



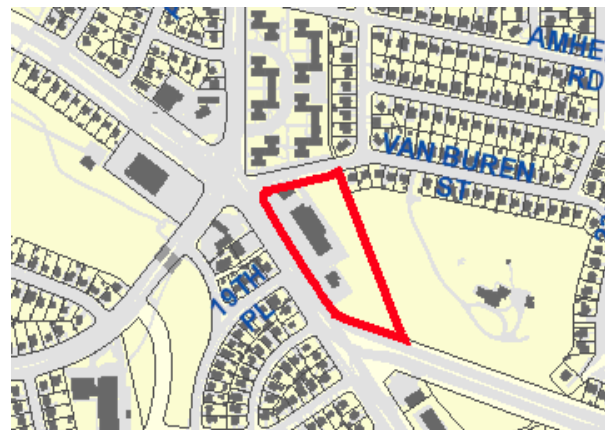
Note: Staff reports can be accessed at <https://www.mncppc.org/883/Watch-Meetings>

Detailed Site Plan Remand Hearing McDonald's Ager Road

DSP-22001

REQUEST	STAFF RECOMMENDATION
Remand Hearing Development of a 3,683-square-foot eating and drinking establishment with drive-through service on the southern portion of Parcel 23.	With the conditions recommended herein: <ul style="list-style-type: none">• Approval of Detailed Site Plan DSP-22001• Approval of Type 2 Tree Conservation Plan TCP2-004-2024

Location: In the northwest quadrant of the intersection of MD 410 (East-West Highway) and Ager Road	
Gross Acreage:	4.17
Zone:	CGO
Zone Prior:	C-S-C
Reviewed per prior Zoning Ordinance:	Section 27-1903(b)
Gross Floor Area:	3,683 sq. ft.
Planning Area:	65
Council District:	02
Municipality:	N/A
Applicant/Address: McDonald's USA, LLC 110 N. Carpenter Street Chicago, IL 60607	
Staff Reviewer: Jill Kosack Phone Number: 301-952-4689 Email: jill.kosack@ppd.mncppc.org	



Planning Board Date:	06/12/2025
Planning Board Action Limit:	06/24/2025
Staff Report Date:	05/28/2025
Date Accepted:	01/24/2024
Informational Mailing:	01/21/2022
Acceptance Mailing:	01/16/2024
Sign Posting Deadline:	05/13/2025



May 28, 2025

MEMORANDUM

TO: The Prince George's County Planning Board

VIA: Hyojung Garland, Supervisor, Urban Design Section, Development Review Division *HG*

FROM: Jill Kosack, Planner IV, Urban Design Section, Development Review Division *JSK*

SUBJECT: **Detailed Site Plan DSP-22001 (Remanded)
McDonald's Ager Road**

BACKGROUND

Detailed Site Plan DSP-22001, McDonald's Ager Road, for the development of a 3,683-square-foot eating and drinking establishment with drive-through service on the southern portion of Parcel 23 in the Commercial General Office (CGO) Zone, was approved by the Prince George's County Planning Board on January 16, 2025, and a final resolution (PGCPB Resolution No. 2025-008) was adopted on February 6, 2025. The Prince George's County District Council elected to review this application on February 24, 2025. The District Council conducted oral arguments on April 1, 2025, and the Order of Remand was issued on April 22, 2025.

The Order of Remand found that the Planning Board shall reopen the record, take further testimony, and reconsider its decision relative to seven findings concerning the detailed site plan for the proposed use: (1) stacking of vehicles and space for queuing; (2) traffic circulation and pedestrian safety; (3) right-in/right-out site access; (4) health impact assessment review; (5) whether the detailed site plan should be approved without a drive-through component; (6) the name of the legal owner of the property; and (7) whether the site contains any grave sites or artifacts of slavery and, if any, the appropriate mechanism for disposition and storage. The Order also requested bilingual hearing notifications.

The applicant submitted a package of responses to the Prince George's County Planning Department on May 15, 2025. The subject property was posted on May 13, 2025, for a public hearing on June 12, 2025.

