



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

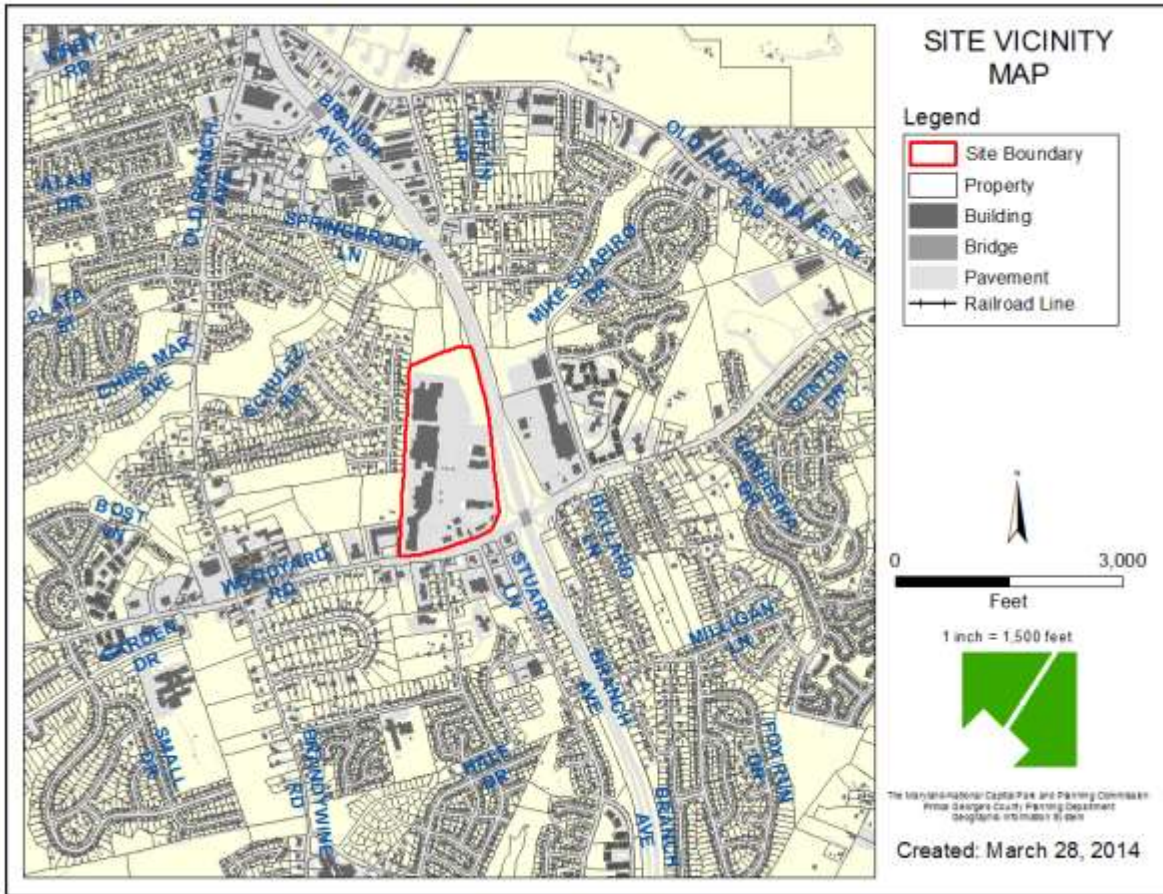
Special Exception Alternative Compliance

**SE-4733
AC-99026-01**

Application	General Data	
Project Name: Wal-Mart #2799 (Clinton) Location: Northwest quadrant of the intersection of Branch Avenue (MD 5) and Woodyard Road (MD 223). Applicant/Address: Wal-Mart Real Estate Business Trust 2001 S.E. 10th Street Bentonville, AZ 72716 Property Owner: Jubilee-Clinton II, LLC 4300 E. Fifth Avenue Columbus, OH 43219	Planning Board Hearing Date:	07/16/15
	Staff Report Date:	06/26/15
	Date Accepted:	07/11/14
	Planning Board Action Limit:	N/A
	Plan Acreage:	64
	Zone:	C-S-C
	Gross Floor Area:	171,634 sq. ft.
	Lots:	N/A
	Parcels:	1
	Planning Area:	81A
	Council District:	09
	Election District	09
	Municipality:	N/A
	200-Scale Base Map:	211SE06

Purpose of Application	Notice Dates	
Special exception for a department or variety store over 125,000 square feet in the C-S-C Zone, including a variance to the 100-foot setback requirement from an adjoining residentially-zoned property line and an amendment to an approved Alternative Compliance application.	Informational Mailing	02/26/13 05/15/13
	Acceptance Mailing:	06/23/14
	Sign Posting Deadline:	N/A

Staff Recommendation		Staff Reviewer: Tom Lockard Phone Number: 301-952-3410 E-mail: Thomas.Lockard@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Jimi Jones, Supervisor, Zoning Review Section, Development Review Division

FROM: Tom Lockard, Planner Coordinator, Zoning Review Section, Development Review Division

SUBJECT: **Special Exception Application No. SE-4733**
Alternative Compliance Application No. AC-99026-01
Wal-Mart #2799 (Clinton)

REQUEST: **SE-4733: Special exception for a department or variety store over 125,000 square feet in the C-S-C Zone, including a variance to the 100-foot setback requirement from an adjoining residentially-zoned property line.**

AC-99026-01: Amendment to an approved Alternative Compliance application to Sections 4.7 and 4.3 of the Landscape Manual.

