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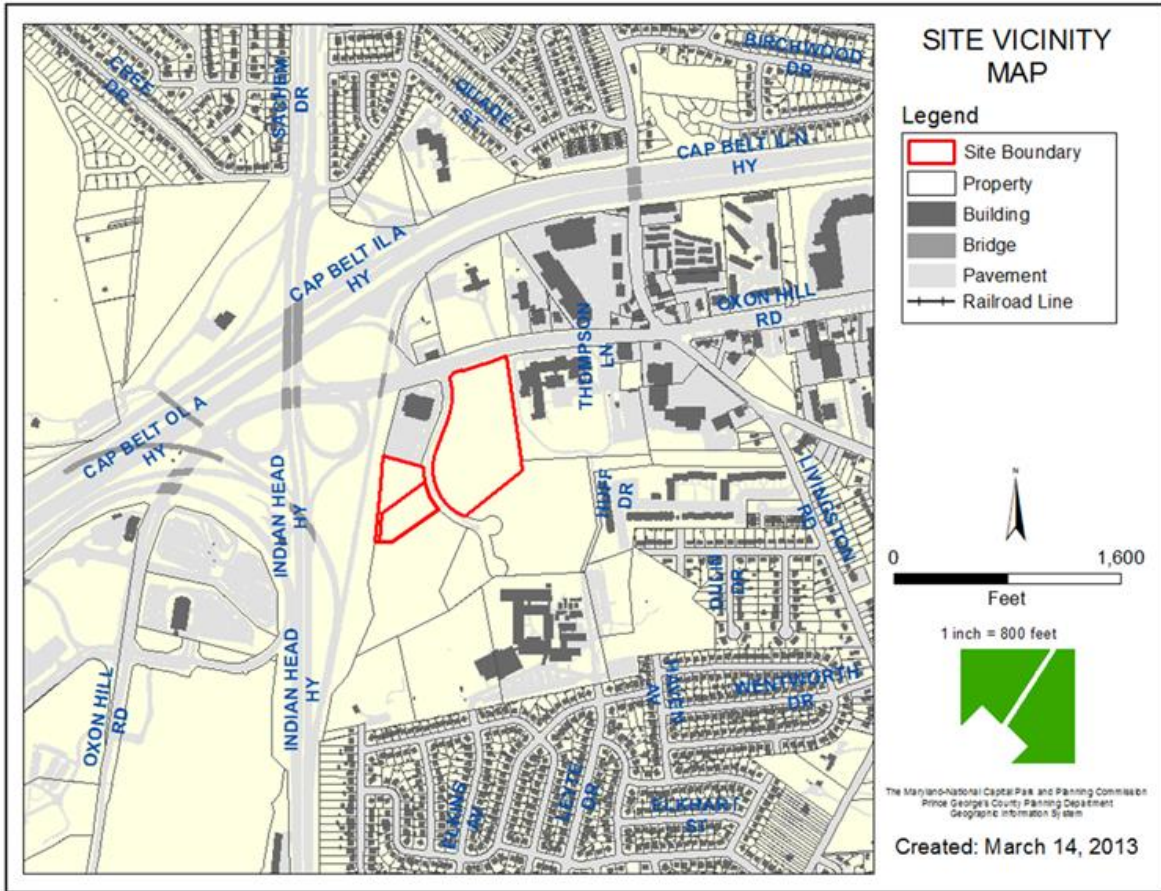
Special Exception

SE-4738

Application	General Data	
Project Name: Potomac Business Park Location: South side of Oxon Hill Road (MD 414) at Clipper Way (formerly Felker Avenue), approximately 400 feet east of the intersection of Oxon Hill Road and Indian Head Highway (MD 210). Applicant/Address: Oxon Hill Associates, LLC. 12500 Fair Lake Circle, Suite 400 Fairfax, VA 22033 Property Owner: (Lot 6 & 8) Same as above (Lot 7) is owned by Prince George's County	Planning Board Hearing Date:	01/23/14
	Staff Report Date:	01/08/14
	Date Accepted:	10/08/13
	Planning Board Action Limit:	N/A
	Plan Acreage:	15.44 acres
	Zone:	I-3
	Gross Floor Area:	100,310 sf.
	Lots:	3
	Parcels:	N/A
	Planning Area:	76B
	Tier:	Developed
	Council District:	08
	Election District	12
	Municipality:	N/A
	200-Scale Base Map:	209SE01

Purpose of Application	Notice Dates	
Special Exception for a department or variety store in the I-3 Zone with over 85,000 square feet with food and beverage component.	Informational Mailing	03/26/13
	Acceptance Mailing:	10/01/13
	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, Zoning Supervisor, Development Review Division

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

SUBJECT: **Special Exception Application No. SE-4738**
Potomac Business Park (Walmart)

REQUEST: **Special exception for a department or variety store over 85,000 square feet in the I-3 Zone.**

RECOMMENDATION: **APPROVAL, subject to conditions**

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of January 23, 2014. 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 three noncontiguous lots (Lots 6, 7 and 8, Potomac Business Park), is located at the southeast corner of the intersection of Oxon Hill Road (MD 414) and Clipper Way (formerly Felker Avenue). It is 15.44 acres in area and is part of a planned business park, which is currently partially graded, but developed only with a stormwater management pond. The site is characterized with terrain sloping toward the southern portion of the site and drains into unnamed tributaries of the Henson Creek watershed in the Potomac River Basin. The southern portion of Lot 6 contains floodplains, streams and wetlands.