OVERVIEW OF CODIFIED PROCESS

The Order of Remand requests, in part, that the Planning Board include an appropriate legal analysis of its decision. In addition, the applicant provided an analysis of the appropriate legal standard of review for a detailed site plan (DSP) application under the prior Zoning Ordinance. Staff

consulted with The Maryland-National Capital Park and Planning Commission's legal counsel who reviewed the applicant's memorandum and provides the following requested legal analysis:

The District Council exercises appellate jurisdiction over the Planning Board's approval of detailed site plans "and may reverse a decision by the Board only if that decision is 'not authorized by law, is not supported by substantial evidence of record, or is arbitrary or capricious.'" *County Council of Prince George's County v. FCW Justice, Inc.*, 238 Md. App. 641, 674-75 (2018) quoting *Prince George's County v. Zimmer Development*, 444 Md. 490, 573 (2015).

The District Council's role "is analogous to the one employed by courts in judicial review actions" and is limited to determining if there is substantial evidence in the record as a whole to support the Planning Board's findings and conclusions and to determine if the administrative decision is based on an erroneous conclusion of law. *Id.* at 675. The District Council may not substitute its judgment for that of the Planning Board, rather, the District Council must affirm the Planning Board's decision if there is sufficient evidence such that a reasoning mind reasonably could have reached the factual conclusion the Board reached. *Id.*

"The District Council's scope of review is further circumscribed because the Planning Board has discretion to grant or deny detailed site plans [County Code cites omitted]. Therefore, the Planning Board's decisions as to detailed site plan applications: receive an even more deferential review regarding matters that are committed to the agency's discretion and expertise." *Id.* at 675-76 quoting *Zimmer Development* at 573-74 (2015). In such situations, the District Council may only reverse the Planning Board's decision if it is arbitrary and capricious because the Council owes a higher level of deference to functions specifically committed to the Planning Board's discretion than they do to the Board's legal conclusions or factual findings. *Id.*

As correctly cited in the Order of Remand, in order to avoid a finding that the Planning Board's decision is arbitrary or capricious, "there must be 'substantial evidence from which the board could have reasonably found as it did.'" *Elbert v. Charles Cnty. Plan. Comm'n* 259 Md. App. 499, 508-09 (2023) quoting *Baker v. Bd. of Trs. of Emps. Ret. Sys. of City of Balt.*, 269 Md. 740, 744, 309 A.2d 768 (1973). There must be a recitation of the findings and more than "simply the blithe reference to the Staff Report's 'findings and recommendations'." *Id.* at 509. However, as the Maryland Supreme Court has held, the Planning Board engages in meaningful fact-finding even if its Resolution contains a "rote repetition" of the technical staff report. *Maryland-Nat. Capital Park & Planning Comm'n v. Greater Baden-Aquasco Citizens Ass'n*, 412 Md. 73, 110 (2009). ("It is not unreasonable for the Planning Board to rely on a Staff Report, as the Planning Board did in this case, if the Staff Report is thorough, well conceived, and contains adequate findings of fact.")

Before approving a DSP, the Planning Board must find "that the plan represents a reasonable alternative for satisfying the site design guidelines, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use. If it cannot make these findings, the Planning Board may disapprove the Plan." Prince George's County Code (PGCC) § 27-285(b)(1). The scope of the Planning Board's review of DSPs was further explained by the Appellate Court when it found in favor of the District Council in *Heard v. County Council of Prince George's County*, 256 Md. App. 586 (2022). According to the Court, the "Planning Board evaluates a DSP to establish compliance with the County's Zoning Ordinance. Urban design elements,

organization and location of proposed uses, and landscaping issues are assessed at this stage.” Id. at 602. It “is a method of moderating design guidelines so as to allow for greater variety of development, while still achieving the goals of the guidelines.” *Zimmer* at 562-63.

In finding the DSP represents a “reasonable alternative,” the Planning Board must ensure the site plan conforms, to the same site design guidelines that apply to the approval of a conceptual site plan (CSP). PGCC § 27-283(a). It must also find that any regulated environmental features have been preserved and/or restored in a natural state to the fullest extent possible. Id. at § 27-285(b)(4). In addition, if the Planning Board finds that a DSP fails to meet the requirements of the Zoning Ordinance, it cannot simply deny the DSP but must also notify the applicant in writing what the deficiencies are so the applicant is afforded an opportunity to correct them. Id. at § 27-285(d). See, also, *Sheetz v. Frederick City Planning Commission*, 106 Md. App. 531, 540 (1995) (finding that the City’s zoning ordinance did not allow its planning commission to deny a site plan unless it first proposed reasonable changes which were rejected by the applicant).

