County. Thus, establishing a modern, attractive business at this well-traveled location within the County is in harmony with this purpose of the Ordinance.

To provide adequate light, air, and privacy;

The subject restaurant will be in harmony with this purpose since it will be developed in conformance with the various regulations in the Zoning Ordinance to ensure the provision of adequate light, air and privacy, both for the customers of the subject site and for its neighbors.

To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;

The subject restaurant would be in harmony with this purpose once developed in accordance with the various principles that have been codified in the Zoning Ordinance to promote the beneficial relationships between land and buildings.

To protect the County from fire, flood, panic, and other dangers;

The subject restaurant would be in harmony with this purpose once developed in conformance with regulations established by the Zoning Ordinance, as well as other County Ordinances, which are intended to protect from fire, flood, panic and other dangers, (such as the floodplain regulations, stormwater management regulations, the fire prevention code, the building code, and the Tables of Permitted Uses for the various zones.)

To encourage economic development activities that provide desirable employment and a broad, protected tax base;

The subject restaurant would be in harmony with this purpose because it would be a local business operated principally for the benefit of residents of Prince George's County.

The business would contribute to the tax base of the County directly and through the employment provided to its workers.

To prevent the overcrowding of land;

The subject restaurant would be in harmony with this purpose once developed in accordance with various principles that have been codified in the Zoning Ordinance to ensure the prevention of overcrowding, including the provisions of the Table of Uses that provide for the compatibility of uses in the same zoning district, and provisions in the Regulations which restrict the amount of land that can be occupied by buildings and vehicular circulation areas.

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 subject restaurant would be in harmony with this purpose because it would be located on a site that has been previously developed in accordance with the regulations established by the Zoning Ordinance (and other County ordinances) which are intended to lessen the danger and congestion of traffic on roads, such as the requirements for the provision of adequate off-street parking, and the separation of entrances from nearby intersections. Additionally, Staff has determined that the redeveloped use should result in 19 additional vehicular trips during the AM peak hours, and 13 during the PM peak hours. These minimal trips should not negatively impact the roads in the area of the subject property.

To insure the social and economic stability of all parts of the County;

As the Zoning Ordinance is the principal tool for the implementation of the planning process by enacting legal requirements which implement the planning goals that strive to maintain the social and economic stability of the County, conformance with the requirements and regulations of the Zoning Ordinance is prima facie evidence of the Application's harmony with this purpose. Additionally, the subject restaurant will promote the economic and social stability of the County by contributing to the tax base, by providing a needed service to the surrounding community, and by virtue of its location in the midst of compatible uses.

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;

As the subject restaurant will be located on a developed site, it will have minimal additional impact to the natural features in the County. The use will not itself generate noise or air pollution, and the use will be in compliance with the County's Woodland

Conservation policies in that it will be exempt by virtue of its size and developed condition from the requirement to have a Tree Conservation Plan. No steep slopes or scenic vistas will be affected.

(Section 27-317(a)(1))

(6) The instant Application is also in conformance with the general purposes of commercial zones, and the specific purposes of the C-S-C Zone (found in Sections 27-446 (a) and 27-454 (a)(1), respectively) for the foregoing reasons, and since the use is a commercial/retail use that is compatible with the surrounding shopping center and other commercial uses. (Section 27-317(a)(1))

(7) Commercial uses such as Eating and Drinking Establishments are presumed compatible with other Commercial uses provided the established setbacks, lot coverage, landscaping, minimum acreage, traffic and parking improvements and all other regulations can be met. The instant Application is in compliance with the regulations and requirements of the Zoning Ordinance and no variances are required. The Planning Board has granted the Departures needed. Alternative Compliance is requested, and, if approved, the Application will be in compliance with the Landscape Manual. There is no evidence to support a finding that this presumption of compatibility has been rebutted and that this Application is not in concert with purposes of the Zoning Ordinance. (Section 27-317(a)(2))

(8) The proposed use will not substantially impair the integrity of the 1990 Master Plan for Langley Park-College Park-Greenbelt and Vicinity and is consistent with the 2002 General Plan's development policies for the Developed Tier, as noted above. (Section 27-317(a)(3))

(9) The proposed use renovates and slightly expands an existing McDonald's that has operated successfully in the area for over fifty (50) years. It will be improved by the addition of the side-by-side drive-through facilities for its patrons. It will be attractively designed and landscaped. There will be few additional vehicular trips in the area as a result of the expansion. Accordingly, the request will not adversely affect the health, safety or welfare of residents or workers in the area. (Section 27-317(a)(4))

(10) The proposed development and use is compatible with the use and development of adjacent properties and the general neighborhood as it is surrounded by a strip shopping center, a gas station, a convenience store, a Laundromat, and a PEPCO line. (Section 27-317(a)(5)) The subject property is exempt from the requirements of the Woodland and Wildlife Preservation Ordinance as the gross tract area is less than 40,000 square feet and there are less than 10,000 square feet of existing woodland. (Section 27-317(a)(6)) There are no regulated environmental features on site. (Section 27-317 (a)(7)). Finally, the property does not lie within a Chesapeake Bay Critical Area Overlay Zone. (Section 27-317(b))

(11) The certified nonconforming McDonald's is being reconstructed. Accordingly, the applicable provisions of Section 27-384 must be met. The request satisfies these provisions since the lot is as it was at the time it became nonconforming in 1984 – a lot owned by McDonald's. (Section 27-384 (a)(3)(A)) The Nonconforming Use has been in continuous existence. (Section 27-384 (a)(3)(B)) The requirements of Part 11 of the Zoning Ordinance (the Parking regulations) will be met, since the Planning Board has approved the requested Departures. (Section 27-384 (a)(3)(C)) Applicant intends to receive a building permit for the reconstruction within one (1) year of the approval of this request. (Section 27-384 (a)(3)(D)) The Site Plan meets all regulations concerning commercial zones, and Applicant is not requesting any variances. (Section 27-384 (a)(5)) Applicant has included copies of the Use and Occupancy permit for the nonconforming use. (Section 27-384(b))

(12) The proposal does not comply with the requirements of Section 4.7 of the Landscape Manual along the northern property line. However, the property only abuts a PEPCO transmission line at this location, not a residential or commercial use. Applicant is providing an attractive masonry fence around the trash receptacle, additional plants, and a fence in this area. Accordingly, I would approve Applicant's Alternative Compliance application AC-11028.