RECOMMENDATION: **SE-4733: DISAPPROVAL**
AC-99026-01: APPROVAL

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of July 16, 2015. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and addressed to the Prince George's County Office of the Zoning Hearing Examiner, County Administration Building, Room 2184, 14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS

- A. **Location and Field Inspection:** The subject site, which consists of a portion of the Woodyard Crossing (formerly Clinton Plaza) Shopping Center, is located in the northwest quadrant of the intersection of Branch Avenue (MD 5) and Woodyard Road (MD 223). It is 16.47 acres in area carved out of a larger 64-acre collection of parcels making up the shopping center and the attendant parking. There is a freestanding 134,241-square-foot Wal-Mart store at the northern end of the shopping center, which the applicant proposes to expand and rebrand as a Wal-Mart Supercenter. The shopping center has three driveway entrances from Woodyard Road, two of which are directional due to the median in the roadway. Access to the proposed Wal-Mart Supercenter is shown from the westernmost driveway, which is controlled by a traffic signal. The rear of the building is buffered from the residences to the west by a variable-width landscape strip and ten-foot-high wood fence.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	C-S-C	C-S-C
Use(s)	Shopping Center with 134,241 sq. ft. Wal-Mart	Shopping Center with 171,634 sq. ft. Wal-Mart
Acreage	64	64
Lots	0	0
Parcels	0	0
Square Footage/GFA	134,241	171,634
Variances	No	Yes

- C. **History:** The site is the subject of Preliminary Plan of Subdivision 4-78275 for Clinton Plaza. Parcel D-2 was approved by the Prince George's County Planning Board on July 26, 1979. The record plat for the subject property contains a note which restricts the amount of development to 180,000 square feet. However, a memo dated June 1, 1989 (Feddis to Bond) indicates that the applicant submitted a traffic study for staff review for the purpose of expanding the development cap for the subject site to 800,000 square feet. In 1994, the shopping center was renovated and expanded to 280,000 square feet. There have been two Departure from Design Standards applications approved for the property, DPLS-433 and DPLS-504, both for reductions in the 50-foot setback for loading areas from residentially-zoned land. Portions of the shopping center were the subject of two Alternative Compliance applications to reduce the width of the landscape yard to the rear of the building (AC-93061 and AC-93064). In 1999, the Planning Director approved Alternative Compliance AC-99026 to provide an alternative buffering scheme to the residentially-zoned properties to the west. An amendment to that AC approval is included in this application.
- D. **Master Plan Recommendation:** This application generally conforms to the land use recommendations of the 2013 *Approved Central Branch Avenue Corridor Revitalization Sector Plan*, which recommends commercial mixed use for the property. To implement the long-term vision for Downtown Clinton, the plan recommends that the site be rezoned to a zone appropriate for mixed-use development; the illustrative development concept shows the current location of the Wal-Mart being a soccer field. However, the plan also notes that the Woodyard Crossing Shopping Center is currently experiencing some success in recent years, despite the fact that the

overall plan area is oversaturated with retail uses. The site has not yet been rezoned. Therefore, it is reasonable to conclude that an addition to the Wal-Mart, or any retail aspect of the shopping center, is a sensible short-term decision that will not impede the realization of the plan's long-term vision for the area.

The *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035) makes no relevant recommendations influencing a development application on this property.

- E. **Request:** The applicant is proposing to expand the existing 134,241-square-foot Wal-Mart store on the subject property and convert it to a 171,634-square-foot Wal-Mart Supercenter. The expansion would be to the northern end of the building. The proposal would incorporate three major uses within one building: a grocery store, a general merchandise store, and a garden center. Additional small tenant retail is also usually found in this type of development. Access, parking, and loading for the use are to remain the same.
- F. **Neighborhood and Surrounding Uses:** The subject property is located in the Clinton community.

The neighborhood is defined by the following boundaries:

North— Coventry Way
East— Branch Avenue (MD 5)
South— Woodyard Road (MD 223)
West— Old Branch Avenue

The subject neighborhood has a dual character. Along the major roadways making up the neighborhood boundaries, is a mix of strip commercial and institutional uses. The northern extreme along Coventry Way has a more industrial and heavy-commercial character. The interior of the neighborhood is made up of single-family detached residences. The neighborhood is bisected from the northeast to the southwest by the Pea Hill Branch Stream Valley.