As presently configured, the special exception site has frontage on the south side of Oxon Hill Road (MD 414) and both the east and west sides of Clipper Way. Lot 6 is on the east side of Clipper Way and is the proposed location for the Walmart Supercenter and associated parking. Lots 7 and 8 are located on the west side of Clipper Way and extend back to the ramp from northbound Indian Head Highway (MD 210) to the Capital Beltway (I-95/I-495). They are proposed for an auxiliary parking lot. Access is proposed from Clipper Way, with no access from Oxon Hill Road. Lot 7 is presently owned by Prince George's County, it is the proposed site for a fire station. The applicant and the County are currently negotiating a land swap to allow Lot 7 to be used for parking. Clipper Way terminates at Oxon Hill High School, and carries some of the traffic for the school.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	I-3	I-3
Use(s)	Vacant	Department/Variety store
Acreage	15.44	15.44
Lots	3	3
Parcels	0	0
Square Footage/GFA	0	100,310
Variances	No	Yes

- C. **History:** In November 1987, the Planning Board approved Conceptual Site Plan CSP-87116 for the Potomac Business Park, including this property, subject to seven conditions. In June 1988, the Planning Board approved Preliminary Plan of Subdivision 4-88054 (PGCPB Resolution No. 88-250) for the Potomac Business Park property, subject to 20 conditions. The preliminary plan was then reconsidered in January 1996, and an amended resolution issued (PGCPB Resolution No. 88-250(A)) subject to 20 conditions. The property was recorded in Plat Book VJ 160-87 on October 30, 1991. The property was re-recorded in Plat Book VJ 178-69 on February 26, 1997, as a plat of correction. The property was again re-recorded in Plat Book MMB 233-87 on April 18, 2011, as a plat of resubdivision.
- D. **Master Plan Recommendation:** This application generally conforms to the land use recommendations of the April 2006 *Approved Master Plan and Sectional Map Amendment for Henson Creek-South Potomac Planning Area 76B and 80*. The subject property is within the Oxon Hill Regional Center future mixed-use rezoning area where application for mixed-use zoning is recommended to implement the concepts and guidelines contained in the plan text. The master plan designates this area a transition area and recommends future development at lower scale transit-oriented (TOD) densities and intensities than the core area in order to serve potential

future light rail transit station stops. The application as proposed is consistent with the goals of the master plan principles of compact TOD and place-making. The building setback and the parking area are consistent with urban design guidelines for Oxon Hill Road and are consistent with the redevelopment vision for Oxon Hill Regional Center that emphasizes pedestrian and transit-oriented design, a new grid pattern of walkable interconnected streets and blocks, and transit-serviceable development.

The 2002 *Prince George's County Approved General Plan* locates the subject property in the Developed Tier. This application is consistent with the policies for the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods.

- E. **Request:** The applicant is proposing to build a 100,310-square-foot Walmart Supercenter on Lot 6 of the subject property. 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 is proposed from Clipper Way, with no access from Oxon Hill Road. A 507 space-parking lot is proposed on the remainder of Lot 6 (289 spaces) and all of Lots 7 and 8 across Clipper Way (218 spaces). The eastern side of the proposed building, which borders a public school, is the proposed location of the loading docks and the recycling/organic waste/wood pallet storage area.
- F. **Neighborhood and Surrounding Uses:** The subject property is located in the Oxon Hill community.

The neighborhood is defined by the following boundaries:

North—	The Capital Beltway (I-95/I-495)
East & South—	Livingston Road
West—	Indian Head Highway (MD 210)

The subject neighborhood has a dual character. To the north and east, it is a mix of institutional uses (church, school, and post office) and strip commercial uses along Oxon Hill Road (MD 414) and Livingston Road. The southern section of the neighborhood consists mainly of single-family residences in the Southlawn neighborhood, a church and Oxon Hill Elementary School.

The site is surrounded by the following uses:

North—	Across Oxon Hill Road is the Forest Heights Baptist Church in the R-R Zone.
East—	The John Hanson Montessori School, a PK-8 public school in the I-3 Zone.
South—	Undeveloped land and a stormwater management pond in the I-3 Zone. Farther south, at the end of Clipper Way, is Oxon Hill High School in the R-55 Zone.
West—	A hotel in the C-S-C Zone and the ramp from northbound MD 210 to the Capital Beltway.

- G. **Effect of Previous Approvals:** This property is subject to two previous approvals, a Conceptual Site Plan (CSP-87116) and a preliminary plan of subdivision (4-88054). In accordance with

Section 27-471(d), of the Zoning Ordinance, a Conceptual Site Plan (CSP) and a Detailed Site Plan (DSP) are required for all uses and improvements in the I-3 Zone. A DSP is required to be approved for the project prior to the issuance of permits. The special exception site plan is essentially the detailed site plan for that Lots 6, 7 and 8, since a special exception site plan takes precedence over any other plan approval (Zoning Ordinance Section 27-319[a]). This is not to say, however, that a DSP is not required, just that it will have to be identical to any approved site plan for that portion of the site covered by the special exception.

In light of this, staff has made an effort to assess the relevant conditions from Preliminary Plan 4-88054 that have some impact on the special exception. They are divided into areas of interest according to the referring agencies. The numbers correspond to the condition numbers contained in the resolutions for the previous approvals.

Environmental

PGCPB Resolution No. 88-250

- 1. Approval of an on-site conceptual storm management plan by the Department of Environmental Resources prior to the submission of the Detailed Site Plan or Final Plat of Subdivision, whichever occurs first.**

This condition has been addressed. An approved Stormwater Management Concept plan (17180-2001-01) dated July 1, 2013 and expires July 1, 2016, was submitted with the subject application. See comments below regarding the submission of a copy of the plan.

- 2. Perennial streams flowing through the site shall be protected by a minimum 50-foot undisturbed buffer on each side. This buffer shall be expanded to include the 100-year floodplain, adjacent slopes in excess of 25% greater, and adjacent non-tidal wetlands. This undisturbed buffer shall not apply to the minimum area necessary for the extension of Felker Avenue.**

This condition has been addressed. The plan as submitted shows the existing stream and its associated 75-foot-wide stream buffer on each side of the stream. The plan shows the buffer expanded to include all associated wetlands, wetland buffers and 100-year floodplain, which makes up the Primary Management Area (PMA). There are no impacts proposed for this application. The impacts associated with Clipper Way (formerly Felker Avenue) were addressed as part of a previous application for a grading permit.