DISPOSITION

Special Exception 4686 and Alternative Compliance AC-11028 are Approved subject to the following conditions:

- (1) All development shall be in compliance with the Special Exception Site Plan, the Special Exception Landscape Plan and details, the Trash Corral Detail, the Sign Details and the Color Elevations. These items are Exhibit 34 (a) and (c)-(i) in this record.
- (2) Prior to the issuance of permits Applicant shall revise Note 3 on the Special Exception Site Plan (Exhibit 34 (c)) to reflect 4,372 square feet, as shown on the plan itself. Applicant shall also outline the boundaries of the Special Exception area in red, as required by the Zoning Ordinance. The revised Site Plan shall be submitted to the Office of the Zoning Hearing Examiner for review and inclusion in the record.

Tom Lockard



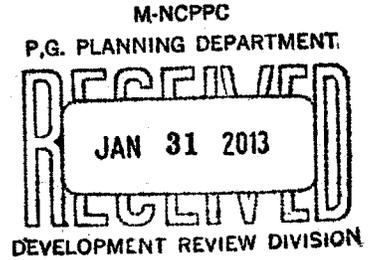
THE PRINCE GEORGE'S COUNTY GOVERNMENT

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

January 31, 2013

**RE: SE 4686 & AC 11028 McDonalds - University Boulevard
(Companion Cases: DDS 611, DPLS 361, DSDS 669)
McDonalds Corporation, Applicant**

***NOTICE OF FINAL 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 Zoning Ordinance No. 1-2013 setting forth the action taken by the District Council in this case on January 28, 2013.

CERTIFICATE OF SERVICE

This is to certify that on January 31, 2013, this notice and attached Council Order were mailed, postage prepaid, to all persons of record.

Redis C. Floyd
Clerk of the Council

Case No.: SE 4686/AC 11028
McDonald's-University Blvd.

Applicant: McDonald's Corporation

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

ZONING ORDINANCE NO. 1 - 2013

AN ORDINANCE to approve a Special Exception and Alternative Compliance.

WHEREAS, Application No. SE 4686 was filed to request permission to expand an Eating or Drinking Establishment (formerly called Fast Food Restaurant) on approximately 1.07 acres of land in the C-S-C (Commercial Shopping Center) Zone, and to approve alternative compliance to a provision of the Landscape Manual, the property is located on the north side of University Boulevard, approximately 375 feet west of 24th Avenue, and identified as 2306 University Boulevard, Hyattsville, Maryland; and

WHEREAS, the application was advertised and the property posted prior to public hearing, in accordance with all requirements of law; and

WHEREAS, the application was reviewed by the Technical Staff and Planning Board, which filed recommendations with the District Council; and

WHEREAS, a public hearing on the application was held before the Zoning Hearing Examiner; and

WHEREAS, the Zoning Hearing Examiner's recommendations were filed with and considered by the District Council; and

WHEREAS, having reviewed the record, the District Council has determined that the application should be approved; and

WHEREAS, as the basis for this action the District Council adopts the findings of fact, conclusions, and decision of the Zoning Hearing Examiner, as its findings and conclusions in this case.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

Section 1. The Special Exception 4686 and Alternative Compliance AC-11028 are approved, subject to the following modified conditions, which must be satisfied prior to the issuance of permits:

- (1) All development shall be in compliance with the Special Exception Site Plan, the Special Exception Landscape Plan and details, the Trash Corral Detail, the Sign Details and the Color Elevations. These items are Exhibit 34 (a) and (c)-(i) in this record.
- (2) Prior to the issuance of permits Applicant shall revise Note 3 on the Special Exception Site Plan (Exhibit 34 (c)) to reflect 4,372 square feet, as shown on the plan itself. Applicant shall also outline the boundaries of the Special Exception area in red, as required by the Zoning Ordinance. The revised Site Plan shall be submitted to the Office of the Zoning Hearing Examiner for review and inclusion in the record.

In order to protect adjacent properties and the surrounding neighborhood, affirmance is also subject to the following additional condition by the District Council.

The applicant shall explore the feasibility of increasing the width of the proposed sidewalk located along its University Boulevard frontage. If increasing the width of the proposed sidewalk is feasible, the applicant shall revise the site plan accordingly. The applicant shall not be required to increase the width of the proposed sidewalk if the increase requires additional approvals from Prince George's County or the Maryland-National Capital Park and Planning Commission, or if the proposed increase is not authorized by the State Highway Administration.

Section 2. This Ordinance shall take effect on the date of its enactment.

Enacted this 28th day of January 2013 by the following vote:

In Favor: Council Members Campos, Davis, Franklin, Harrison, Lehman, Olson, Patterson, Toles and Turner.

Opposed:

Abstained:

Absent:

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: Andrea C. Harrison
Andrea C. Harrison, Chair

ATTEST:

Redis C. Floyd
Redis C. Floyd
Clerk of the Council



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
 Upper Marlboro, Maryland 20772
 TTY: (301) 952-4366
 www.mncppc.org/pgco

PGCPB No. 12-32

File No. DDS-611

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed DDS-611, McDonalds-University Boulevard requesting a departure from design standards for the expansion of a nonconforming fast-food restaurant in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on April 12, 2012, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject property is an irregularly shaped lot located on the north side of University Boulevard, 375 feet west of 24th Avenue. The site, also known as 2306 University Boulevard, is improved with a one-story, brick, fast-food restaurant with a drive-through window and an asphalt parking lot. Access to the site is gained from University Boulevard via two driveways. The applicant is proposing to close the westernmost driveway leaving a single point of access at the location of the existing entrance drive.
- B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-S-C	C-S-C
Use(s)	Fast-food Restaurant	Fast-food Restaurant
Gross Floor Area (GFA)	4,000 sq. ft.	4,372 sq. ft.
Acreage	1.07	1.07
Parcels	2	2

- C. **History:** The subject site was placed in the C-S-C Zone upon adoption of the 1989 & 1990 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment (SMA) for Planning Areas 65, 66 and 67*. In 1984, the use was certified nonconforming due to changes in the Zoning Ordinance and Special Exception SE-3527 was approved for an expansion of the existing building. The District Council approved Special Exception SE-4096 in 1993 to add a soft playland and the Planning Board approved Departure from Parking and Loading Standards DPLS-158 to waive five of the 80 required parking spaces. In 1997, the District Council approved a third Special Exception (SE-4201) which enclosed the playland and waived the additional resulting parking through Departure from Parking and Loading Standards DPLS-206. The playground enclosure was ultimately never built.
- D. **Master Plan Recommendation:** This application conforms to the land use recommendations of the 1989 & 1990 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment (SMA) for Planning Areas 65, 66 and 67* for retail

commercial land uses. The 2002 *Prince George's County Approved General Plan* placed the property in the Developed Tier. The vision for the Developing Tier is a network of sustainable transit supporting mixed-use, pedestrian oriented, medium- to high-density neighborhoods.