The site is surrounded by the following uses:

North— Undeveloped land in the One-Family Detached Residential (R-80) Zone.
East— A stormwater management pond and Branch Avenue (MD 5), beyond which is a retail shopping center in the Commercial Shopping Center (C-S-C) Zone.
South— The remainder of the shopping center including numerous pad sites, beyond which is Woodyard Road (MD 223) and retail, office, and residential uses in the C-S-C, Commercial Office (C-O), and R-80 Zones.
West— Single-family detached residences in the Clinton Estates Subdivision in the R-80 Zone.

- G. **Specific Special Exception Requirements for a Department or Variety Stores Combined with Food and Beverage Stores:** A department or variety store over 125,000 square feet is permitted in the C-S-C Zone by a special exception. Section 27-348.02 of the Prince George's

County Zoning Ordinance sets forth the specific special exception requirements for this use:

- (a) **Department or Variety Stores and Department or Variety Stores combined with Food and Beverage Stores permitted in the use tables by Special Exception (SE) in the I-3, C-S-C and C-M zones shall be subject to the following requirements:**

- (1) **The site shall have frontage on and direct vehicular access to an existing arterial roadway, with no access to primary or secondary streets.**

Comment: The subject site has frontage on and direct vehicular access to Woodyard Road (MD 223), which is an arterial roadway. No access to primary or secondary streets is proposed.

- (2) **The applicant shall demonstrate that local streets surrounding the site are adequate to accommodate the anticipated increase in traffic.**

Comment: The Transportation Planning Section has reviewed the special exception application and, in a memorandum dated October 8, 2014 (Jenkins to Lockard), made the following comments:

Background

The shopping center includes an existing department store of 134,241 square feet; the proposal adds 37,393 square feet to the north side of the building, for a total of 171,634 square feet. The grocery component exceeds ten percent of the merchandise area; therefore, a special exception is required under Section 27-461 of the Zoning Ordinance.

Review Comments

The subject property is located within Transportation Service Area 2 (TSA 2), as defined in Plan Prince George's 2035. Areas within TSA 2 are subject to Level-of-Service D (LOS D), unless it is defined as a town center.

As stated in the Transportation Review Guidelines, Part 1, in cases (special exceptions) where the new traffic impact would exceed 100 peak-hour trips, applicants are encouraged to prepare a traffic impact study. The applicant submitted a traffic impact study dated April 10, 2014 and a supplemental traffic impact study was submitted July 24, 2014.

A comparison of estimated trip generation is shown in the table below:

Comparison of Estimated Trip Generation, SE-4733, 20.44 acres								
Zoning or Use	Units or Square Feet	AM Peak-Hour Trips			PM Peak-Hour Trips			Daily Trips
		In	Out	Total	In	Out	Total	
Existing Zoning C-S-C (discount store)	134,241 square feet	97	45	142	334	335	669	7,684
Proposed Use C-S-C (super discount store)	175,000 square feet	181	143	324	373	388	761	8,881
	Net increase trips	84	98	182	39	53	92	1,197
Less Pass-by	-26% pass-by (PM)	0	0	0	10	14	24	
Difference		+84	+98	+182	+29	+39	+68	

The traffic impact study found that nearby intersections will continue to operate at acceptable levels of service during the AM and PM peak hours even with the increase of 180 AM and 70 PM peak hour trips. Updated traffic counts from April 2014 were used in the study. An annual growth rate of two percent was applied to through traffic for two years. In addition, nearby background developments were included in the study.

The proposed use is within a large existing shopping center of approximately 522,000 square feet. The traffic impact study presented a worst case scenario in terms of singling out the proposed super discount store with food service. The proposed expansion will generate approximately 180 AM and 70 PM additional peak hour trips and 1,200 additional daily trips. All three nearby intersections will continue to operate at acceptable levels of service, LOS C or better.

Access and site circulation is acceptable. There are three main access points along MD 223. Two of these are right-in/right-out movements. No changes are planned at these access points. The full movement access point opposite Pine View Lane is signalized. More parking is being provided than is required.

Woodyard Road and Branch Avenue (MD 5) are both adjacent master plan roadways. No further dedication is required.

DPW&T & SHA Comments:

The Department of Public Works and Transportation (DPW&T) recommended that the applicant be required to conduct a weaving analysis for the ramps west of MD 5 along MD 223, although these roadways are under the jurisdiction of the Maryland State Highway Administration (SHA). SHA did not require a weaving analysis.

SHA requested queue analyses for all three intersections on MD 223 due to additional eastbound left turns. The traffic consultant determined that left-turn queues would be accommodated with the exception of eastbound left turns at MD 5. Based on SHA's queue formula, left-turn queues at this intersection are already twice the available distance under existing conditions. The proposed expansion would add two new vehicles, or 35 feet, to this queue. The consultant suggested that trip generation for the site was overstated based on a freestanding discount store rather than on the entire shopping center which would have reduced trips and traffic queues. SHA also noted a miscalculation of the critical lane volume at MD 223 and Woody Terrace. This was corrected. The intersection will still operate at acceptable levels.

