

MEMORANDUM

TO: City Council

FROM: David J. Deutsch
City Manager

SUBJECT: ***Status Report***

DATE: December 5, 2013

1. What You Should Know About Gifts

With the holidays upon us, the Ethics Commission has developed the attached article to better inform those subject to the City's Ethics Ordinance of the dos and don'ts regarding accepting gifts. This information will be added in the Ethics section of the City's website. The Commission is working to develop other educational tools to better inform the public about the City's Ethics Ordinance and the role of the City's Ethics Commission in enforcing this Ordinance.

2. Bowie Fire/EMS Station Staffing

The Bowie Volunteer Fire Department and the County Fire Department have agreed to change the staffing assignments at the Bowie Fire/EMS Stations. According to County Fire/EMS Chief Marc Bashoor:

- Beginning this week there are four career staff members assigned at Company 39 (Free State), Monday through Friday, 7 a.m. until 3 p.m. Company 39 will be staffed by BVFD members at all other times, including holidays.
- Company 43 (Pointer Ridge) has been up staffed to five career staff -- 24 hours a day, 7 days a week. There is no change at Company 19 (Old Bowie) -- it already has four career staff 24/7. Volunteer members can still ride at Company 43 and Company 19, but the emphasis is on volunteer staffing at Company 39.
- There is now a dedicated ambulance at Company 43.
- There is no change at Company 16 (Health Center Drive) -- they have six career staff working 24/7, with a dedicated paramedic/ambulance.
- The change now gives Bowie four+ career staff working at three Bowie stations instead of two -- guaranteeing a minimum of at least two ambulances and at least three fire trucks from three locations, which is a net guarantee-increase of one ambulance.

3. Tulip Grove Renovations

Attached is a summary of the discussion of options for relocating students during the renovation. I would strongly urge Council to resist any further consideration of Kenhill Center as part of the Tulip Grove interim solution. As you know, we have the Youth Services Bureau there and it is our Information Technology backup site. In addition, we have several tenants. Clearly there are better options under review by PGCPS than Kenhill.

4. Walmart Special Exception SE-4734

Earlier this week, the City received the Park and Planning staff report for the Walmart Special Exception case, which recommends disapproval. A copy of the staff report is included in today's Status Report. On Thursday, December 12th, the County Planning Board will decide whether or not to hear the case at one of its future meetings.

Attachments

What You Should Know About: *Gifts*



The Bowie Public Ethics Ordinance, §2-70F, prohibits you, as a City employee or official, from accepting **most** gifts from a “restricted donor.” A restricted donor is a person (or an entity) who:

- 👁️ has a contract, or is negotiating a contract with the City that is worth a minimum of \$5,000;
- 👁️ has financial interests that may be affected by the performance of your duties;
- 👁️ is engaged in activities that are regulated or controlled by the City; or
- 👁️ is a lobbyist on matters within your jurisdiction.

There are some **exceptions** to this prohibition. With the holidays fast approaching, you need to know what gifts you may accept, if they are offered, and what gifts you may not accept. The exceptions to the prohibition permit you to accept:

- 😊 an occasional meal or beverages, if consumed in the presence of the restricted donor or sponsoring entity;
- 😊 an unsolicited gift of any type that does not exceed \$20 in value;
- 😊 REASONABLE travel expenses for attending a meeting given in return for your participation in a panel or have a speaking engagement;
- 😊 tickets or free admission to attend a charitable, cultural, or political event - but only if you are an ELECTED OFFICIAL, as a courtesy or for a ceremony involving the office;
- 😊 any other gift that is exempted by the City Council or the Ethics Commission if it will not adversely affect the impartial conduct of the City’s business and if the gift is purely personal in nature;
- 😊 honoraria that are not related to your official duties.

But it doesn’t stop here. There is also an **exception to the exceptions** that you need to know. You, as a City employee or official, may not accept **any** gift if:

- 🚫 it is intended to impair your impartiality;
- 🚫 as to any gift worth more than \$20, it appears designed to impair your impartiality; or,
- 🚫 as to any gift worth more than \$20, you have reason to believe that the gift is designed to impair your impartiality.