- E. **Request:** The applicant is proposing to raze and rebuild the McDonalds fast-food restaurant that has existed at this location since 1960. The resulting restaurant would be slightly larger and incorporate new architectural features and materials. The applicant is also requesting a departure of 18 parking spaces, since some of the existing parking on the site would be taken by a proposed dual drive through. In order to retain the existing freestanding sign along University Boulevard, the applicant must obtain a departure from sign design standards. Two additional departures are necessary; one for a substandard landscape yard and a second for a slight decrease in the width of a driveway to serve a loading space. The applicant is further requesting alternative compliance from Section 4.7 (Buffering Incompatible Uses) of the 2010 *Prince George's County Landscape Manual*.
- F. **Neighborhood and Surrounding Uses:** The appropriate neighborhood to be considered in this case is bounded on the northwest by a PEPCO (Potomac Electric Power Company) transmission line, on the east by the Northwest Branch and on the south by University Boulevard. This neighborhood includes a mixture of commercial and residential uses. Commercial development dominates the University Boulevard frontage. Medium density, single-family attached houses characterize the interior of the neighborhood. This is the neighborhood which was adopted in Special Exceptions SE-3527, SE-4096 and SE-4201.

The property is surrounded by the following uses:

- North—** A shopping center in the C-S-C Zone and a Pepco power line in the O-S Zone.
- East—** A shopping center in the C-S-C Zone.
- South—** Across University Boulevard is a gas station, convenience store and Laundromat in the C-S-C Zone.
- West—** A gas station in the C-S-C Zone.

- G. **Departure from Design Standards DDS-611:** As indicated above, the Applicant applied for Alternative Compliance from the 2010 *Prince George's County Landscape Manual*. Specifically, the Applicant proposed alternative compliance for Section 4.7 (Buffering Incompatible Uses) with regard to the bufferyard required along the northern property line. This request was denied by the Planning Director. Upon denial of a request for Alternative Compliance, the Applicant may apply for a Departure from Design Standards in accordance with Section 27-239.01 of the Zoning Ordinance. The McDonalds restaurant is classified as a "High Impact" use and the shopping center, since it less than 60,000 square feet in size, is classified as a "Medium Impact" use. The *Prince George's County Landscape Manual* requires a 30-foot building setback and 20-foot

landscape yard. The applicant is providing landscape yard that varies in width, but at its narrowest section, is 5.6 feet in width. Thus a departure of 14.4 feet is required.

In addition, Section 27-581 of the Zoning Ordinance requires that loading spaces be connected to streets via a 22-foot-wide drive aisle. The applicant is proposing a 20-foot-wide drive aisle. Thus, a two-foot departure is requested.

Section 27-239.01(b)(7) sets forth the required findings for a departure from design standards as follows:

(A) In order for the Planning Board to grant the departure, it shall make the following findings:

(i) The purposes of this Subtitle will be equally well or better served by the applicant's proposal;

Applicant's Justification: The applicant provided the following summarized justification in response to this requirement:

"The departure is the minimum necessary in this case. The subject property is only 1.078 acres in size. It is currently developed with a McDonald's restaurant and this application calls for the redevelopment of the property with a new McDonald's restaurant. As part of this proposal the applicant is also requesting departure from parking and loading standards. The site is too small to accommodate a modern restaurant and at the same time comply with the current standards regarding parking and landscaping. The applicant cannot comply with the Landscape Manual requirements and the design standards without further compromising the parking requirements.

The applicant is now proposing to completely replace the existing building with a modern facility that will not only allow it to present a new image to its customers, but improve the overall character of this commercial corridor. However, given the site limitations, it cannot fully comply with the Landscape Manual, design standards and parking requirements."

The Planning Board concurs with the applicant's assertion that the purposes of Subtitle 27 will be equally well or better served by the applicant's proposal. The opportunity to improve the site commensurate with their ability to meet today's design criteria on a compact site will result in an improvement to the site and the corridor. Therefore, the Planning Board concurs with the applicant's assertion that the purposes of Subtitle 27 will be equally well or better served by the applicant's proposal.

(ii) The departure is the minimum necessary, given the specific circumstances of the request;

Applicant's Justification: The applicant provided the following summarized justification in response to this requirement:

“One of the inherent difficulties in developing a site in the older communities of the County is to provide a use that meets the modern retail needs of the consumer and addresses current Zoning Ordinance requirements on small infill sites. It should be noted this request is due, in part, to the change in the Landscape Manual's classification of shopping center. All shopping centers were previously classified as “High Impact” uses and thus a buffer yard was not previously required for this property. With the adoption of the new Landscape Manual in 2010, shopping centers that are less than 60,000 square feet in size are classified as “Medium Impact” uses. Thus, a 4.7 buffer is required between the two uses. Unfortunately, the provision of such a buffer would inhibit the applicant's ability to design a site that meets the modern site design requirements as well as a site that meets the modern retail needs the consumer. In addition, the applicant is requesting a departure from parking and loading standards. In order to preserve on-site parking the applicant has chosen to provide 60 degree parking spaces. This, in turn, allows a one-way drive aisle. This drive aisle is 20 feet in width and more than exceeds the 18 foot requirement but does not comply with the 22-foot requirement for loading.”

The Planning Board concurs with the applicant's assertion that the request is the minimum necessary. The applicant must balance the need for parking spaces and adequate drive aisle with the need for landscaping along the northern property line where the site adjoins a shopping center. In order to provide the required 20-foot bufferyard or a 22-foot wide two-way drive aisle, 16 parking spaces would need to be removed. The alternative proposed by the applicant, a one-way drive aisle, parking spaces and a five-foot perimeter strip is the minimum necessary to ensure that all three code requirements are addressed. No other alternative can be identified which would decrease the amount of the departure.