Conclusion

The Transportation Planning Section finds that the proposal would meet the requirements of Subtitle 27 of the Prince George's County Code for the approval of a special exception from the standpoint of vehicular circulation and transportation.

While the plan may be acceptable for special exception approval, the applicant will need to comply with any outstanding preliminary plan conditions, and apply to SHA for any needed access permits.

- (3) The site shall contain pedestrian walkways within the parking lot to promote safety.**

Comment: The site plan appears to show adequate pedestrian walkways from the handicap-accessible parking spaces to the building; however, perhaps due to the scale of the drawings, it is unclear if the landscape islands in the parking areas provide any room for pedestrian walkways or if they are solely designated for landscaping.

- (4) The design of the parking and loading facilities shall ensure that commercial and customer traffic will be sufficiently separated and shall provide a separate customer loading area at the front of the store.**

Comment: The loading for the Wal-Mart is located behind the proposed addition, and the pedestrian entrances and loading areas are exclusively along the front façade in conformance with this requirement.

- (5) All buildings, structures, off-street parking compounds, and loading areas shall be located at least:**

- (A) One hundred (100) feet from any adjoining land in a 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; and**

Comment: The new building expansion meets this setback; however, the existing building, trash compactor, loading spaces, and service driveway thereto do not. The applicant seeks a variance, which has been applied for and is being processed as a companion case to the subject application.

- (B) Fifty (50) feet from all other adjoining property lines and street lines.**

Comment: The site plan indicates a 50-foot setback for all proposed buildings, structures, parking compounds, and loading areas from all other adjoining property and street lines in conformance with this requirement.

- (6) All perimeter areas of the site shall be buffered or screened, as required by the Landscape Manual; however, the Council may require additional buffering and screening if deemed necessary to protect surrounding properties.**

Comment: The submitted site plan lacks conformance to the requirements of the 2010 *Prince George's County Landscape Manual*. A companion Alternative Compliance application (AC-99026-01) is being processed as part of this request. It is discussed in Finding K of this report.

- (7) **The building entrance and nearby sidewalks shall be enhanced with a combination of special paving, landscaping, raised planters, benches and special light fixtures.**

Comment: The submitted plans have insufficient detail to determine if these features are being provided near the building entrance. The applicant must provide details that clearly describe the special paving, landscaping, raised planters, benches, and light fixtures provided in accordance with this requirement.

- (8) **The application shall include a comprehensive sign package and a comprehensive exterior lighting plan.**

Comment: Comprehensive signage and lighting plans, including building-mounted fixtures, were not provided. The Urban Design Section would suggest that the Zoning Review Section request that it be provided and that they review it for adequacy prior to recommending approval of the subject project.

- (9) **The applicant shall use exterior architectural features to enhance the site's architectural compatibility with surrounding commercial and residential areas.**

Comment: The architecture for the project is largely rectilinear. The rooflines (other than a small portion of the front) are flat and undifferentiated. Variety of detailing, use of quality materials, and an aesthetically pleasing pattern of fenestration are limited likewise to a very limited stretch of the front façade. The elevations otherwise, including the side (northern) architectural elevation of the proposed addition that will be clearly visible in the side parking lot and may be somewhat visible to the adjacent residentially-zoned land beyond, are largely blank walls and not aesthetically pleasing. The Urban Design Section has suggested that the architecture be redesigned to create visual interest in the façades so that the project may be said to be in accordance with this requirement.

- (10) **Not less than thirty percent (30%) of the site shall be devoted to green area.**

Comment: The site plan indicates that 42 percent green area is being provided on-site, of which ten percent is surface water, meeting and exceeding this requirement.

H. **Variance to the 100-foot setback requirement of Section 27-348.02(a)(5):**

Section 27-348.02(a)(5) of the Zoning Ordinance prescribes that all buildings, structures, off-street parking compounds, and loading areas shall be located at least 100 feet from any adjoining land in a residential zone. The existing service driveway behind the building is, at points, approximately 22 feet from the residentially-zoned property to the west. The existing trash compactor, rear of the building, and three loading spaces are within 45 feet, 51 feet, and 52 feet, respectively. Thus, a variance is required.

Section 27-230(a) of the Zoning Ordinance provides the following findings for approval of a variance:

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

Comment: The overall shopping center property is rectangular in shape and, although the usable portion of the parcel is constrained by floodplain to the north and east and is hemmed in by a freeway to the east and residences to the west, the special exception boundary is still in excess of 600 feet wide where the applicant is proposing the addition. The applicant can easily meet the 100-foot setback for the proposed addition despite these “encumbrances,” but cannot do so for the existing building, drive aisle, trash compactor, and loading spaces. Staff is not persuaded that it is some peculiar circumstance or other extraordinary situation that keeps the applicant from meeting the setback; staff believes it is a matter of convenience. The first criterion is not met.