SO, NOW YOU KNOW - OR DO YOU? Test yourself with the following examples (look for the answers at the end):



1. I may accept a fruit basket from a vendor during the holidays.

2. I may be a guest for dinner at a fancy restaurant with a contractor.
3. I may accept dinner at a restaurant with a contractor who is in the midst of negotiating a new contract with the City.
4. I may attend a vendor's conference in Oahu to learn about the new products the City just purchased.
5. I may accept travel expenses from a contractor to attend a conference in Wheeling, West Virginia, to give a presentation on best ways to apply the contract.
6. I may accept a plaque from the vendor for making a presentation at the conference.
7. I may accept two free tickets from a vendor to attend the next Redskins/Ravens game.



CONFUSED? It's not as easy as you thought, is it? The **good news** is that if you are offered a gift, or even if you have already accepted a gift that may be prohibited by the Ethics Law, you may contact the Bowie Ethics Commission for advice on what to do next. The Ethics Commission is here to **help you do the right thing.**

Answers:

1. Fruit baskets usually cost more than \$20 - so no, you may not accept this gift. However, perishable gifts are hard to return, so you may accept the gift on behalf of the City, for the enjoyment of the public, or for donation to a shelter or food bank. If the gift is accepted, please advise the Ethics Commission so that the donor of the gift may be informed about the City's gift laws.
2. As long as you will be eating in the presence of the donor, you may accept the gift - **UNLESS** - the donor is currently negotiating a contract with the City, is in litigation with the City, or has a dispute pending with the City.
3. See answer to number 2.
4. You may only accept travel expenses from a vendor if they are reasonable (a conference in Hawaii is not!) and if you are a featured speaker at the conference, so either have the City pay your way, pay your own way, or stay home.
5. See answer to number 4.
6. As long as the plaque cost less than \$20, you may accept this gift.
7. You may not accept tickets to this game. Sorry!.



AND HERE'S SOMETHING TO THINK ABOUT: As a City employee or official, do you think you ought to accept gifts from restricted donors, if they are permitted under the Ethics Law? Weigh the benefits of accepting a frozen turkey or a box of fancy chocolate against the risk to your reputation as an impartial and independent-minded servant of the City.

The Bowie Ethics Commission wishes you and your family a happy holiday season and a wonderful year ahead.



City of Bowie

15901 Excalibur Road
Bowie, Maryland 20716

Memorandum

To: City Council

From: David J. Deutsch, City Manager

Date: December 4, 2013

Re: Tulip Grove Meeting on Renovations

On Tuesday, December 3, staff from Prince George's County Public School's Department of Capital Programs presented a report of potential options for the upcoming renovations at Tulip Grove Elementary School to the school's Parent-Teacher Association. Staff from PGCPs included the following: Sarah Woodhead, director; Elijah Gross, architectural project manager; and Elizabeth Chaisson, planner 2. Eric Weiss of the architectural firm GWWO presented an overview of the design of the renovations.

Background

Renovations for Tulip Grove have been in the CIP budget for several years. The project was approved for go-ahead in 2011 and monies are in the budget this year for design. The renovations are scheduled to begin in July 2014 if the process gets approval at all county levels in time for this construction. The design proposed by GWWO Architects has been submitted to the State of Maryland for approval.

CIP staff said they came to the Tulip Grove PTA meeting because they know there are many rumors in the community about what will happen to the children from Tulip Grove while renovations take place and to get feedback from parents about potential options for the students. They also indicated that they have been working with the principal, staff and a selected group of parents from the school during this preliminary planning time.