In *Heard*, the Appellate Court also explained what the Planning Board is not allowed to consider at the time of DSP. For example, the Planning Board is not permitted to condition approval of a DSP on its conformance with the General Plan and applicable master plans because “the County Council, when adopting the County Code, determined conformity to the General Plan and applicable Master Plan would not be re-tested at the DSP stage.” *Heard* at 623 (“Since preliminary plans must conform to the General and applicable Master Plan, it stands to reason that inherent in the evaluation of a detailed site plan’s compliance with its preliminary plan requirements, is the consideration of the General and applicable Master Plan. In other words, since conformity with the General and applicable Master Plan is tested at the Preliminary Planning stage, it does not need to be tested for such conformity again at the DSP stage.”). Id. at 624. Accordingly, the Court found the District Council’s arguments to be “persuasive.” Id. at 626 (“The District Council did not err when it concluded that the Planning Board was legally correct in treating the General and Master Plan as advisory rather than binding documents at the DSP stage.”)

The Planning Board is also not allowed to condition the approval of a DSP on off-site and site-adjacent improvements relating to bikeways, trails, and roadways. Id. at 632-35. Instead, the Planning Board is only empowered to require such exactions at the time of preliminary plan of subdivision. Id. at 634 (“Moreover, the authority to regulate roadway and other off-site improvements is not included in the [zoning] purposes for which the local law may regulate.”). As a result, the Appellate Court determined the “the District Council did not err when it determined that the Planning Board was legally correct when it declined to condition approval of the DSP Amendment on Mr. Heard’s suggested off-site and site-adjacent improvements relating to bikeways, trails, and roadways.” Id. at 635.

Another area the Planning Board is not permitted to question, at the time of DSP, is the District Council’s decisions concerning permitted uses. When an applicant proposes a permitted use, unless the Zoning Ordinance empowers the Planning Board to consider the use, the Planning Board is restricted to evaluating the site aesthetics rather than the use. This is the issue raised in the Order of Remand in the *Southland Corporation* case and distinguished by the applicant. If the Planning Board were authorized to condition its approval of a DSP on the applicant agreeing not to conduct a permitted use, it would be usurping the legislative role the District Council reserved for itself. *S.E.W. Friel v. Triangle Oil Co.*, 76 Md.App. 96, 108-09 (1988). (“In light of these principles, we conclude there is no

merit to appellant's theory that the Planning Commission ..., in their decision making process, must consider the compatibility of existing and proposed uses.")

The Order of Remand did not find the Planning Board's decision was arbitrary and capricious. Instead, the Order found the Planning Board's decision lacked "the appropriate legal analysis, explanation or basis given for the conclusion reached by the Board." In other words, according to the Order, the Planning Board's decision lacks sufficient substantial evidence from which the Board could have reasonably found that the seven findings identified in the Order were met.

ORDER OF REMAND FINDINGS

The Order of Remand was mailed out to all parties of record on April 25, 2025. Within the Order of Remand, the District Council ordered the Planning Board to reopen the record and take further testimony or evidence on the following eight issues (in **bold**, followed by staff's analysis in plain text):

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

This application was filed under the prior Zoning Ordinance which requires a DSP be designed in accordance with the same guidelines as required for a CSP (Section 27-274). Specifically, Section 27-274 (a)(2)(C)(vi) states that "Drive-through establishments should be designed with adequate space for queuing lanes that do not conflict with circulation traffic patterns or pedestrian access."