- 3. Due to quality vegetation on-site, the applicant should submit a Forest Stand Delineation for all wooded areas to be reviewed by the Natural Resources Division prior to the submission of a Detailed Site Plan.**

This condition has been addressed. An approved Natural Resource Inventory (NRI), which includes a detailed Forest Stand Delineation (FSD), was reviewed and approved for the subject site.

- 4. A 50-foot wide non-disturbance buffer area shall be established along all Commission (The Maryland-National Capitol Park and Planning Commission), Board of Education and other residentially-zoned properties, where the Forest Stand Delineation performed November 16, 1987, indicates tree stands 1, 2 and 5.**

This condition has been addressed. There is a Board of Education (BOE) property to the east of the subject property. It is not possible to determine the location of tree stands 1, 2 and 5 per the above condition because the old FSD was not submitted; however the current plans show a 50-foot buffer in the areas of the forest stands (Stand 1) adjacent to Board of Education property within this application.

Subdivision

- 1. Approval of an on-site conceptual stormwater management plan by the Department of Environmental Resources prior to the submission of a Detailed Site Plan or Final Plat of Subdivision, whichever occurs first.**

Site Note 13 indicated that the site has an approved Stormwater Management Concept Plan, 17180-2001-01.

- 2. Perennial streams flowing through the site shall be protected by a minimum 50-foot undisturbed buffer on each side. This buffer shall be expanded to include the 100-year floodplain, adjacent slopes in excess of 25 percent or greater, and adjacent nontidal wetlands. This undisturbed buffer shall not apply to the minimum area necessary for the extension of Felker Avenue.**

The site plan delineates a 100-year floodplain easement, and no development is being proposed within the floodplain easement. The site plan should show the bearing and distance on the floodplain easement as reflected on the plat.

- 9. The following note shall be placed on the Final Plat of Subdivision:**

“No direct access to Oxon Hill Road is permitted. All access shall be off of Felker Avenue.”

The site plan does not proposed any access to Oxon Hill Road.

- 11. The following note shall be placed on the Final Plat of Subdivision:**

“All structures on this site shall be fully sprinklered in accordance with Article 13 of the National Fire Protection Association Standards.”

The applicant has acknowledged this requirement.

Transportation

- 13. The applicant shall post a bond, letter of credit or suitable financial guaranty in the amount of \$360,000 prior to record plat approval as its financial contribution for improvements to MD 210, Oxon Hill Road, the Capital Beltway and associated ramps as shown in Exhibit 2 of the 1988 PortAmerica traffic study.**
- 14. Prior to the issuance of a building permit for each lot, the applicant shall pay to Prince George's County a percentage of the financial contribution guaranteed pursuant to Condition 13, with a total payment not to exceed \$360,000. The amount paid shall be as follows:**

- a. Lot 1: \$54,400
- b. Lot 2: \$78,100
- c. Lot 3: \$180,900
- d. Lot 4: \$23,300
- e. Lot 5: \$23,300

In the event that a construction contract is awarded for any of the following improvements prior to receipt of the total amount to be paid to Prince George's County pursuant to Condition 14, the balance of the total amount shall become payable at the request of Prince George's County:

- a. Ramp H (as identified on Exhibit 2 of the 1988 PortAmerica traffic study) from PortAmerica to the northbound I-295 S-curve ramp.
 - b. Ramp A-1 from northbound I-95/I-495 to PortAmerica Road B.
 - c. Ramp M from PortAmerica to northbound I-95/I-495.
15. No building permit shall be issued for any building or buildings in excess of 300,000 square feet of general office space or different uses generating no more than the number of peak hour trips (600 AM peak hour trips and 555 PM peak hour trips) generated by the above development, except as provided in the following conditions.
 16. The applicant may be issued permits in excess of 300,000 square feet of general office space, or different uses generating no more than the number of peak hour trips (600 AM peak hour trips and 555 PM peak hour trips) generated by the above development, based upon a program of transportation systems management techniques to be submitted and approved by the Transportation and Public Facilities Planning Division of The Maryland-National Capital Park and Planning Commission.
 17. Should any improvements to the intersection beyond those already programmed be approved by the Maryland State Highway Administration to MD 414/MD 210, the applicant will be permitted to be issued building permits for a building or buildings in excess of 300,000 square feet of general office space, or different uses generating no more than the number of peak hour trips (600 AM peak hour trips and 555 PM peak hour trips) generated by the above development to the extent otherwise permitted by law, rule or regulation, for as many square feet as it contributes to the cost of construction of the improvement based on a pro rata share of traffic capacity created at the intersection by the improvement.
 18. The applicant shall agree to provide the entire cost of signal installation for the intersection of MD 414 with Felker Avenue, when deemed necessary by the Maryland State Highway Administration.

Conditions 13 and 14 require a financial contribution to several critical ramps that were components of the improvements to the MD 210/Oxon Hill Road/Capital Beltway (I-95/495) interchange. The bonding in Condition 13 was completed prior to final plat. The payment under Condition 14 became due at the time a construction contract was awarded for the improvements. Such contract was awarded several years ago and the improvements are complete and open to the

public. While this condition is enforceable at the time of building permit, it would appear that the time to collect these funds passed when the improvements came under contract. Insofar as any agreement for future payment to the county may govern this condition, the county must enforce that agreement. The applicant recognizes and acknowledges their responsibility to provide additional improvements and to develop within the imposed trip cap. The trip cap did not foresee trips generated by the extension of Clipper Way. The applicant should address this impact, if there is one.