Proposed Design

Renovations include tearing down approximately 30,000 sq feet of the 50,000 sq feet existing campus, which is a small school site of less than 10 acres. The remaining 20,000 sq feet would be renovated and part of the new building which would be 45,000 sq feet resulting in a new campus of 65,000 square feet. The architects are going for the LEED Gold certification, which is one step above LEED Silver which is required for school buildings statewide. Major design features include:

- Provide a secure entry vestibule

- Improve the main circulation route which would separate a bus loop from the parent drop-off loop
- Keep the courtyard area as the heart of the new campus
- Include a green roof
- separate academic area from administrative area
- provide a break out space for celebrations; provide outdoor instruction space; and
- provide for safety and security of the students and staff

Options for Students During Renovations

CIP staff said they are looking at four off-site (swing space) options and two on-site options. They outlined the options and then asked parents to vote for their choices to remain on the table. They also noted that no discussions have been held with owners/personnel at any of the off-site locations because they wanted the Tulip Grove community to weigh in first on their preferences.

The four off-site options are:

- Yorktown Elementary School

The students from Tulip Grove would be bused to Yorktown Elementary which is 2.7 miles away from Tulip Grove. Yorktown is only 64% utilized. The school system would add temporary buildings to house the students, buildings would be portable complete with bathrooms. The students of both schools would share lunch area and gym area. Each school would have its principal, staff, and teachers, and basically would co-exist on one campus. By moving students off-site it would take approximately 18 months for renovations at Tulip Grove. Cost would be around \$16 million for construction/renovation with additional costs for the temporary buildings at Yorktown.

- The old Meadowbrook School

Currently the Meadowbrook School campus houses the YMCA before/after care program and a local church. The school system would set up temporary buildings and perhaps do minor modifications to the building which has not been used as a school in over 30 years. Meadowbrook is 1.1 miles from Tulip Grove, but because it is across Route 450 students would be bused to this location. Cost again would be \$16 million for construction/renovation with additional costs for the temporary buildings at Meadowbrook. Time frame is 18 months.

- Belair Annex

Belair Annex is on Belair Drive less than a mile from Tulip Grove. Many of the students would be able to walk to this school. The annex has portables in place, but it also houses all first time 9th grade students of Bowie High School. Students repeating 9th grade are on the main Bowie High campus. Cost would be \$16 million for construction/renovation plus additional costs for the temporary buildings at the Annex. Time frame is 18 months.

- Berkshire Elementary in Forestville, MD, or Middleton Valley Elementary in Temple Hills, MD

Both these schools are empty and could be used to house the Tulip Grove Elementary students. However, both are approximately a 25 minute drive from Tulip Grove area. The school system is utilizing these former schools as “swing spaces” by moving in students when their own schools are being renovated. Cost here is the \$16 million, but there would be less additional costs because both schools are capacity-ready for students of an elementary school. Time frame is 18 months.

The two on-site options:

- Construct a modular, temporary facility on-site to house the entire school. The modular building would be fully functional and would include a kitchen and bathrooms. During the first phase this building would be built while students remain in usual classrooms. In the second phase the students would be housed in the modular structure while the other building takes place. This model offers little outside area for sport playing fields or for playground activities. There also would be issues with construction vehicles, safety with construction site, and concerns from the neighborhood. Cost would be around \$22 million and time frame is 2 ½ years.
- With this option, students would be housed in part of the existing structure and partially in temporary buildings and would move according to the different phases of construction. This would take the longest for renovations in part because the contractors/subcontractors would be completing their work in the different phases. This option would likely take three school years and the cost would be over \$22 million.

Parents’ Input on Options to Pursue

By an informal show of hands from the audience, the options preferred by those present were:

1. Meadowbrook Elementary

Parents liked Meadowbrook especially if the two groups presently hold leases at Meadowbrook (a church and the YMCA before/after school care program) could be housed somewhere else like the Kenhill Center, the city’s old City Hall.

2. Yorktown Elementary

Parents are concerned whether the two schools can co-exist on the same campus and they wanted to be sure their students would have their principal, staff, and teachers.

3. Belair Annex

Some parents felt this would work because students could still walk to the facility, but many were unwilling to have their elementary school students in the same facility as the high school students. They inquired if the high school students could attend the main campus of Bowie High during this time.