The Planning Board found there was substantial evidence in the record to support a finding that there was adequate space for the stacking of vehicles and queuing based on the December 2024 queuing analysis provided by the applicant (page 21 of the backup). As stated on page 10 of the resolution, the exhibit demonstrated that the DSP will allow for approximately 12 to 14 vehicles (actually 14) in the double drive-through lanes, from the order box to the drive-through entrance, with additional space available to accommodate six more vehicles between the pick-up window and the order box. Accordingly, the Planning Board found that the DSP met the requirements of Section 27-274(a)(2)(C)(vi) of the prior

Zoning Ordinance because the capacity of the drive-through will not cause a conflict with circulation traffic patterns or pedestrian access.

Although not a finding applicable to the approval of a DSP under the prior Zoning Ordinance, the exhibit also noted that Section 27-6206(m) of the current Zoning Ordinance requires a minimum of six stacking spaces be provided from the order box, and at least four additional stacking spaces between the order box and pick-up window, for a total of 10 stacking spaces. There is no indication in the Zoning Ordinance of an increase in this requirement for a use with double drive-through lanes. The Zoning Ordinance does not contain any additional requirements for double drive-through lanes and the exhibit, therefore, doubles the stacking and queuing requirement in the current Zoning Ordinance. The applicant submitted a supplemental memorandum from Lenhart Traffic Consulting dated May 13, 2025, regarding stacking and queuing that is consistent with the exhibit relied on by the Planning Board in its approval of the DSP.

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

Section 27-274(a)(2) of the prior Zoning Ordinance contains design guidelines concerning parking, loading, and circulation. The Planning Board found there was substantial evidence in the record to support a finding that (i) the surface parking would be located and designed to provide safe and efficient vehicular and pedestrian circulation within the site, while minimizing the visual impact of cars, and that parking spaces would be located to provide convenient access to major destination points on the site; (ii) loading areas would be visually unobtrusive and located to minimize conflicts with vehicles or pedestrians; and (iii) vehicular and pedestrian circulation on the site would be safe, efficient, and convenient for both pedestrians and drivers.

As further detailed in the resolution (pages 9–11), the Planning Board found the evidence submitted by the applicant depicted proposed improvements to the internal circulation that facilitate accessibility to all buildings within the shopping center, allowing users to navigate through the proposed drive aisles, sidewalks, or crosswalks, thereby reducing the need for vehicles or pedestrians to utilize the adjacent roadways. These proposed improvements also include a one-way circulation pattern in the McDonald's parking lot to avoid conflicts, a

sidewalk connection to MD 410 (East-West Highway), and a proposal to combine two driveways in front of the McDonald's to one right-in/right-out driveway.

To reduce the speed of entering vehicles and separate pedestrian pathways from the existing on-site traffic, the Planning Board also identified that high-visibility traffic calming elements and marked infrastructure were proposed within the site. Additional pavement markings, crosswalks, and painted speed bumps were also proposed near the driveway entrances and along the drive aisle to the east of the proposed building. Also, to enhance safety and navigation for drivers, additional directional signage was proposed by the applicant to alert vehicles about circulation patterns and one-way traffic through the site. This includes Stop, Do Not Enter, Right-Turn Only, and No Pedestrian Access signs and pavement markings. The proposed crosswalk markings are also designed to create a designated crossing for pedestrians across all drive aisles adjacent to the proposed building.

In addition, the applicant proposed one additional mid-block crossing on Van Buren Street, to connect into the sidewalk along the property's frontage. However, per a December 13, 2024 email (Lord-Attivor to Hancock), the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) indicated that they would not support the proposed mid-block crossing due to safety concerns. In the same email, DPIE supported and recommended installing a high-visibility crosswalk at the intersection of Van Buren Street and Ager Road, where the intersection is controlled by a stop sign. According to DPIE, "[t]his crosswalk would connect to our proposed crosswalk at the intersection of Van Buren Street and Ager Road; thus, connecting the sidewalk that leads into the apartment complex/subdivision with the Shopping Center/McDonalds." Furthermore, "[u]pgrading this intersection with ADA compliant sidewalks, pedestrian ramps and a high visibility crosswalk that meets the County's standards is recommended, beneficial and critical to the pedestrian experience." The Maryland State Highway Administration (SHA) is currently in the planning process for improvements to the Riggs Road, Ager Road, and MD 410 intersection, which includes the construction of the high-visibility crosswalk at the Ager Road and Van Buren Street intersection.