(iii) The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949;

The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location. As stated above, the applicant is proposing to construct a new McDonald's and incorporate into that design, a dual drive-through and a modern layout that will not only create a safer environment for its customers, but a more attractive layout. The lack of space makes it difficult for the applicant to provide the required number of parking spaces and a dual drive-through. The dual drive-through component at this location will increase the likelihood of the restaurant's success. Furthermore, this site is located inside the beltway in an area of the County that was

predominantly developed prior to 1949. This site is compact and a departure is necessary in order to redevelop this site utilizing current site design requirements.

- (iv) **The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.**

Applicant's Justification: The applicant provided the following summarized justification in response to this requirement:

“The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location. As stated above, the applicant is proposing to construct a new McDonald's and incorporate into that design, a dual drive-through and a modern layout that will not only create a safer environment for its customers, but a more attractive layout. The lack of space makes it difficult for the applicant to provide the required number of parking spaces and a dual drive-through. The dual drive-through component at this location will increase the likelihood of the restaurant's success. Furthermore, this site is located inside the beltway in an area of the County that was predominantly developed prior to 1949. This site is compact and a departure is necessary in order to redevelop this site utilizing current site design requirements.”

The Planning Board agrees. The applicant's proposal will allow for a vast improvement to the architecture, interior circulation, landscaping and access to the site without compromising the integrity of the neighborhood.

- H. **Referral Comments:** None of the referral replies received had any objection to the application. The Transportation Planning Section agrees that the 53 spaces should be adequate to serve the use based on the studies of restaurants with a drive through, but would like the applicant to install a bike rack at the entrance. The Environmental Planning Section indicated that the site is exempt from the Woodland Conservation and Tree Preservation Ordinance requirements and that no environmental issues were identified. The Urban Design Section points out that the landscape plan submitted needs to be revised because it differs slightly from that recommended for approval in the Alternative Compliance application.
- I. **Zone Standards:** The site plan, with the approved request for alternative compliance and departures, along with recommended conditions, will be in conformance with all zoning requirements and regulations.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted application.

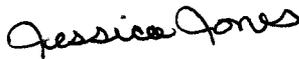
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Squire, Shoaff and Hewlett voting in favor of the motion at its regular meeting held on Thursday, April 12, 2012, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of May 2012.

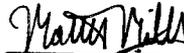
Patricia Colihan Barney
Executive Director



By Jessica Jones
Planning Board Administrator

PCB:JJ:TL:arj

APPROVED AS TO LEGAL SUFFICIENCY.



M-NCPPC Legal Department

Date 4/30/12

Cheryl Scammartin

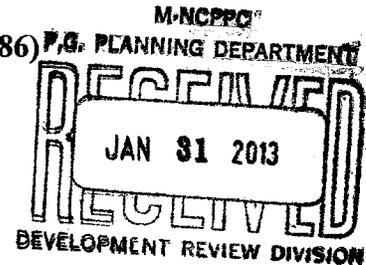


THE PRINCE GEORGE'S COUNTY GOVERNMENT

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

January 31, 2013

**RE: DDS 611 McDonalds - University Boulevard
(Companion Cases: DPLS 361, DSDS 669 & SE 4686) P.G. PLANNING DEPARTMENT
McDonalds Corporation, Applicant**

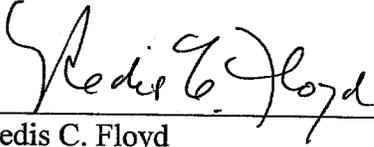


NOTICE OF FINAL DECISION OF THE DISTRICT COUNCIL

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 January 28, 2013.

CERTIFICATE OF SERVICE

This is to certify that on January 31, 2013, this notice and attached Council Order was mailed, postage prepaid, to all persons of record.


Redis C. Floyd
Clerk of the Council

Case No. DDS-611
McDonald's University Blvd.

Applicant: McDonald's Corporation

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

ORDER AFFIRMING PLANNING BOARD DECISION TO APPROVE
DEPARTURE FROM DESIGN STANDARDS WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board in Resolution PGCPB No. 12-32, to approve a departure from design standards, for the expansion of a nonconforming fast-food restaurant in accordance with Subtitle 27 of the Prince George's County Code to raze and rebuild the McDonalds fast-food restaurant that has existed at this location since 1960, as well as a departure of 18 parking spaces, located on an irregularly shaped lot on the north side of University Boulevard, 375 feet west of 24th Avenue, also known as 2306 University Boulevard, is:

AFFIRMED, as the basis for this action, the District Council adopts the findings and conclusions stated by the Planning Board in its Resolution, PGCPB No. 12-32, as its findings and conclusions in this case.

In order to protect adjacent properties and the surrounding neighborhood, affirmance is also subject to the following additional condition by the District Council.

The applicant shall explore the feasibility of increasing the width of the proposed sidewalk located along its University Boulevard frontage. If increasing the width of the proposed sidewalk is feasible, the applicant shall revise the site plan accordingly. The applicant shall not be required to increase the width of the proposed sidewalk if the increase requires additional approvals from Prince George's County or the Maryland-National Capital Park and Planning Commission, or if the proposed increase is not authorized by the State Highway Administration.

Ordered this 28th day of January 2013, by the following vote:

In Favor: Council Members Campos, Davis, Franklin, Harrison, Lehman, Olson, Patterson, Toles and Turner.

Opposed:

Abstained:

Absent:

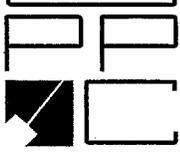
Vote: 9-0

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: Andrea C. Harrison
Andrea C. Harrison, Chair

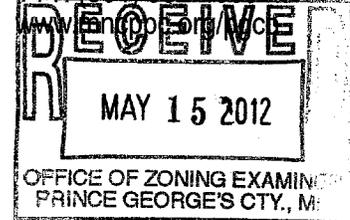
ATTEST:
Redis C. Floyd
Redis C. Floyd
Clerk of the Council

MN
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION



14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

TTY: (301) 952-4366



May 15, 2012

McDonalds Corporation
6903 Rockledge Drive, Suite 1100
Bethesda, Maryland 20817

Re: Notification of Planning Board Action on
McDonalds University Boulevard
DPLS-361

Dear Applicant:

This is to advise you that on **May 10, 2012** the above-referenced application was acted upon by the Prince George's County Planning Board in accordance with the attached Resolution.