4. On-site option 1

This option had some votes, but parents felt it would be better than busing their Students out of the Bowie area to one of the two swing space schools in southern Maryland.

Two other options were raised by parents:

- Place a temporary, modular school building at the location of the old Buckingham Elementary School and use this as a swing space for other schools besides Tulip Grove
- Use the Kenhill Center, either the existing building or place a modular school building in the rear where the playing fields are currently located.

The Next Steps

The CIP staff will spend the next couple months discussing options from the parents and preparing more concrete information on costs and advantages/disadvantages with each option. They indicated they would be back at Tulip Grove for a meeting late in January 2014 or early February 2014 to discuss the options again with more data. At that time if no consensus is reached on which options the parents prefer they will do more research and set up a third meeting with the school. If there is consensus, the CIP staff will make their recommendations to CEO Dr. Kevin Maxwell. If he approves the choices he will present them to the School Board. Then, eventually whatever is decided will be placed in the budget and reviewed by the Prince George's County Council. Again, the plan is, if all approvals are in place, to begin the construction phase in July 2014. Some parents suggested delaying the construction a year to provide enough time for the process. Note also that funding costs will be part of the decision on which option will be chosen.

DJD/AE

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

RECEIVED

DEC 2 2013



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

PLANNING DEPARTMENT

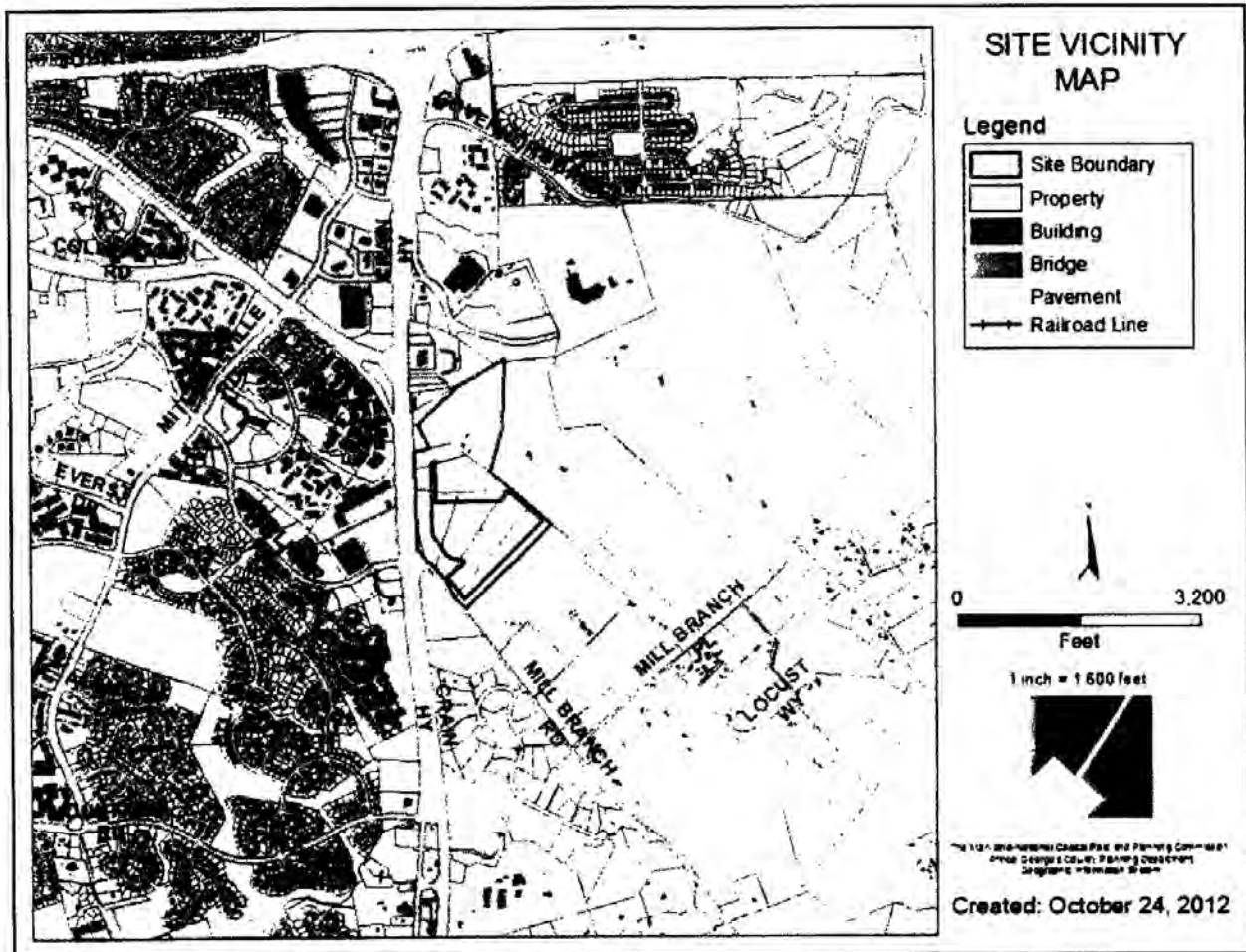
Special Exception

SE-4734

Application	General Data	
Project Name: Mill Branch Crossing (Walmart) Location: East side of Robert Crain Highway (US 301), south of Laurel Bowie Road (MD 197) to Mill Branch Road. Applicant/Address: Wal-Mart Real Estate Business Trust 2001 SE 10th Street Bentonville, AZ 72716 Property Owner: Mill Branch Crossing, LLC. 150 White Plains Road Tarrytown, NY 10591	Planning Board Review Date:	12/12/13