- (2) **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

Comment: As a use permitted by special exception, a department or variety store in excess of 125,000 square feet is generally deemed appropriate in the C-S-C Zone, so long as the general and specific requirements for the special exception are met. The applicant submits that to require them to design their supercenter in such a way that they can meet the setback would result in peculiar and unusual practical difficulties. Staff finds it hard to imagine that there is no alternative design for the site that would make the need for this variance go away. It may result in a smaller store or may require the applicant to do some site-specific design, rather than applying their stock design to the property. Requiring the applicant to do so does not reach the level of peculiar or unusual difficulty in staff’s opinion. The second criterion is not met.

- (3) **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

Comment: The variance will not substantially impair the intent, purpose, or integrity of the Central Branch Avenue Corridor Revitalization Sector Plan, which recommends a mixed-use for the subject property. The use is permitted by special exception in the C-S-C Zone and is therefore presumed to be compatible with the surrounding permitted uses. While staff disagrees with the applicant’s justification for the variance, we concede that, if approved, it will not substantially impair the integrity of the plan. This criterion is met.

Conclusion

Staff believes that two of the three criteria for approval of a variance have not been met. Staff recommends disapproval of this variance request.

- I. **Parking Regulations:** The site plan correctly notes that a total of 507 parking spaces are required and provided for the proposed use. Section 27-573 of the Zoning Ordinance permits the off-site parking across Clipper Way because it is within 500 feet and a legal arrangement will ensure its permanent availability.
- J. **Landscape Manual Requirements and Tree Canopy Coverage:** The proposed project is subject to the requirements of the 2010 *Prince George’s County Landscape Manual* (Landscape Manual) as follows:

1. **Section 4.2, Requirements for Landscaped Strips along Streets**—The proposal is subject to Section 4.2 along its frontages. The submitted plan provides the appropriate schedules, which shows that the requirements are being met with the proposed development.
2. **Section 4.3, Parking Lot Requirements**—The proposal is subject to the requirements of Section 4.3 because it involves new parking areas in excess of 7,000 square feet. The submitted plan provides the appropriate schedule, which shows that the requirements are being met by the proposed development.
3. **Section 4.4, Screening Requirements**—The submitted site plan indicates that the existing exterior trash facilities and loading spaces located adjacent to the northwestern corner of the building are to be screened in conformance with these requirements.
4. **Section 4.5, Stormwater Management Facilities**—The subject special exception site plan does not indicate any proposed stormwater management facilities on-site that would require landscaping per this section.
5. **Section 4.7, Buffering Incompatible Uses**—The special exception is subject to the requirements of Section 4.7 because it involves a new building and because it is directly adjacent to uses defined as incompatible in the Landscape Manual. The plan does not conform to the requirements for buffering the use from the residences to the west. Alternative compliance has been applied for and is discussed in Finding K of this report.
6. **Section 4.9, Sustainable Landscaping Requirements**—The special exception is subject to the requirements of Section 4.9 for all proposed plantings. The plan includes a schedule and notes demonstrating conformance to these requirements. However, the plant list does not include a designation of native and non-native species, and the numbers shown as provided in the Section 4.9 schedule do not appear to be correct. These issues should be corrected prior to approval of the special exception.

Tree Canopy Coverage

This application is subject to the Tree Canopy Coverage Ordinance as it proposes disturbance of 5,000 square feet or greater. Though the entire site measures 64 acres, 6.10 acres (or the area of the limit of disturbance) is used to calculate the tree canopy coverage (TCC) requirement. The requirement therefore is 0.61 acre (or 26,572 square feet) of TCC. A TCC worksheet has been provided on the landscape plan specifying that this requirement is being met through the provision of 0.61 acre (or 26,572 square feet) of woodland conservation provided on-site and 2,025 square feet of landscape trees, totaling 22,800 square feet, meeting and exceeding 0.97 acre of existing woodlands to be preserved, and proposed tree planting on-site for a total of 2.76 acres.

- K. **Alternative Compliance AC-99026-01:** This site has been the subject of several previous Alternative Compliance applications (AC-93061 and its five revisions and AC-99026) and a Departure from Design Standards (DDS-433) application for landscaping requirements. The site is subject to Section 4.2, Requirements for Landscape Strips along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements, of the Landscape Manual because it involves an increase of more than 5,000 square feet of gross floor area on the subject property. The applicant has filed this request for Alternative Compliance from Section 4.3, Parking Lot Requirements, for the reduction of interior landscaped area and tree planting requirements and Section 4.7, Buffering Incompatible Uses, along the western and northern property lines for a

reduction of the width of the required landscape strip and for the location of a ten-foot-high fence beyond the building setback.