The Planning Board's decision will become final on **June 14, 2012** unless:

1. Prior to this date, a written appeal is filed with the District Council for Prince George's County by any person of record; or
2. Prior to this date, the District Council decides on its own motion, to review the Planning Board's decision.

Please direct questions regarding this matter to Ms. Redis C. Floyd, Clerk of the Council, at the above address.

(You should be aware that you will have to reactivate any permits pending the outcome of this case. If the approved plans differ from the ones originally submitted with your permit, you are required to amend the permit by submitting copies of the approved plans. For information regarding reactivating permits, you should call the County's Permit Office at 301-883-5784.)

Very truly yours,
Alan Hirsch, Chief
Development Review Division

By: 
Reviewer

cc: Clerk of the Council
Persons of Record

PGCPB No. 12-31

14741 Governor Oden Bowie Drive
 Upper Marlboro, Maryland 20772
 TTY: (301) 952-4366
 www.mncppc.org/pgco

PGCPB No. 12-31

File No. DPLS-361

RESOLUTION

WHEREAS, the Prince George’s County Planning Board has reviewed DPLS-361, McDonalds-University Boulevard requesting a departure from parking and loading standards for the expansion of a nonconforming fast-food restaurant in accordance with Subtitle 27 of the Prince George’s County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on April 12, 2012, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The subject property is an irregularly shaped lot located on the north side of University Boulevard, 375 feet west of 24th Avenue. The site, also known as 2306 University Boulevard, is improved with a one-story, brick, fast-food restaurant with a drive-through window and an asphalt parking lot. Access to the site is gained from University Boulevard via two driveways. The applicant is proposing to close the westernmost driveway leaving a single point of access at the location of the existing entrance drive.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-S-C	C-S-C
Use(s)	Fast-food Restaurant	Fast-food Restaurant
Gross Floor Area (GFA)	4,000 sq. ft.	4,372 sq. ft.
Acreage	1.07	1.07
Parcels	2	2

C. **History:** The subject site was placed in the C-S-C Zone upon adoption of the 1989 & 1990 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment (SMA) for Planning Areas 65, 66 and 67*. In 1984, the use was certified nonconforming due to changes in the Zoning Ordinance and Special Exception SE-3527 was approved for an expansion of the existing building. The District Council approved Special Exception SE-4096 in 1993 to add a soft playland and the Planning Board approved Departure from Parking and Loading Standards DPLS-158 to waive five of the 80 required parking spaces. In 1997, the District Council approved a third Special Exception (SE-4201) which enclosed the playland and waived the additional resulting parking through Departure from Parking and Loading Standards DPLS-206. The playground enclosure was ultimately never built.

D. **Master Plan Recommendation:** This application conforms to the land use recommendations of the 1989 & 1990 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity*

and Adopted Sectional Map Amendment (SMA) for Planning Areas 65, 66 and 67 for retail commercial land uses. The 2002 Prince George's County Approved General Plan placed the property in the Developed Tier. The vision for the Developing Tier is a network of sustainable transit supporting mixed-use, pedestrian oriented, medium- to high-density neighborhoods.

- E. **Request:** The applicant is proposing to raze and rebuild the McDonalds fast-food restaurant that has existed at this location since 1960. The resulting restaurant would be slightly larger and incorporate new architectural features and materials. The applicant is also requesting a departure of 18 parking spaces, since some of the existing parking on the site would be taken by a proposed dual drive through. In order to retain the existing freestanding sign along University Boulevard, the applicant must obtain a departure from sign design standards. Two additional departures are necessary; one for a substandard landscape yard and a second for a slight decrease in the width of a driveway to serve a loading space. The applicant is further requesting alternative compliance from Section 4.7 (Buffering Incompatible Uses) of the 2010 Prince George's County Landscape Manual.
- F. **Neighborhood and Surrounding Uses:** The appropriate neighborhood to be considered in this case is bounded on the northwest by a PEPCO (Potomac Electric Power Company) transmission line, on the east by the Northwest Branch and on the south by University Boulevard. This neighborhood includes a mixture of commercial and residential uses. Commercial development dominates the University Boulevard frontage. Medium density, single-family attached houses characterize the interior of the neighborhood. This is the neighborhood which was adopted in Special Exceptions SE-3527, SE-4096 and SE-4201.

The property is surrounded by the following uses:

- North—** A shopping center in the C-S-C Zone and a Pepco power line in the O-S Zone.
- East—** A shopping center in the C-S-C Zone.
- South—** Across University Boulevard is a gas station, convenience store and Laundromat in the C-S-C Zone.
- West—** A gas station in the C-S-C Zone.

- G. **Departure from Parking and Loading Standards DPLS-361:** The plan correctly notes that 76 parking spaces and one loading space are required to serve this use. The site plan indicates that 53 spaces can be provided, a deficit of 23 spaces. The applicant has already received a departure of five spaces, necessitating an additional departure of 18 spaces. A departure from parking and loading standards is required to address this reduction in parking spaces provided. Section 27-588(b)(7)(A) of the Zoning Ordinance sets forth the following findings to grant a departure from parking and loading standards:

Section 27-588(b)(7)(A) Required Findings

(i) **The purposes of this Part (Section 27-550) will be served by the applicant's request;**

(1) **To require (in connection with each building constructed and each new use established) off-street automobile parking lots and loading areas sufficient to serve the parking and loading needs of all persons associated with the buildings and uses;**

This proposal complies with this purpose. The applicant's proposal will provide adequate off-street parking and loading areas in order to serve the needs of McDonald's employees and customers. The applicant has operated a restaurant from this site since 1960 and has determined that a significant amount of its business is associated with the drive-through service. Thus, the applicant is proposing to install a dual drive through. The applicant believes that the addition of the dual drive-through and modifications to the existing parking area will address the parking needs of its employees and will not have any adverse impacts on the community. In addition, 17 different aerial photos of this site were reviewed from the years 1964 to 2011. They show an average of 18 parking spaces being occupied, with a maximum parking utilization of 28 spaces. Two visits to the site, on a weekday afternoon and a weekend evening, showed parking counts of 20 and 11 cars, respectively.