H. **Specific Special Exception Requirements for a Department or Variety Stores Combined with Food and Beverage Stores:** A department or variety store over 85,000 square feet is permitted in the I-3 Zone by a special exception. Section 27-348.02 of the 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.**

As presently configured, the subject property has frontage on, but not access to, an arterial roadway. Access was denied to Oxon Hill Road when the business park was subdivided. The site plan shows two access points from the east side of Clipper Way and one to the parking on the west side. Clipper Way is an undesignated industrial/commercial roadway, not a primary or secondary residential street. The applicant is seeking a variance from this requirement.

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

The subject property is part of a larger site which has an approved preliminary plan. At the time of the preliminary plan, the Planning Board found the surrounding roads to be adequate for development of a mix of industrial and employment uses on the site, so long as certain improvements were made to the surrounding road network. The preliminary plan established a trip cap based on a mixture of uses which generates no more than 600 AM peak-hour vehicle trips and 555 PM peak-hour (weekdays) vehicle trips. The proposed Walmart Supercenter is well within the established trip cap. The applicant should address the impact of the traffic on Clipper Way generated by Oxon Hill High School.

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

The site plan shows several pedestrian walkways within the parking lot, corresponding to the primary entrances to the building. Clearly marked pedestrian crosswalks are shown. A raised crosswalk is shown across Clipper Way, connecting the parking on Lots 7 and 8 to existing sidewalks along the east side of Clipper Way.

(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.**

The submitted plan indicates three loading spaces being provided at the rear of the southeastern corner of the proposed building. The location of these loading spaces, separated from the customer parking lot, and the provision of a special “Customer Loading Area” in the front of the building on the submitted plan demonstrate conformance to this requirement. The customer loading area needs to be labeled on the plan

(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**

The site does not adjoin property in a residential zone.

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

The site plan shows 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.

The proposal meets the requirements of the 2010 *Prince George’s County Landscape Manual* (Landscape Manual); however, the appropriateness of the interface between the rear of the proposed building and the school to the east is of concern to the Board of Education (BOE) and the parents of children at the school. The applicant is proposing a six-foot board-on-board fence backed with a 20-foot heavily-planted landscape strip along the eastern boundary. This, combined with the 50-foot setback for the building should be sufficient to buffer the two uses.

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

The site plan and elevations show these design elements, but they need to be labeled on the plan.

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

The applicant has submitted a comprehensive sign package, and is proposing building signs and a single ground-mounted sign which are significantly smaller than would be permitted. Although the applicant includes lighting details on the site plan, they need to give additional details as to the types and locations of lighting to ensure their appropriateness.

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

In a memorandum dated December 27, 2013 (Kosack to Lockard), the Urban Design Section evaluated the architectural details submitted and made the following comments:

The proposed architecture utilizes a multiplicity of materials and design components that fail to present an aesthetically-pleasing unified whole. The Urban Design Section would suggest that the applicant redesign the building taking into consideration the following:

1. To be successful, architectural design should include materials, design elements and massing in an architectural composition that makes sense, in that the parts of the architectural composition have a relationship to one another and the architectural materials are cohesively organized, which is not the case with the current building design.
2. The applicant should consider further articulating the roofline above the signage and entranceways of the building to create visual interest and help define the various parts of the building.
3. As the northern, western and southern façades of the building will be highly visible, they should all be well designed. However, the southern façade adjacent to the main parking lot is largely a blank wall, with minimal architectural detail or even fenestration. More visual interest should be created in the southern façade by adding the same level of architectural details as is found on the northern and western façades, including improvements to the roofline.
4. Visual interest should be created by attention to the form and massing of the building, the use of quality, and contrasting, materials and colors and the regular application of architectural detail.”

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

The amended landscape plan submitted by the applicant shows a total of 36 percent green area.

- I. **Variance to the direct access to an arterial roadway requirement of Section 27-348.02(a)(1)**
Section 27-348.02(a)(1) of the Zoning Ordinance prescribes that the site shall have frontage on and direct vehicular access to an existing arterial roadway, with no access to primary or secondary streets. The site plan shows that although the site has frontage on an arterial road Oxon Hill Road (MD 414), all access to this proposed development is to be from Clipper Way. Clipper Way was originally platted as Felker Avenue and provides sole access to the uses within the planned industrial/employment park. When the preliminary plan for Potomac Business Park was approved in 1988, it was subject to a condition prohibiting access to Oxon Hill Road. Thus, a variance is required.

Section 27-230(a) 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;

The relevant section of the Zoning Ordinance requires direct access to an arterial roadway. This is in direct conflict with Prince George's County Subdivision Regulations; which prohibits such access unless a variation is approved by the Planning Board at the time of the approval of the preliminary plan of subdivision. Thus, it is expected that development along arterials will be served by interior roads. This was the situation when Potomac Business Park was subdivided in the 1980s; direct access to Oxon Hill Road (MD 414) was not contemplated, since Felker Avenue (now Clipper Way) could provide for necessary access to each of the lots. The record plat contains a standard note denying access to Oxon Hill Road. When the site was platted, there was no way the applicant (and undoubtedly hundreds of others) could have known that a variation for direct access to an abutting arterial should have been obtained. Yet now, in order to place a special exception use on the site, the direct access which is ordinarily prohibited at the time of subdivision is now mandated, but cannot be provided. This constitutes an extraordinary situation which is not of the applicant's making. This first criterion is 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

As a use permitted by special exception, a department or variety store in excess of 85,000 square feet is generally deemed appropriate in the I-3 Zone. Most of platted properties in that zone are served by interior roads even in those instances where they have direct frontage on an arterial. Therefore, requiring a site to have direct vehicular access to an arterial unfairly restricts an applicant's ability to develop their site with an otherwise permitted use. Essentially, it penalizes a property owner for failing to deviate from the subdivision regulations. The applicant had no way of knowing that 25 years later they should have sought a variation from the Planning Board in order to establish a permitted use. To conclude otherwise places a peculiar and unusual practical difficulty upon the applicant. The second criterion is met.