REQUIRED: 4.3 Parking Lot Interior Planting, within the limit of disturbance (LOD) for SE-4733

Parking Lot Area	153,993 sq. ft.
Interior Landscaped Area	15% (23,099 sq. ft.)
Shade Trees	57

PROVIDED: 4.3 Parking Lot Interior Planting, within the limit of disturbance (LOD) for SE-4733

Parking Lot Area	153,993 sq. ft.
Interior Landscaped Area	7.3% (11,289 sq. ft.)
Shade Trees	54 (9 existing, 45 proposed)

REQUIRED: 4.7 Buffering Incompatible Uses, along the northern property line, adjacent to vacant R-80

Length of bufferyard	852 feet
Minimum building setback	50 feet
Landscape yard	40 feet
Fence or wall	Yes (ten-foot-high, board-on-board)
Percent with Existing Trees	32%
Plant Units (160 per 100 l. f.)	690

PROVIDED: 4.7 Buffering Incompatible Uses, along the northern property line, adjacent to vacant R-80

Length of bufferyard	860 feet
Minimum building setback	156 feet
Landscape yard	50+ feet
Fence or wall	Yes (ten-foot-high, board-on-board)
Percent with Existing Trees	32%
Plant Units (160 per 100 l. f.)	700

REQUIRED: 4.7 Buffering Incompatible Uses, along the western property line, adjacent to residential

Length of bufferyard	2,037 feet
Minimum building setback	50 feet
Landscape yard	40 feet
Fence or wall	Yes (ten-foot-high, board-on-board for 1,986 l. f.)
Percent with Existing Trees	56%
Plant Units (160 per 100 l. f.)	712

PROVIDED: 4.7 Buffering Incompatible Uses, along the western property line, adjacent to residential

Length of bufferyard	2,037 feet
Minimum building setback	51 feet
Landscape yard	20 feet
Fence or wall	Yes (ten-foot-high, board-on-board for 1,986 l. f.)
Percent with Existing Trees	56%
Plant Units (160 per 100 l. f.)	1,083

Justification of Recommendation

The applicant is requesting Alternative Compliance from Section 4.3, Parking Lot Interior Planting, for the planting area, shade trees provided, and the width of the landscape islands. The plan proposes to remove four existing planting islands in front of the building in order to provide direct handicap accessibility to the entrances. The parking lot is proposed to be expanded in the northern portion of the site; all other areas of the parking lot currently exist. Overall, the applicant is proposing to provide approximately half of the required interior planting area with 54 of the 57 required shade trees within the parking lot area. However, 14 additional shade trees are being proposed along the northern perimeter of the parking lot in addition to the existing tree canopy that lines the eastern perimeter of the parking lot area. Although the planting area provided has been reduced, the significant plant material provided at the perimeter of the parking lot will provide shading and cooling to the parking lot area and allow for maximum growth of the shade trees. Section 4.3 of the Landscape Manual also requires the planting islands to be nine feet in width where parking spaces exist on both sides of the island. The proposed plan is largely in conformance with this requirement, except for two islands provided in the northern parking area where compact spaces are proposed. The two islands are instead eight feet in width, consistent with the width of the parking spaces. The Alternative Compliance Committee finds the alternative design de minimus and the proposed alternative compliance measures to be equally effective as normal compliance with Section 4.3 of the Landscape Manual.

The applicant is requesting Alternative Compliance from Section 4.7, Buffering Incompatible Uses, along the northern property line, adjacent to residentially zoned vacant property for the location of a ten-foot-high fence beyond the building setback. A variance was previously approved for the existing location of the ten-foot-high fence, approximately 12 feet off of the northern property line. The plan proposal includes relocating or replacing the ten-foot-high fence closer to the northern property line. Since the Landscape Manual determines the required setback, the applicant has requested alternative compliance. Together with the proposed fence, the requirements for the building setback for all other structures on the site and landscape yard along

the northern property are well exceeded. In addition to being undeveloped, the property to the north is also owned by the same owner of the subject shopping center, so it is not an impediment to any other land owner and provides further buffering from a property in a less intense zone if it were to be developed in the future. The Alternative Compliance Committee finds the proposed alternative compliance measures to be equally effective as normal compliance with Section 4.7 of the Landscape Manual along the northern property line.

The applicant is requesting Alternative Compliance from Section 4.7, Buffering Incompatible Uses, along the western property line, adjacent to developed single-family detached properties. The applicant proposes to provide a 20-foot-wide landscape buffer, where 40 feet would normally be required, and 150 percent of the required landscaping together with a ten-foot-high screen fence within the 50-foot required building setback. Except for 34 proposed shrubs, all of the plant material and fence are existing and were previously approved with the reduced bufferyard width under Alternative Compliance AC-93061 and its five revisions. The existing plant material has grown to provide a mature and dense buffer to the residential properties. The proposed extensions of the Walmart building and parking area do not impede any further into the provided buffer than previously existed. The requirements of the Landscape Manual also remain the same as was previously required. Given the existing conditions of the property and that no change to the existing buffer is proposed, the Alternative Compliance Committee finds the proposed alternative compliance measures to be equally effective as normal compliance with Section 4.7 of the Landscape Manual along the western property line.