	Staff Report Date:	11/26/13
	Date Accepted:	07/10/13
	Planning Board Action Limit:	N/A
	Plan Acreage:	24.90
	Zone:	C-S-C
	Gross Floor Area:	186,933 sq. ft.
	Lots:	N/A
	Parcels:	8
	Planning Area:	71B
	Tier:	Developing
	Council District:	04
	Election District	07
Municipality:	Bowie	
200-Scale Base Map:	205NE14	

Purpose of Application	Notice Dates	
Special exception for a department or variety store over 125,000 square feet in the C-S-C Zone.	Informational Mailing	02/05/13
	Acceptance Mailing:	07/08/13 07/09/13
	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	



November 26, 2013

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-4734**
Mill Branch Crossing (Walmart)

REQUEST: **Special exception for a department or variety store over 125,000 square feet in the C-S-C Zone.**

RECOMMENDATION: **DISAPPROAL**

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of December 12, 2013. 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 property is located in the northeast quadrant of the intersection of Robert Crain Highway (US 301) and Mill Branch Road. The site is comprised of portions of six parcels and contains a total of 24.9 acres. It is part of a larger 74-acre site which was placed in the Commercial Shopping Center (C-S-C) Zone in 2006 and given the appellation Mill Branch Crossing. As presently configured, the special exception site does not have frontage on or access to a public road, although the site plan does show frontage and access through a limited-movement (right-in/right-out) entrance from US 301 consistent with that approved in the prior preliminary plan of subdivision for the site. The site is partially wooded, but is largely cleared from many decades of agricultural use. The site is currently encumbered by a 50-foot access easement (Liber 28018 at Folio 685), to the benefit of The Maryland-National Capital Park and Planning Commission (M-NCPPC), which extends northeast from Mill Branch Road along the entire southeastern property line of the site to provide access to the Green Branch Regional Park property abutting to the east and northeast.