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

The variance will not substantially impair the intent, purpose, or integrity of the 2006 *Approved Master Plan and Sectional Map Amendment for Henson Creek-South Potomac Planning Area 76B and 80* which recommends a mixed-use for the subject property. The use is permitted by special exception in the I-3 Zone and is therefore presumed to be compatible with surrounding permitted uses. The school to the east is a permitted use similarly classified in the I-3 Zone. This criterion is met.

Conclusion

The applicant has shown that each of the three criteria for approval of a variance has been met. Staff recommends approval of this variance request.

- J. **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 assure its permanent availability.

- K. **Landscape Manual Requirements:** The proposed project is subject to the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). More particularly, the project is subject to the requirements of Sections 4.2, Requirements for Landscape Strips along Streets, as the project involves the creation of new gross floor area (GFA); Section 4.3, Parking Lot Interior Planting Requirements, as the project involves the creation of parking areas; Section 4.4, Screening Requirements, as is all development; Section 4.7, Buffering Incompatible Uses, as the proposed project has adjacent uses deemed incompatible by the Landscape Manual; and Section 4.9, Sustainable Landscaping Requirements, as the Landscape Manual requires the installation of plant materials on-site.
- a. **Section 4.2, Requirements for Landscaped Strips along Streets**—The proposal is subject to Section 4.2, Requirements for Landscaped Strips along Streets, along its Oxon Hill Road, Clipper Way and Indian Head Highway frontages. The submitted plan provides the appropriate schedules, which show the requirements are being met with the proposed development. However, a Section 4.2 schedule is not provided for the site's frontage on Clipper Way south of the southernmost parking lot entrance. This should be provided showing the requirements being fully met in this area.
 - b. **Section 4.3, Parking Lot Requirements**—The proposal is subject to the requirements of Section 4.3 of the Landscape Manual, Parking Lot Requirements, 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.
 - c. **Section 4.4, Screening Requirements**—The submitted site plan indicates new exterior trash facilities and loading spaces located adjacent to the southeastern corner of the building that are to be screened in conformance with these requirements.
 - d. **Section 4.5, Stormwater Management Facilities**—The subject Special Exception (SE) site plan does not indicate any proposed stormwater management facilities on-site that would require landscaping per this section.
 - e. **Section 4.7, Buffering Incompatible Uses**—The SE 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 submitted plan provides the appropriate schedules, which shows that the requirements are being met along the eastern property line of Lot 6 and the northern property line of Lot 8 as required. However, the plan also needs to note the Section 4.7 requirements along the southern property lines of Lots 6 and 7, which should be none as the adjacent lots are either vacant or developed with a stormwater management pond.
 - f. **Section 4.9, Sustainable Landscaping Requirements**—The SE 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 4.9 schedule do not appear to be correct. These issues should be corrected prior to approval of the SE.

Tree Canopy Coverage Ordinance

As the application proposes more than 1,500 square feet of land disturbance, it is subject to the requirements of the Tree Canopy Coverage Ordinance (TCC) contained in Section 25-128 of the County Code. As the subject property is zoned I-3, a minimum of ten percent tree canopy coverage of the gross tract area is required or 1.54 acres. A tree canopy coverage worksheet has been provided on the landscape plan specifying that this requirement is being met through 0.97 acres of existing woodlands to be preserved, and proposed tree planting on-site for a total of 2.76 acres.

- L. **Zone Standards:** The proposed use meets all of the bulk and height standards for the I-3 Zone. The proposal also meets all setback requirements.
- M. **Sign Regulations:** The site plan indicates one freestanding monument sign located near the intersection of Oxon Hill Road (MD 414) and Clipper Way. It is well within the allowable square footage and is located in conformance with Zoning Ordinance regulations.
- N. **Historic Preservation:** There are five Prince George's County historic sites located within a one-mile radius of the subject property: Mount Welby (76A-013, listed in the National Register of Historic Places); Butler House (76A-014, listed in the NRHP); Oxon Hill Manor (80-001, listed in the NRHP); Salubria (80-002); and the Addison Family Cemetery (80-050). In addition, there are two historic resources located within one mile of the subject property: St. Paul's United Methodist Church and Cemetery (76B-008) and Greenwood/Mattingly House (76B-009).

The subject property was once part of Oxon Hill Manor, a tract of 3,663 acres surveyed for Thomas Addison, Jr., on March 25, 1766. Oxon Hill Manor was patented to Thomas Addison, Jr., on August 3, 1767. Thomas Addison died in 1774 and his Oxon Hill Manor property was devised to his oldest son, Walter Dulany Addison, who was five years old at the time of his father's death. Walter Dulany Addison sold a tract containing 75 acres of Oxon Hill Manor to Charles Beall, a free black, on January 1, 1812 (Liber JRM15:161). Charles Beall acquired an additional two parcels of 22 acres and 15 acres within Oxon Hill Manor from the Reverend Walter Addison on October 6, 1818 (Liber EH1:190).

It is unknown how Charles Beall obtained his freedom, but on March 17, 1797, he purchased his wife, Henny, and all of her children from Thomas G. Addison for 100 pounds (Liber JRM5:281). He then manumitted his wife and children on June 29, 1797 (Liber JRM5:402). On November 6, 1809, Charles Beall manumitted "my negro man Thomas Moore being of the age of 44 years and my negro woman Margaret Moore being of the age of 42 (Liber JRM13:461)."

Charles Beall is not listed in the 1790 or 1800 census records. He is listed in the 1810 census records and was living in the Piscataway/Hynson district of Prince George's County. His household contained seven individuals. Charles Beall is also listed in the 1820 census and his household at that time included two free black males over age 45, one age 15-26, three under age 14, one free black female over age 45, two age 15-26, and one under age 14.