(2) **To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points;**

This proposal complies with this purpose because the applicant will provide a dual drive-through window. The applicant anticipates the majority of its customers to use the dual drive-through window, which decreases the likelihood that customers will need to use public streets for parking. In addition, the applicant is proposing to reduce the number of access points from two down to one

(3) **To protect the residential character of residential areas; and**

Although this site adjoins property located in a residential zone, that property is developed with a PEPCO transmission line.

(4) **To provide parking and loading areas which are convenient and increase the amenities in the Regional District;**

This proposal complies with this purpose. There will be ample parking for restaurant patrons. There will also be landscaping and loading areas on-site. The

parking is conveniently located where the customers will not have a far walk to the front door entrance to the restaurant. This proposal will be an amenity in the regional district since it will be part of a project which will replace an older restaurant with dated architecture with a modern facility.

- (ii) **The departure is the minimum necessary, given the specific circumstances of the request;**

This proposal complies with this purpose. The departure is the minimum necessary considering this proposal calls for the redevelopment of the subject property. As stated above, this site has been developed since 1960. The site is compact and the applicant is proposing to redevelop the site with a more modern restaurant with a modern layout.

- (iii) **The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the County which were predominantly developed prior to November 29, 1949;**

The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location. As stated above, the applicant is proposing to construct a new McDonald's and incorporate into that design, a dual drive-through and a modern layout that will not only create a safer environment for its customers, but a more attractive layout. The lack of space makes it difficult for the applicant to provide the required number of parking spaces and a dual drive-through. The dual drive-through component at this location will increase the likelihood of the restaurants success. Furthermore, this site is located inside the beltway in an area of the County that was predominantly developed prior to 1949. This site is compact and a departure is necessary in order to redevelop this site utilizing current site design requirements.

- (iv) **All methods for calculating the number of spaces required (Division 2, Subdivision 3, and Division 3, Subdivision 3, of this Part) have either been used or found to be impractical; and**

All methods of calculating the number of spaces have been explored. There is no alternative but to obtain a departure.

- (v) **Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.**

The only residential property within the immediate vicinity of the site is developed with a PEPCO transmission line.

In addition, Section 27-588(b)(7)(B) of the Zoning Ordinance sets forth the following:

(B) In making its findings, the Planning Board shall give consideration to the following:

- (i) The parking and loading conditions within the general vicinity of the subject property, including numbers and locations of available on- and off-street spaces within five hundred (500) feet of the subject property;**

The adjacent retail and office commercial uses have sufficient parking. There is no on-street parking along University Boulevard.

- (ii) The recommendations of an Area Master Plan, or County or local revitalization plan, regarding the subject property and its general vicinity;**

This application conforms to the land use recommendations of the 1989 & 1990 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment (SMA) for Planning Areas 65, 66 and 67* or retail commercial land uses.

- (iii) The recommendations of a municipality (within which the property lies) regarding the departure; and**

This site is not within a municipality.

- (iv) Public parking facilities which are proposed in the County's Capital Improvement Program within the general vicinity of the property.**

No public parking facilities are proposed in the Prince George's County Capital Improvement Program within the general vicinity of the property.

(C) In making its findings, the Planning Board may give consideration to the following:

- (i) Public transportation available in the area;**

There is a Metro bus and County Bus route along University Boulevard. However, given the nature of this use, it is somewhat unlikely that a customer would take public transportation to this site.

- (ii) Any alternative design solutions to off-street facilities which might yield additional spaces;**

The size and configuration of the site does not lend itself to an alternative design that would yield more parking opportunities. A total of 53 spaces are provided.

- (iii) **The specific nature of the use (including hours of operation if it is a business) and the nature and hours of operation of other (business) uses within five hundred (500) feet of the subject property;**

The subject fast-food restaurant use has longer hours of operation than its neighbors (except for the gas station), thereby affording the site extra parking spaces if needed. However, as stated previously, it would be rare if ever at all that all the on-site parking spaces would be used at one time.

- (iv) **In the R-30, R-30C, R-18, R-18C, R-10A, R-10 and R-H Zones, where development of multifamily dwellings is proposed, whether the applicant proposes and demonstrates that the percentage of dwelling units accessible to the physically handicapped and aged will be increased over the minimum number of units required by Subtitle 4 of the Prince George's County Code.**

The subject property is in the C-S-C Zone and multifamily dwellings are not proposed under this application. Consequently, the above section is not applicable to the subject property.

- H. **Referral Comments:** None of the referral replies received had any objection to the application. The Transportation Planning Section agrees that the 53 spaces should be adequate to serve the use based on the studies of restaurants with a drive through, but would like the applicant to install a bike rack at the entrance. The Environmental Planning Section indicated that the site is exempt from the Woodland Conservation and Tree Preservation Ordinance requirements and that no environmental issues were identified. The Urban Design Section points out that the landscape plan submitted needs to be revised because it differs slightly from that recommended for approval in the Alternative Compliance application.
- I. **Zone Standards:** The site plan, with the approved request for alternative compliance and departures, along with recommended conditions, will be in conformance with all zoning requirements and regulations.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted application.

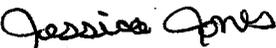
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Squire, Shoaff and Hewlett voting in favor of the motion at its regular meeting held on Thursday, April 12, 2012, in Upper Marlboro, Maryland.

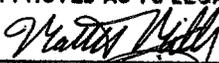
Adopted by the Prince George's County Planning Board this 10th day of May 2012.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:TL:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department

Date 4/30/12



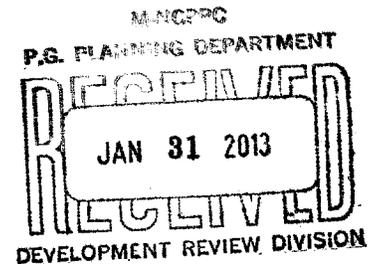
THE PRINCE GEORGE'S COUNTY GOVERNMENT

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

Cheryl Samuels

January 31, 2013

RE: DPLS 361 McDonalds - University Boulevard
(Companion Cases: DDS 611, DSDS 669 & SE 4686)
McDonalds Corporation, Applicant



**NOTICE OF FINAL 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 January 28, 2013.

CERTIFICATE OF SERVICE

This is to certify that on January 31, 2013, this notice and attached Council Order was mailed, postage prepaid, to all persons of record.