B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	C-S-C	C-S-C
Use(s)	Vacant, Agriculture	Department/Variety store
Acreage	24.9	24.9
Lots	0	0
Parcels	Parts of 6	Parts of 6
Square Footage/GFA	0	186,933
Variances	No	No

C. **History:**

1. On March 26, 2002, the 2002 Preliminary General Plan proposal showed the Mill Branch Crossing property in the Rural Tier. The Prince George's County District Council proposed amendments to the Preliminary General Plan by County Council Resolution CR-34-2002, including Amendment 2 for the Mill Branch Crossing property to be placed in the Developing Tier.
2. On July 16, 2002, a joint public hearing on the amendments proposed by CR-34-2002 was held. The District Council approved the 2002 *Prince George's County General Plan* (General Plan) in CR-47-2002 on October 7, 2002, with amendments, including Amendment 2 placing the now Mill Branch Crossing property in the Developing Tier.
3. The 2006 *Approved Master Plan for Bowie and Vicinity and Sectional Map Amendment for Planning Areas 71A, 71B, 74A, 74B* (Bowie Master Plan and SMA) reclassified the site from the Residential-Agricultural (R-A) Zone to the C-S-C Zone.
4. On June 12, 2007, the applicant submitted a Preliminary Plan of Subdivision (4-07043) for Mill Branch Crossing shopping center. The application was ultimately withdrawn on November 1, 2007.
5. On May 28, 2009, the Prince George's County Planning Board approved Preliminary Plan of Subdivision 4-08052 for the Mill Branch Crossing shopping center. The approved

preliminary plan was for the development of a shopping center and a 150-room hotel on the larger 74-acre property of which the subject site is a portion. Prince George's County Planning Board Resolution No. 09-85 created Parcel A and contains 36 conditions of approval, including the requirement for a detailed site plan prior to final plat. The approved preliminary plan is valid until December 31, 2015. No final plat has been filed or recorded for the subject site.

6. On June 8, 2010, the applicant submitted a limited Detailed Site Plan (DSP-10018) for an entrance road onto the 74-acre site. This case remains pending.
7. On January 6, 2011, the applicant requested a reconsideration of Conditions 2, 6, 8, 9, 18, 19, 20, 21, 22, 26, and 32, of PGCPB Resolution No. 09-85 relating to the DSP. On February 3, 2011, the Planning Board denied the request for a waiver of the rules and thus the reconsideration.
8. On March 22, 2012, the applicant submitted a new Preliminary Plan, 4-11011, to create five parcels for the development of a shopping center and to adjust the previous DSP conditions. This application was ultimately withdrawn.
9. The applicant has submitted a Detailed Site Plan (DSP-13034) for the entire 74-acre site.

D. **Master Plan Recommendation:** The application conforms to the commercial development land use recommendations of the Bowie Master Plan and SMA. However, the application does not conform to the master plan policies, strategies, and guidelines pertaining to the type of commercial building and uses, which specifically discourages "big-box" commercial uses. The master plan addresses the subject property on pages 12 and 16:

POLICY 6: Improve site design to maximize the preservation of environmentally sensitive areas, encourage a diversity of housing types, provide a mix of land uses in appropriate locations, and reduce the cost of providing new roads and other public facilities.

Strategies:

1. **Recommend development and/or redevelopment in conformance with the following stated land use concept and development guidelines at the following locations:**
 - b. **Property located at the northeast quadrant of the US 301/Mill Branch Road intersection: This property, given its proximity to the Bowie Regional Center, should be developed with high-quality commercial retail uses, including a hotel. Future development should promote the optimum use of the transportation system and public infrastructure, preserve environmentally sensitive areas, and provide for the needs of workers and residents in the area. The property should be rezoned to a suitable zone, such as the C-S-C (Commercial Shopping Center) Zone, to permit development of elements such as an upscale hotel, etc. The development should incorporate the following design guidelines:**
 - (1) **The development should include quality department stores but should not include discount or "big-box" commercial activities. No individual retail uses; other than food or beverage stores (grocery store) shall exceed 125,000 square feet in size. Retail sales of**

alcoholic beverages in a food or beverage store are limited to 5,000 square feet or less.