On August 26, 1817, Charles Beall conveyed a one-half acre tract of land to Henry Foxall, William McKenny, Jacob Hoffman, William Veitch, Thomas Jacobs, Joseph Rowan, Bernard Bryan, William Rhodes and James Beall in trust that they would erect and build, or cause to be erected and built thereon, a house or place of worship to the use of the Methodist Episcopal Church in the United States of America (Liber JRM17:480). Most of these trustees were white

and had previously established Trinity Methodist Episcopal Church in Alexandria, Virginia. This tract of land was located about 800 feet to the east of the subject property. There is evidence that as early as 1794 a congregation of free blacks had built a meeting house at Oxon Hill and that Reverend William Colbert, a Methodist circuit rider, preached to them. A new church was presumably built on the tract donated by Charles Beall in the late 1810s. The early congregation comprised an equal number of blacks and whites, each allotted one side of the church. A cemetery was located to the rear of the church and a triangular area on the western side of the cemetery was reserved for blacks. No markers remain in this area. The church was destroyed by fire in 1951, but the cemetery remains.

Charles Beall sold his 112 acres in Oxon Hill Manor to Kinsey Talbert on October 7, 1825. McKinsey Talbert was the uncle of John Henry Bayne, owner of the Salubria plantation. McKinsey Talbert died about 1830 and devised all of his lands to Ann Talbert (Talbutt). Ann Talbutt conveyed the 112 acres in Oxon Hill Manor to her son, Wilmer I. Talbutt, on March 12, 1853 (Liber ON1:326). Wilmer I. Talbutt then sold the 112 acres to Caleb Smith Keech on September 7, 1856 (Liber CSM1:354). John Taylor of Fairfax County, Virginia, acquired the 112 acres in Oxon Hill Manor from Caleb Smith Keech on October 8, 1858 (Liber CSM2:466).

Edward W. Belt and Daniel Clarke were appointed trustees to sell the 112 acres in Oxon Hill Manor by a decree in an equity case. On July 1, 1867 Belt and Clarke sold the 112 acres to George Norbeck of Washington, DC (Liber FS4:609). The 112 acres of Oxon Hill Manor changed hands several times in 1891 and was eventually purchased by Thomas J. Hodgen on October 29, 1891 (Liber JWB2:91). After the death of Thomas J. Hodgen in 1897, the 112 acre tract in Oxon Hill Manor was conveyed to his daughter, Fannie H. Butler on February 7, 1898 (Liber JB2:142). Fannie H. Butler died in 1907 and her heirs sold the 112 acre tract to Patrick J. Walshe on March 19, 1914 (Liber 98:317). The tract changed hands several times in 1917 and was acquired by William E. Miller on October 12, 1917 (Liber 127:464).

William E. Miller, the founder of Rosecroft Raceway, lived on the subject property from about 1917 until 1942, when he acquired and moved to Kildare (Historic Site #76B-007). William E. Miller owned two successful furniture stores on Capitol Hill in Washington, DC. Miller was a horse enthusiast, who bought, sold, bred, broke, raced and trained his own horses. Miller built stables on the subject property to house his horses and an exercise track can be seen in the 1938 aerial photograph on the western side of his property where Oxon Hill Road turns south. After moving to Kildare in 1942, Miller built Rosecroft Raceway on the southern portion of that property. Rosecroft Raceway opened in 1949. William E. Miller died of a heart attack while racing in 1954. The former Miller home place, of which the subject property is a part, remained in the Miller family until 42.0368 acres were sold to DMH Joint Venture on December 31, 1986 (Liber 6738:577).

Conclusions

1. During the early 1800s, the subject property was part of the 112-acre farm compiled by Charles Beall, a free African American. It was very unusual for a free African American to have the ability to acquire such a large tract of land in the early 1800s. In the late 1700s, Beall was able to purchase the freedom of his wife and children, as well as two other African Americans. Beall also donated a one-half acre lot to the Methodist Church for the construction of a place of worship. Both black and white congregants worshipped together in the building, although they were segregated on each side of the church. Blacks and whites worshipped together in this building until after the Civil War when there was a dispute over ownership. The African American congregation eventually built their own

church, St. Paul's Methodist Church, located at the intersection of St. Barnabas and Tucker Roads.

Charles Beall sold his 112-acre farm to McKinsey Talbert in 1825. Talbert was the uncle of Dr. John H. Bayne, owner of Salubria. In the early 20th century, the subject property was under the ownership of William E. Miller, founder of Rosecroft Raceway. Some of Miller's equestrian facilities are visible in the 1938 aerial photographs.

2. Because of the significant history associated with the subject property, the applicant should develop interpretive signage to incorporate into the proposed development, as a means of public outreach. The subject property is associated with other historic properties in the vicinity and could add to a unified narrative on the historical development of the Oxon Hill area.
3. Section 106 review may require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies, or federal permits are required for a project.

O. **Required Findings:**

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.

The fifteen 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 I-3 Zone and compatible with the surrounding properties in the I-3 Zone, including the school site to the east. With the conditions of approval proposed by staff, the proposed use and site plan can be considered in harmony with the purposes for zoning.

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

With the recommended conditions of approval and approval of the requested variance, the proposed use and site plan will conform to all applicable requirements of the Zoning Ordinance and the 2010 *Prince George's County 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.

As previously noted, this application generally conforms to the land use recommendations of the 2006 *Approved Master Plan and Sectional Map Amendment for Henson Creek-South Potomac Planning Area 76B and 80*. The subject property is within the Oxon Hill Regional Center future mixed-use rezoning area where application for mixed-use zoning is recommended to implement the concepts and guidelines contained in the plan text. The master plan designates this area a

transition area and recommends future development at lower scale transit-oriented (TOD) densities and intensities than the core area in order to serve potential future light rail transit station stops. The application as proposed is consistent with the goals of the master plan principles of compact TOD and place-making. The building setback and the parking area are consistent with urban design guidelines for Oxon Hill Road and are consistent with the redevelopment vision for Oxon Hill Regional Center that emphasizes pedestrian and transit-oriented design, a new grid pattern of walkable interconnected streets and blocks, and transit-serviceable development.