Relative to off-site traffic safety and crash data in the vicinity of the DSP subject property, as discussed in the Order of Remand, the applicant reiterated that DSP findings and requirements are limited to on-site circulation and access. The applicant's team, in a memorandum dated May 13, 2025, reviewed the submitted crash data and indicated that there are no crash patterns of concern related to access to or from the shopping center. The average rate is two or less crashes per year at the property's driveways or within the circulation of the center, with the majority resulting in property damage only, with no injuries.

3. **Right-In-Right-Out-Site Access of Proposed Site Plan for an Eating and Drinking Establishment with Double Drive Through Lanes** - After reopening the record to take further testimony, as outlined above, on the purposes of the prior Zoning Ordinance, the 1989 Plan, the general purposes of the Commercial Zone, the purposes of the C-S-C Zone, the definition and application of an eating and drinking establishment, the purposes of a Detailed Site Plan, Site Design Guidelines, the impact of a Health Assessment Review from the Health Department on the proposed site plan, and testimony from Citizen Opposition on all issues raised, including traffic safety concerns, the Resolution of Planning Board shall satisfy its articulation obligations, under Maryland law, and the prior Zoning Ordinance, to include the appropriate legal

analysis, explanation or basis given for the conclusion to support whether or not the proposed site plan represents a reasonable alternative for satisfying the site design guidelines in PGCC § 27-274 — without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use — including whether or not the proposed site plan use for an eating and drinking establishment may be approved without a drive-through component.

Also related to the issue of on-site circulation is how the site will accommodate access to and from adjoining roadways. As discussed in the resolution, the Planning Board found there was substantial evidence in the record to support a finding that there would be safe and efficient access to the site including the proposed right-in/right-out access because there are four existing driveways providing direct access to the existing integrated shopping center along MD 410 and two existing driveways along Van Buren Street. The easternmost driveway along Van Buren Street primarily provides access to the rear of the existing shopping center. The second driveway along Van Buren Street, located further west, provides access to the parking lot and building entrances for the shopping center. This driveway extends the entire length of the integrated shopping center. As discussed above, additional traffic calming measures, to discourage higher speeds, were already recommended and shown on the site plan.

Along MD 410, beginning at the intersection with Van Buren Street and continuing south, there are two driveways providing access to the parking areas for the existing buildings. At the southernmost end of the subject site are two additional driveways that provide access to the proposed subject development.

MD 410 is a median-separated roadway, meaning all current egress from the shopping center along MD 410 function as right-in/right-out only movements. No left turns are permitted from the site along MD 410. A modification to the two access driveways for the subject development was incorporated on the plans to address comments received by the Maryland State Highway Administration (SHA). The modifications will channelize the driveways to further restrict turning movements to and from the site, reduce the pedestrian crossing distance and vehicular conflicts at these access points. As discussed above, to further reduce conflicts as vehicles access the site, the site plan was revised to include additional signage and striping, to facilitate one-way vehicular movement on-site and separated and marked pathways for pedestrians.

The Planning Board also heard testimony that the DSP had been reviewed by SHA on numerous occasions in consultation with Transportation Planning Staff and the applicant's team. The applicant indicated they met with SHA again on May 7, 2025 as a result of this remand. SHA reiterated their recommendation comment, to convert the two closely spaced driveways into one right-in and right-out access point, as is shown on the site plan, and stated they had no further recommendations for access to this DSP.

4. **Health Impact Assessment Review for Proposed Site Plan for an Eating and Drinking Establishment with Double Drive Through Lanes - After reopening the record to take further testimony, as outlined above, on the purposes of the prior Zoning Ordinance, the 1989 Plan, the general purposes of the Commercial Zone, the purposes of the C-S-C Zone, the definition and application of an eating and drinking establishment, the purposes of a Detailed Site Plan, Site Design Guidelines, the absence of the impact of a Health Assessment Review from the Health Department on the proposed site**

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

Section 27-284 of the prior Zoning Ordinance requires the Planning Board to refer a DSP to the Prince George's County Health Department. It also states:

The Health Department shall perform a health impact assessment review of the proposed development identifying the potential effects on the health of the population, and the distribution of those effects within the population, including recommendations for design components to increase positive health outcomes and minimize adverse health outcomes on the community.