Recommendation

The Alternative Compliance Committee and the Planning Director recommend APPROVAL of Alternative Compliance for Section 4.3 and Section 4.7 of the 2010 *Prince George's County Landscape Manual*, along the northern and western property lines and adjacent to the residentially zoned properties, for Clinton Plaza (Walmart), Parcel D-2.

- L. **Zone Standards:** The proposed use meets all of the bulk and height standards for the C-S-C Zone.
- M. **Sign Regulations:** The site plan indicates signs well within the allowable square footage and located in conformance with Zoning Ordinance regulations.
- N. **Required Findings for a Special Exception:** Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

(1) The proposed use and site plan are in harmony with the purposes of this Subtitle.

Comment: The 15 purposes of the Zoning Ordinance, as provided in Section 27-102(a), seek generally to protect and promote the health, safety, and welfare of the present and future inhabitants of the County. The applicant is proposing a use that is presumed to be appropriate in the C-S-C Zone and compatible with the surrounding properties in residential zones, including the residences to the west. However, the Prince George's County District Council has added an additional setback requirement that the applicant's proposal does not meet and for which staff cannot find sufficient justification.

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

Comment: The applicant's proposal does not meet the setback requirements for this special exception use and staff does not find the applicant's arguments for a variance persuasive. Through an Alternative Compliance application, the plan meets the requirements of the Landscape Manual.

- (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 Map Plan, the General Plan.**

Comment: This application generally conforms to the land use recommendations of the Central Branch Avenue Corridor Revitalization Sector Plan, which recommends commercial mixed use for the property.

The Environmental Planning Section has assessed the impacts to the environmental guidelines of the September 2012 *Preliminary Central Avenue Corridor Revitalization Sector Plan*. The text in **BOLD** is the text from the Central Avenue Corridor Revitalization Sector Plan and the plain text provides comments on plan conformance.

Policy 1: Implement the master plan's desired development pattern while protecting sensitive environmental features and meeting the full intent of environmental policies and regulations.

Ensure the new development incorporates open space, environmental sensitive design, and mitigation activities.

Protect, preserve and enhance the identified green infrastructure network within Subregion 5.

Comment: The project site does contain regulated environmental features and woodland areas. Some areas of regulated environmental features, which make up the primary management area (PMA), have been impacted through previous Type 2 tree conservation plan (TCP2) approvals. The current application proposes to impact additional PMA, specifically within the floodplain and along the edge of a water buffer. The impact is for a designed stormwater management submerged wetlands. No impacts are proposed for the remaining woodland areas on-site.

Policy 2: Encourage the restoration and enhancement of water quality in degraded areas and the preservation of water quality in areas not degraded.

Protect and restore groundwater recharge areas such as wetlands and headwater areas of streams.

Comment: The approved Stormwater Management Concept Plan (36276-2011-00) dated May 10, 2012 was submitted with the subject application. The concept plan only shows the Wal-Mart area, not the entire Clinton Crossing Shopping Center. There is one proposed submerged wetland area, along with a large underground piped detention area. The proposed submerged wetland will serve to infiltrate stormwater to promote groundwater recharge. According to the approval letter, a fee of \$4,741.92 is required for on-site attenuation] and quality control measures.

Policy 3: Enhance the county's Critical Area protection management in response to local, regional, and statewide initiatives and legislative changes.

Comment: The subject property is not located in the Chesapeake Bay Critical Area.

Policy 4: Reduce air pollution through transportation demand management (TDM) projects and programs.

Promote "climate-friendly" development patterns through the planning processes and land use decisions.

Increase awareness of the sources of air pollution and green-house gas emissions.

Comment: Air quality is a regional issue that is currently being addressed by the Council of Governments.

Policy 5: Encourage the use of green building techniques that reduce resource and energy consumption.

Comment: The application is to renovate and expand the existing building and add an outdoor garden center. The development applications for the subject property, which require architectural approval, should incorporate green building techniques and the use of environmentally-sensitive building techniques to reduce overall energy consumption. The use of green building techniques and energy conservation techniques should be encouraged and implemented to the greatest extent possible.

Policy 6: Ensure that excessive noise-producing uses are not located near uses that are particular sensitive to noise intrusion.

Comment: The new construction activities proposed are located within an existing commercial shopping center that has existing residential uses located to the west. There is an existing woodland/landscape buffer strip located between the commercial and residential uses. This existing vegetative buffer will reduce the new noise impacts from the development.