Staff from the Environmental Planning Section has assessed the impacts to the environmental guidelines of the master plan:

POLICY 1: Protect, preserve and enhance the identified green infrastructure network within the Henson Creek planning area.

Strategies

- 1. Use designated green infrastructure network to identify network to identify opportunities for environmental preservation and restoration during the review of land development proposals.**

Almost the entire site is within the Green Infrastructure Network, except for an open strip going in an east-west direction along Oxon Hill Road. The on-site woodlands will be persevered within the Regulated and Evaluation areas.

- 2. Protect primary corridors (Henson/Broad Creek and Tinkers Creek/Piscataway Creek) during the review of development review process to ensure the highest level of preservation and restoration possible, with limited impacts for essential development elements. Protect secondary corridors to restore and enhance environmental features and habitat. Protect secondary corridors (tributaries to the Potomac River and wooded corridors not necessarily associated with stream valleys) to restore and enhance environmental features, habitat and important connections.**

This site is not within or adjacent to a primary corridor, but a secondary corridor is present on-site within the woodlands. The current application does not propose impacts to regulated environmental features the site. Minimal woodland clearing is proposed and the remaining woodland will be protected and expanded with two reforestation areas.

- 3. Evaluate carefully land development proposals in the vicinity of identified Countywide and Special Conservation Areas (SCA) including Piscataway Creek SCA, Potomac Shoreline SCA AND Broad Creek SCA to ensure that the SCAs are not impacted and that connections are either maintained or restored.**

This site is not located within or adjacent to a Special Conservation Area.

- 4. Preserve unique habitat areas to the fullest extent possible during the land development process.**

The on-site stream valley will be preserved in full.

5. Develop flexible design techniques to maximize preservation of environmentally sensitive areas.

Development is focused on the areas outside of environmentally sensitive areas. Most of the on-site existing woodland will be preserved, protected and expanded with reforestation plantings. This preservation area includes the woodlands containing environmental regulated features along the southern property line.

POLICY 2: Restore and enhance water quality in areas that have been degraded and preserve water quality in areas not degraded.

Strategies

1. Identify opportunities for restoration within the primary corridors (Broad Creek/Henson Creek and Piscataway Creek/Tinkers Creek) and target mitigation efforts in these areas.

The proposed development will not directly impact any primary corridors.

2. Restore stream and wetlands buffers to the fullest extent possible during the land development process.

No impacts to the stream and wetlands area proposed.

3. Ensure the use of Low Impact Development (LID) techniques to the fullest extent possible during the development process.

Low-impact Development is currently referred to as Environmental Site Design. Per the storm water management concept approval letter, the site is required to provide pretreatment before stormwater drains to an off-site regional facility. The tree conservation plan shows several outfalls that will discharge stormwater as designed, at the outer perimeter of the Primary Management Area (PMA). The discharged stormwater would sheet flow to the on-site stream system. Sheet flow is considered environmental site design techniques.

4. Encourage the use of conservation landscaping techniques that reduce water consumption and the need for fertilizer or chemical applications.

The landscape plan shows that the development proposed extensive interior landscaping in addition to landscaping along the perimeter of the site. The plantings will consist of a total of 240 shade trees, ornamental trees and evergreen trees which will contribute to water consumption.

5. Minimize the number of parking spaces and provide for alternative parking methods that reduce the area of impervious surfaces.

Parking is restricted due to the on-site stream valley and expansive wetlands. Lots 4 and 8 have been shown with parking needed to support the development and avoid impacts to the stream valley for parking.

6. Reduce the area of impervious surfaces during redevelopment projects.

The impervious surface has been reduced to the extent practicable to support the proposed development and avoid impacts to sensitive environmental features. Impervious surfaces maybe reduced further as the Department of Permitting, Inspection and Enforcement (has imposed a fee of \$2,667 per acre of impervious area.

7. **Address existing flooding concerns in conformance with the County Code on all new development.**
8. **Consider the existing conditions of the watershed and strictly adhere to the requirements of the stormwater Management Ordinance as new development proposals are submitted. Whenever possible, existing areas of untreated stormwater shall be included in new treatment facilities. The Department of the Environment Resources should consider a pro rata share fee for properties within the watershed in order to address the flood-prone properties within the Historic District.**

The site has an approved floodplain study as reflected on the Natural Resource Inventory plan and Type 2 Tree Conservation Plan. Flooding concerns were addressed at the time of the stormwater management review and will be addressed in subsequent reviews by the Department of Permitting, Inspection and Enforcement. This property is not in located in a Historic District.

The site will have the on-site stormwater redirected to an adjacent existing regional stormwater management pond to address flooding. A fee-in-lieu of \$2,667 per acre of impervious surface is required.

POLICY 3: Reduce overall energy consumption and implement more environmentally sensitive building techniques.

Strategies

1. **Encourage the use of green building techniques that reduce energy consumption. New building designs should strive to incorporate the latest environmental technologies in project buildings and site design. As redevelopment occurs, the existing buildings should be re-used and redesigned to incorporate energy and building material efficiencies.**
2. **Encourage the use of alternative energy sources such as solar, wind, and hydrogen power. Provide public examples of uses of alternative energy sources.**

No information was provided regarding Policy 3, Strategies land 2. The use of green building techniques and energy conservation techniques should be considered with the current application.

POLICY 4: Reduce light pollution and intrusion into rural and environmentally sensitive areas.

Strategies

1. **Encourage the use of alternative lighting technologies for athletic fields, shopping centers, gas stations and car lots so that light intrusion on adjacent properties and**

the night sky is minimized. Full cut-off optics light fixtures should be used for all proposed uses.

2. Discourage the use of streetlights and entrance lighting in the Rural Tier.

The site is located within the Developing Tier and 700 feet south from the Capital Beltway (I-95/495) and regulated environmental features within the on-site woodlands to the south. This site receives light intrusion from various sources such as the adjacent commercial centers, school and roadways. The proposed development is showing the main development closer to Oxon Hill Road (MD 414) to the north and parking areas in the areas outside the regulated environmental features. The environmentally sensitive areas adjacent to parking areas should be protected from light.