The subject application was referred to the Health Department at the time of the initial submittal. The Health Department provided a referral dated January 30, 2024 (Adepoju to Gomez-Rojas), that stated they had completed a “desktop health impact assessment review” of the DSP for the McDonald’s located at 6565 Ager Road. Their referral, which was included in the additional material backup dated 9-24-2024 (pages 8-9), includes recommendations relative to demolition and construction practices, and permitting and licensing requirements. These comments were provided to the applicant and will be addressed during future phases of development, including permitting, demolition, construction, and prior to operation. Based on the aforementioned findings, the Planning Board found there was substantial evidence in the record showing that the DSP was referred to the Health Department and that the Health Department performed a health impact assessment review.

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

The Planning Board found there was substantial evidence in the record to support its decision approving the DSP including the technical staff reports, letters, documents, and written and oral testimony contained therein. The backup prepared in support of this memorandum includes all additional technical staff reports and submitted traffic studies, including a March 8, 2024 Trip Generation Memorandum, November 6, 2024 Trip Generation Memorandum, and a December 19, 2024 Queuing Memorandum, for the proposed development.

6. **Supplementation of the Record with Legal Owner of the Subject Property - After reopening the record to take further testimony, as outlined above, Applicant shall supplement the record with the appropriate legal owner of the subject property.**

The applicant submitted an amended application form with the appropriate legal property owner's name of 6581 Ager, L.L.L.P.

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

In a memorandum dated May 13, 2025 (Stabler to Kosack), the Historic Preservation staff provided a synopsis of the history of the adjacent Green Hill Historic Site (65-008), which is incorporated herein by reference. Staff stated that while records indicate that enslaved individuals lived at the Green Hill property, there is no evidence of the location of a cemetery on the property. The only evidence of any burials on the Green Hill property point to a copse of trees to the north of the house, which is northwest of the subject property. This is a possible location for the cemetery of the enslaved; however, if this is the case, burials are either still in that location, have been disinterred, or were impacted by the 1950s construction of the Riggs Manor subdivision, directly north of Green Hill.

Other features of the landscape which suggest that there are no burials on the subject property include the location of Ager Road. The current configuration of Ager Road was completed in 1923, when the road was paved between Queens Chapel Road to the east and Riggs Road to the west. Prior to 1923, the subject property sat on the southwest side of Ager Road instead of the northeast side of the road, where it currently exists. This road, identified in deeds as Adelphi Mill Road and on the historic maps as Sligo Mill Road, is used in metes and bounds measurements for Green Hill at least as far back as 1863, and its use could extend back into the eighteenth century. It is very unlikely that a cemetery would have been placed on the subject property, which would have to be in very close proximity to a well-established road.

The applicant retained Dr. James Gibb, a consultant archeologist, to examine the subject property and determine the probability of significant cultural resources being present on the site. Dr. Gibb visited the property on October 27, 2024, and noted that "construction of the commercial lot on the west, possibly dating to 1949 or subsequent improvements, cut into the hillside behind those establishments. While the parcel may contain inhumations (human burials), there is no evidence of any, and the chances of there being any are neither greater nor lesser than any other piece of level terrain in the region." Dr. Gibb is preparing

another report, which will be available prior to the June 12th Planning Board hearing, and he will be present to provide testimony.

Historic Preservation staff concur with the findings and conclusions of the applicant's consultant archeologist that the proposed McDonald's restaurant will not affect any significant archeological resources. However, staff conclude that a consultant's archeologist should be present to monitor ground-disturbing activities on the site, to record any significant resources that may be identified. This was included as Condition 4 in PGCPB Resolution No. 2025-008.

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

Notice of public hearing mailings in both Spanish and English were sent to all adjacent property owners, parties of record, registered associations, and municipalities within a mile, and the property was posted on May 13, 2025.

RECOMMENDATION

Based on the forgoing supplemental evidence provided by the applicant, the Urban Design Section recommends that the Planning Board adopt the additional findings of this memorandum, to address the seven findings and requested bilingual notification subject to the Order of Remand, and issue an amendment to PGCPB Resolution No. 2025-008, with no new conditions.