Conformance with the Countywide Green Infrastructure Plan

The 2005 *Approved Countywide Green Infrastructure Plan* indicates that property does not contain areas within or near the designated network.

Conformance Finding for the 2010 Approved Water Resources Functional Master Plan

The 2010 *Approved Water Resources Functional Master Plan* contains policies and strategies related to the sustainability, protection, and preservation of drinking water, stormwater, and wastewater systems within the County, on a countywide level. These policies are not intended to be implemented on individual properties or projects and instead will be reviewed periodically on a countywide level. As such, each property reviewed and found to be consistent with the various countywide and area master plans, county ordinances for stormwater management, floodplain and woodland conservation, and programs implemented by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), the Prince George's County Health Department, the Prince George's County Department of Environmental Resources, the Prince

George's Soil Conservation District, the Maryland-National Capital Park and Planning Commission (M-NCPPC), and the Washington Suburban Sanitary Commission (WSSC) are also deemed to be consistent with this master plan.

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

Comment: Nearby residents and workers are likely to notice additional impacts because of an increase in business at the expanded store. However, it is unlikely to be injurious to their health, safety, or welfare.

- (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

Comment: The Central Branch Avenue Corridor Revitalization Sector Plan for this area envisions a mix of uses for the Downtown Clinton area, which includes the subject property. The plan recommends that the site be developed in accordance with its zoning. The specific special exception requirements for the proposed use dictate that additional attention be paid to setbacks, architecture, landscaping, lighting, and green areas. The applicant has successfully addressed most of these. However, staff remains concerned that the plan retains the status quo regarding the setback from residences to the west rather than attempting to meet them. Doing so increases the possibility that the expanded use will be detrimental to the use or development of adjacent properties, or the general neighborhood.

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

Comment: This property is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because the site has a previously approved Type II Tree Conservation Plan (TCP2-087-93-04). The site (Clinton Crossing) previously had impacts to the on-site woodland areas, and both wetland mitigation and reforestation was implemented on- and off-site. These on-site plantings were installed and the off-site woodlands were purchased throughout the mid and late 1990s.

Currently, the site has a woodland conservation threshold of 30.37 acres and most of that requirement was met in previous TCP2 submittals. A sum of 19.44 acres of off-site woodland conservation was purchased in the form of reforestation and preservation. During the review of the recent natural resources inventory, it was determined that not all of the on-site reforestation that was required was planted or was successful. The amount of 0.56 acre was determined not reforested on-site. This current application proposes to clear 0.03 acre of an existing on-site reforestation area. To meet this new and outstanding requirement, the applicant proposes to purchase off-site woodland preservation credits.

- (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.**

Comment: The site contains regulated environmental features within the PMA that are required to be preserved and/or restored to the fullest extent possible. According to the revised TCP2, the proposed design will not result in any additional impacts to the PMA; however, the stormwater concept and proposed special exception plans still show impacts to the PMA for the submerged gravel wetland. The special exception and stormwater management plans must be revised in order to find conformance with this requirement.

CONCLUSION

A special exception use is considered compatible with uses permitted by-right within the zone, as long as specific criteria are met. Unless unique adverse impacts are identified, the special exception may be approved. The appropriate standard for determining whether the use would create an adverse impact upon surrounding properties is to show that the proposed use, **at the particular location proposed, would have adverse impacts above and beyond those inherently associated with the special exception use, regardless of its location within the zone.** In this case, staff is particularly concerned with the impact of the proposed use on the residential properties to the west and the applicant's request for a variance to the prescribed 100-foot setback.

Variances allow for circumvention of the strict terms of the Zoning Ordinance and should only be approved where the justification to do so is substantial. Consequently, they are to be used sparingly. Staff recognizes the long existence of the Wal-Mart building, service drive, trash compactor, and loading spaces and their location relative to the residences to the west, but we also note the fact that this situation is only allowed through past excusals via several departures and alternative compliances, which the applicant requests further amendments to. Those were approved for what was then a **permitted** use in the C-S-C Zone. What we are reviewing here is a special exception use which the District Council has determined has impacts above and beyond those ordinarily associated with the permitted by-right use. If the requirements can be met, they should be. We also recognize that it would be more expensive and less convenient for the applicant to meet the setback requirement. However, economic hardship is not a sufficient reason to grant a variance, nor is convenience.

Assuming that the District Council's reasoning in requiring the 100-foot setback for these "big box" stores was to protect the adjoining residences (along with the requirement that the perimeter areas of the site shall be buffered or screened, as required by the Landscape Manual, from which the applicant seeks further alternative compliance), staff cannot find the variance for the expansion onto the existing building justified. Because we are unable to recommend approval of the variance, we cannot recommend approval of the special exception.

Staff believes that the applicant has not met their burden of proof in this instance. Therefore, staff recommends DISAPPROVAL of Special Exception Application No. SE-4733.

The Planning Director recommends APPROVAL of Alternative Compliance Application No. AC-99026-01.