Full cut-off optic light fixtures shall be used throughout this site to reduce light intrusion to off-site properties and environmentally sensitive areas, and address best management practices for maintaining a dark sky.

POLICY 5: Reduce adverse noise impacts to meet of State of Maryland noise standards.

Strategies

- 1. Evaluate development proposals using Phase I noise studies and noise models.**
- 2. Provide for adequate setbacks for projects located adjacent to existing and proposed noise generators.**
- 3. Provide for the use of approved attenuation measures when noise issues are identified.**

Because of the proposed commercial uses on the site, noise impacts are not a major concern with this application. If a hotel, day care center or similar residential-type uses are proposed on the site, the structural shell should be evaluated to ensure that interior noise standards are met, and that acceptable exterior noise levels are achieved in outdoor activity areas. The current application does not propose any of these uses.

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

Nearby residents and workers, although they may be at times inconvenienced or visually impacted by the proposed use, are not likely to be harmed by it. The change in land use from an open field to intensive commercial development may be upsetting to residents, but it is unlikely to be injurious to their welfare.

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

The master plan for this area envisions a mix of uses for the Oxon Hill Regional Center, which includes the subject property. The plan recommends the site be developed in accordance with its zoning, while also encouraging the retention of the abutting schools. At the time of the master plan, then, the District Council felt that development in the I-3 (Planned Employment) Zone could be compatible with the surrounding institutional uses. The specific special exception

requirements for the proposed use dictates that additional attention be paid to setbacks, architecture, landscaping, lighting and green areas. The applicant has successfully addressed most of these and where they need additional scrutiny staff has recommended conditions. With these conditions in place, the proposed use will not 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.

The proposed site plan can be found in conformance with an approvable Type 2 tree conservation plan (TCP2) if the TCP is revised to address technical concerns and required revisions.

(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.

The site contains significant environmental features that are required to be preserved and/or restored to the fullest extent possible under Section 27-(285)(b)(4) of the Zoning Ordinance.

The on-site regulated environmental features include streams and their associated 75-foot-wide buffers, wetlands and their associated 25-foot-wide buffers, and the 100-year floodplain. Impacts to the regulated environmental features should be limited to those that are necessary for the development of the property.

The proposed development in the application does not propose any impact to regulated environmental features. The existing impacts to the primary management area (PMA) as shown on the plans are within a previously dedicated land area of Clipper Way (formerly Felker Avenue) that has been developed under previous approvals which are not subject to the requirement of this application. A Letter of Justification is not required at this time. Based on this information, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible.

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.**

Staff believes that the applicant has their burden of proof in this instance. Therefore, staff recommends APPROVAL of Special Exception Application No. SE-4738, subject to the following conditions:

1. Prior to the issuance of any grading permits, a Detailed Site Plan should be reviewed and approved for the subject development.
2. Prior to final disposition of the application, the Landscape Plan shall be revised as follows:

- a. Revise the plant schedule to remove the canopy credit column and include a designation of native and non-native species.
 - b. Revise the Section 4.9 schedule to correctly identify the number of native plants required and provided.
 - c. Provide a Section 4.2 schedule for the frontage of Lot 6 along Clipper Way south of the southernmost driveway entrance. Revise the schedule for Landscape Strip "CC" to designate that it is for Lot 6.
 - d. Provide a note or schedule clarifying the Section 4.7 requirements along the southern property lines of Lots 6 and 7.
3. Prior to final disposition of the application, the site plan shall be revised as follows:
 - a. Label on the plans a separate customer loading area at the front of the store.
 - b. Revise the site plan to provide labels and details for special paving, landscaping, raised planters, benches and special light fixtures enhancing the building entrance and nearby sidewalks.
 - c. Note 17 shall be removed.
4. The applicant shall provide a comprehensive exterior lighting plan, to include all freestanding and building-mounted fixtures.
5. The proposed architecture should be revised as described in the referral from the Urban Design Section.
6. The applicant should revise the special exception plan to provide for at least one location for interpretive signage. The wording of the signage shall be subject to approval by the Maryland-National Capital Park and Planning Commission (M-NCPPC) staff archeologist.
7. Prior to the issuance of the use and occupancy permit for the proposed development, the applicant shall install the interpretive signage and provide proof to the Historic Preservation Section that the installation is complete.
8. If state or federal monies, or federal permits are required for this project Section 106 review may require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. The applicant shall provide proof to Historic Preservation staff that they have forwarded all necessary materials to the Maryland Historical Trust and the federal agency responsible for the funds or permits for their review of potential effects on historical resources on the subject property prior to approval of any grading permits.
9. Prior to final disposition of the application, the TCP2 plan shall be revised as follows:
 - a. Identify Clipper Way (formerly Felker Avenue).
 - b. Identify the adjacent regional stormwater management pond.

- c. Add "TCP2-122-95" to the approval block.
 - d. Change "II" to "2" in the title and approval blocks.
 - e. Identify the two reforestation areas on the plan view with an "A" and "B" and give and area (square foot or acreage) for each location.
 - f. Add a revised quantity table to the plant schedule showing how many species will be planted in Area 'A' and in Area 'B'.
 - g. Have the revised plan signed and dated by the qualified professional preparing the plan.
10. Prior to final disposition of the application, a lighting study shall be submitted that addresses the reduction of spillover lighting into the environmentally regulated areas and the total lighting output of the individual sites. The plan shall show the use of full cut-off optics and downward facing light fixtures. The photometric plan shall show no more than 0.5 foot-candles of light at the outer property lines of the subdivision.
11. The applicant shall address traffic on Clipper Way generated by Oxon Hill High School and its impact on the necessary improvements and trip caps, if any.