Redis C. Floyd

Redis C. Floyd
Clerk of the Council

Case No. DPLS-361
McDonald's University Blvd.

Applicant: McDonald's Corporation

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

ORDER AFFIRMING PLANNING BOARD DECISION TO APPROVE
DEPARTURE FROM PARKING AND LOADING STANDARDS WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, and after hearing oral argument from the applicant, that the Planning Board's decision in Resolution PGCPB No. 12-31, for approval of a departure from parking and loading standards for the expansion of a nonconforming fast-food restaurant in accordance with Subtitle 27 of the Prince George's County Code located on an irregularly shaped lot on the north side of University Boulevard, 375 feet west of 24th Avenue, also known as 2306 University Boulevard, is:

AFFIRMED, as the basis for this action, the District Council adopts the findings and conclusions stated by the Planning Board in its Resolution, PGCPB No. 12-31, as its findings and conclusions in this case.

In order to protect adjacent properties and the surrounding neighborhood, affirmance is also subject to the following additional condition by the District Council.

The applicant shall explore the feasibility of increasing the width of the proposed sidewalk located along its University Boulevard frontage. If increasing the width of the proposed sidewalk is feasible, the applicant shall revise the site plan accordingly. The applicant shall not be required to increase the width of the proposed sidewalk if the increase requires additional approvals from Prince George's County or the Maryland-National Capital Park and Planning Commission, or if the proposed increase is not authorized by the State Highway Administration.

Ordered this 28th day of January, 2013, by the following vote:

In Favor: Council Members Campos, Davis, Franklin, Harrison, Lehman, Olson,
Patterson, Toles and Turner.

Opposed:

Abstained:

Absent:

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: Andrea C. Harrison
Andrea C. Harrison, Chair

ATTEST:

Redis C. Floyd
Redis C. Floyd
Clerk of the Council



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
 Upper Marlboro, Maryland 20772
 TTY: (301) 952-4366
 www.mncppc.org/pgco

PGCPB No. 12-30

File No. DSDS-669

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed DSDS-669, McDonalds-University Boulevard requesting a departure from sign design standards for the expansion of a nonconforming fast-food restaurant in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on April 12, 2012, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The subject property is an irregularly shaped lot located on the north side of University Boulevard, 375 feet west of 24th Avenue. The site, also known as 2306 University Boulevard, is improved with a one-story, brick, fast-food restaurant with a drive-through window and an asphalt parking lot. Access to the site is gained from University Boulevard via two driveways. The applicant is proposing to close the westernmost driveway leaving a single point of access at the location of the existing entrance drive.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-S-C	C-S-C
Use(s)	Fast-food Restaurant	Fast-food Restaurant
Gross Floor Area (GFA)	4,000 sq. ft.	4,372 sq. ft.
Acreage	1.07	1.07
Parcels	2	2

C. **History:** The subject site was placed in the C-S-C Zone upon adoption of the 1989 & 1990 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment (SMA) for Planning Areas 65, 66 and 67*. In 1984, the use was certified nonconforming due to changes in the Zoning Ordinance and Special Exception SE-3527 was approved for an expansion of the existing building. The District Council approved Special Exception SE-4096 in 1993 to add a soft playland and the Planning Board approved Departure from Parking and Loading Standards DPLS-158 to waive five of the 80 required parking spaces. In 1997, the District Council approved a third Special Exception (SE-4201) which enclosed the playland and waived the additional resulting parking through Departure from Parking and Loading Standards DPLS-206. The playground enclosure was ultimately never built.

D. **Master Plan Recommendation:** This application conforms to the land use recommendations of the 1989 & 1990 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity*

and Adopted Sectional Map Amendment (SMA) for Planning Areas 65, 66 and 67 for retail commercial land uses. The 2002 Prince George's County Approved General Plan placed the property in the Developed Tier. The vision for the Developing Tier is a network of sustainable transit supporting mixed-use, pedestrian oriented, medium- to high-density neighborhoods.

- E. **Request:** The applicant is proposing to raze and rebuild the McDonalds fast-food restaurant that has existed at this location since 1960. The resulting restaurant would be slightly larger and incorporate new architectural features and materials. The applicant is also requesting a departure of 18 parking spaces, since some of the existing parking on the site would be taken by a proposed dual drive through. In order to retain the existing freestanding sign along University Boulevard, the applicant must obtain a departure from sign design standards. Two additional departures are necessary; one for a substandard landscape yard and a second for a slight decrease in the width of a driveway to serve a loading space. The applicant is further requesting alternative compliance from Section 4.7 (Buffering Incompatible Uses) of the 2010 Prince George's County Landscape Manual.
- F. **Neighborhood and Surrounding Uses:** The appropriate neighborhood to be considered in this case is bounded on the northwest by a PEPSCO (Potomac Electric Power Company) transmission line, on the east by the Northwest Branch and on the south by University Boulevard. This neighborhood includes a mixture of commercial and residential uses. Commercial development dominates the University Boulevard frontage. Medium density, single-family attached houses characterize the interior of the neighborhood. This is the neighborhood which was adopted in Special Exceptions SE-3527, SE-4096 and SE-4201.

The property is surrounded by the following uses:

- North—** A shopping center in the C-S-C Zone and a Pepco power line in the O-S Zone.
- East—** A shopping center in the C-S-C Zone.
- South—** Across University Boulevard is a gas station, convenience store and Laundromat in the C-S-C Zone.
- West—** A gas station in the C-S-C Zone.

- G. **Sign Requirements:** Section 27-614(a)(4) of the Zoning Ordinance requires freestanding signs in all Commercial and Industrial Zones (except the I-3 Zone), to be located at least (10) feet behind the street line. The existing sign, which the applicant wishes to retain, is located 5 feet from the right-of-way.