- (2) **The existing 22-foot easement that provides access to the Green Branch Regional Park should be vacated and replaced by a new temporary easement, fifty feet in width, located on this property at its eastern most property line on Mill Branch Road. The new temporary easement should be vacated when it is replaced by permanent access via a right-of-way to be constructed at the time this property is developed. The new temporary easement on the easternmost property line should form the boundary between the Developing Tier and the Rural Tier.**
- (3) **The development should include a pedestrian hiker/biker system that is comprehensively designed to encourage pedestrian and biking activity within the development and with connections to the Green Branch Regional Park and Prince George's Stadium.**

The master plan's vision and desire for the ultimate development of this site seem to be for something more than what is being proposed by the applicant. A Walmart Supercenter, albeit one more aesthetically pleasing than the older model directly across Crain Highway (US 301) to the west, would seem to staff to be the quintessential example of the big-box discount store being discouraged by the District Council. The applicant is proposing a building that far exceeds the square footage recommendation for a single-use. The applicant explains "The proposed building which is 186,933 square feet is not a typical retail use, and does not impair this Master Plan suggestion. The proposed building and department store contains a number of retail uses. The store has three main entrances: one for general merchandise, one for grocery component, and one for the outdoor garden center. In addition, interior space is provided for tenants. Walmart stores of this size typically include tenant space for additional uses such as fast food, banks florists, beauty and health related operators." Notwithstanding the applicant's explanations to the contrary, staff finds this proposal to be a big-box discount development irrespective of the upgraded façade, multiple entrances, and other retail uses proposed within the building footprint.

The plan does show the existing 50-foot-wide easement along the southeastern property line and, in fact, proposes an additional 62-foot easement to M-NCPPC, all of which is in an area not included in the special exception. However, it does provide for access to the proposed development and will be the primary access for trucks and customers travelling south on US 301. The applicant has not explained how they intend to meet the second guideline or when this temporary easement will be replaced by a permanent right-of-way.

The applicant has provided for sidewalks along internal driveways and within the parking lot, but otherwise does not address or incorporate pedestrian and hiker/biker connectivity between the proposed shopping center and the adjacent Green Branch Regional Park. These would be further analyzed through the DSP process, presumably.

The General Plan locates the subject property in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density, suburban, residential communities, distinct commercial centers, and employment areas that are increasingly transit-serviceable.

- E. **Request:** The applicant is proposing to build a 186,933-square-foot Walmart Supercenter on 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 both Crain Highway (US 301) and via a driveway from Mill Branch Road. A 748-space parking lot fronts the proposed building. The southern and eastern sides of the proposed building, which border farmland in the Rural Tier and a future regional park, are the proposed location of an automotive center and the loading docks/recycling/organic waste/wood pallet storage area, respectively.

- F. **Neighborhood and Surrounding Uses:** The subject property is located in a recently annexed portion of the City of Bowie, east of Crain Highway (US 301).

The neighborhood is defined by the following boundaries:

- North—** Green Branch Regional Park
East— The Patuxent River
South— Mill Branch Road
West— Robert Crain Highway (US 301)

This is the same neighborhood as was accepted in the most recent nearby Special Exception; SE-4454 (Locust Lane Farms), approximately 2,500 feet to the southeast. The subject neighborhood has a dual character. To the east and south, it is rural, consisting of farmland and scattered single-family residences. The exceptions are an old golf driving range located at the intersection of Mill Branch Road and Mill Branch Place (seemingly deserted, at present, although the buildings remain) and the Locust Lane Farms landscaping/hydroseeding business at the end of Mill Branch Place. The property to the east, as previously mentioned, is to be developed as a regional park. To the north and west is undeveloped land and retail commercial uses along US 301.

The site is surrounded by the following uses:

- North—** The remainder of the 74-acre Mill Branch Crossing site, beyond which is an unnamed tributary to Green Branch, a gas station and Rips motel, restaurant, and package store all in the C-S-C Zone.
East— Agricultural land slated for development as the Green Branch Regional Park (M-NCPPC) in the Open Space (O-S) Zone.
South— Undeveloped land and agricultural fields in the R-A Zone.
West— The remainder of the Mill Branch Crossing site in the C-S-C Zone. Across US 301 is the existing Walmart store in the C-S-C Zone.