- H. **Departure from Sign Design Standards DSDS-669:**

Section 27-239.01(b)(7)(A) Required Findings of the Zoning Ordinance provides that in order for the Planning Board to grant the departure, it shall make the following findings:

- (i) The purposes of this Subtitle will be equally well or better served by the applicant's proposal.**

In general, the purposes of the Sign Ordinance are to regulate unsightly and hazardous signs, to provide adequate identification and advertisement, to promote the general welfare of the residents of the county, and to foster the appropriate use of land, buildings and structures. Although the required ten-foot setback is not being met, the applicant's goal is to retain the existing sign, which is set back more than 14 feet from the existing edge of pavement. The sign location for the use becomes all the more important due to the realignment of the building and the applicant's proposed closing of the second driveway to University Boulevard. The height and area of the sign meet the requirements of the Code. Retention of the existing sign would provide necessary visibility for the use in an appropriate manner.

- (ii) The departure is the minimum necessary, given the specific circumstances of the request.**

The applicant wishes to simply retain the long-existing sign. It has provided appropriate identification for McDonalds for many years at this location. When the sign was originally placed here, it met the setback requirement. It is because of the widening of the right-of-way for University Boulevard that it is now out of compliance. If permitted to stay, the five-foot departure is the minimum necessary.

- (iii) The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949.**

The freestanding sign has existed on this property for many years yet remains attractive and recognizable. It is in an older area of Prince George's County developed with old commercial uses. Through the years, McDonalds has made numerous improvements to the site, but now they have come to the conclusion that a complete modernization is in order to present a new image to their customers and improve the overall character of the commercial corridor. The sign is set back more than 14 feet from the existing edge of pavement, meeting the intent, if not the letter, of the requirement. Therefore, the departure is necessary in order to alleviate circumstances which are unique to the site and prevalent in older areas of the County.

- (iv) The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.**

A freestanding sign is necessary to further provide adequate identification for the use. A freestanding sign has existed on the site for many years, and the applicant is not proposing any changes.

The proposed sign will be compatible with other existing freestanding signs within the general area, and the overall design of the sign will be compatible with the commercial use of the property.

The sign will not attract undue attention, but will provide for adequate identification and advertisement, and will be compatible with the overall streetscape. The site is surrounded by strip commercial uses along the three sides, and faces other commercial uses along the fourth. There are no nearby residential subdivisions that would be visually impacted by the freestanding sign. For the reasons stated above, the departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

- I. **Referral Comments:** None of the referral replies received had any objection to the application. The Transportation Planning Section agrees that the 53 spaces should be adequate to serve the use based on the studies of restaurants with a drive through, but would like the applicant to install a bike rack at the entrance. The Environmental Planning Section indicated that the site is exempt from the Woodland Conservation and Tree Preservation Ordinance requirements and that no environmental issues were identified. The Urban Design Section points out that the landscape plan submitted needs to be revised because it differs slightly from that recommended for approval in the Alternative Compliance application.
- J. **Zone Standards:** The site plan, with the approved request for alternative compliance and departures, along with recommended conditions, will be in conformance with all zoning requirements and regulations.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted application.

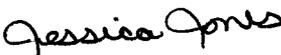
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Squire, Shoaff and Hewlett voting in favor of the motion at its regular meeting held on Thursday, April 12, 2012, in Upper Marlboro, Maryland.

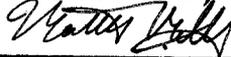
Adopted by the Prince George's County Planning Board this 10th day of May 2012.

Patricia Colihan Barney
Executive Director


By Jessica Jones
Planning Board Administrator

PCB:JJ:TL:arj

APPROVED AS TO LEGAL SUFFICIENCY.



M-NCPPC Legal Department
Date 5/1/12



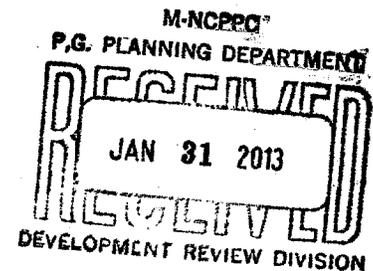
Cheryl Seaman

THE PRINCE GEORGE'S COUNTY GOVERNMENT

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

January 31, 2013

**RE: DSDS 669 McDonalds - University Boulevard
(Companion Cases: DDS 611, DPLS 361 & SE 4686)
McDonalds Corporation, Applicant**

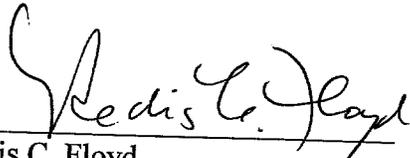


NOTICE OF FINAL DECISION OF THE DISTRICT COUNCIL

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 January 28, 2013.

CERTIFICATE OF SERVICE

This is to certify that on January 31, 2013, this notice and attached Council Order was mailed, postage prepaid, to all persons of record.



Redis C. Floyd
Clerk of the Council

County Administration Building – Upper Marlboro, Maryland 20772

Case No. DSDS-669
McDonald's University Blvd.

Applicant: McDonald's Corporation

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

ORDER APPROVING DEPARTURE FROM
SIGN DESIGN STANDARDS

IT IS HEREBY ORDERED, after review of the administrative record, that Application No. DSDS 669, for approval of a departure from sign design standards for the expansion of a nonconforming fast-food restaurant in accordance with Subtitle 27 of the Prince George's County Code, located on an irregularly shaped lot on the north side of University Boulevard, 375 feet west of 24th Avenue, also known as 2306 University Boulevard, is:

AFFIRMED, as the basis for this action, the District Council adopts the findings and conclusions stated by the Planning Board in its Resolution, PGCPB No. 12-30, as its findings and conclusions in this case.

In order to protect adjacent properties and the surrounding neighborhood, affirmance is also subject to the following additional condition by the District Council.

The applicant shall explore the feasibility of increasing the width of the proposed sidewalk located along its University Boulevard frontage. If increasing the width of the proposed sidewalk is feasible, the applicant shall revise the site plan accordingly. The applicant shall not be required to increase the width of the proposed sidewalk if the increase requires additional approvals from Prince George's County or the Maryland-National Capital Park and Planning Commission, or if the proposed increase is not authorized by the State Highway Administration.

Ordered this 28th day of January, 2013, by the following vote:

In Favor: Council Members Campos, Davis, Franklin, Harrison, Lehman, Olson, Patterson, Toles and Turner.

Opposed:

Abstained:

Absent:

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: Andrea C. Harrison
Andrea C. Harrison, Chair

ATTEST:
Redis C. Floyd
Redis C. Floyd
Clerk of the Council