- G. **Effect of Previous Approvals:** When the Planning Board approved Preliminary Plan of Subdivision 4-08052, it did so subject to 36 conditions including the requirement for a DSP prior to final plat. A DSP was submitted three months subsequent to the subject application and has not been finally accepted. The special exception site plan is essentially the "detailed site plan" for that portion of the 74-acre site, 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. Many of the conditions of approval in the preliminary plan required specific tests and findings be made at the time of the DSP. Logically, many of the conditions related to DSP approval should also be applied with the special exception site plan to avoid the need for revisions. It is therefore recommended that the special exception site plan address these elements at this time, with the caveat that a final plat cannot be recorded until an overall DSP is approved.

In light of this, staff has made an effort to assess the relevant conditions from Preliminary Plan 4-08052 and Type I Tree Conservation Plan TCPI/022/07 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 resolution for 4-08052.

Environmental

- 2. In conjunction with the detailed site plan, a Type II tree conservation plan shall be approved.**

A revised Type I tree conservation plan (TCPI) was originally submitted with the current application; however, a Type II tree conservation plan (TCPII) is required to be submitted with a special exception site plan. A TCPII was previously submitted with Detailed Site Plan DSP-10018, but did not move forward to approval; however, the same TCPII number is retained for the site and will be applied.

A TCPII has been submitted for review with the revised application, and will be addressed in later sections in this memorandum.

- 3. Development of this site shall be in conformance with the Stormwater Management Concept Plan 14712-2007-00 and any subsequent revisions.**

A Stormwater Management Concept Approval Letter (12844-2010-01), valid until October 28, 2014, was submitted with the application. An unapproved Phase I stormwater management concept plan was submitted with the subject application, which shows stormwater management being handled in an underground storage facility as well as numerous small bioretention facilities scattered around the site. The stormwater management concept plan does not match the layout within the area of the current special exception application. It is unclear whether all elements shown on the approved stormwater management concept plan are reflected on the TCPII. After the stormwater management concept approval plan is confirmed by the City of Bowie, all proposed stormwater management elements shall be added to the TCPII.

The subject property was annexed into the City of Bowie in 2012, which has local stormwater management authority. Subsequently, a revised Stormwater Management Concept Approval Letter, 12844-2010-2, was issued by the Prince George's County Department of Permits, Inspection and Enforcement (DPIE) on September 13, 2013, but confirmation has not been received from the City of Bowie that they endorse the revised concept approval.

- 18. The detailed site plan shall show the use of low-impact development stormwater management techniques such as bioretention, French drains, depressed parking lot**

islands and the use of native plants throughout the site. Low-impact development techniques shall be applied on this site to the greatest extent possible.

This condition should be evaluated in conjunction with the review of the special exception, because the special exception site plan will govern within the limits of the special exception. The stormwater management concept plans show the use of some of these techniques, but confirmation from the City of Bowie is necessary concerning the application of the approved concept plan going forward.

The Environmental Planning Section will be requesting a revision to the TCPII to show the location of all stormwater management features approved with the stormwater management concept approval, subject to confirmation by the City of Bowie, to assess any conflicts with woodland conservation or impacts to the primary management area which are inconsistent with the impacts approved at the time of preliminary plan or the TCPI. The TCPII plan currently shows numerous bioretention areas scattered throughout the site, which are currently obscured by graphic landscape elements which must be removed from the TCPII plan if they are not credited as woodland conservation.

- 19. At time of detailed site plan review, the applicant shall demonstrate the use of alternative parking methods and paving materials to reduce the area of impervious surfaces to the greatest extent possible; insert additional green areas and tree canopy to cover to break up the areas of impervious surfaces; provide large islands of shade; and demonstrate the use of low-impact development techniques.**

This condition should be addressed within the limits of the special exception with the current application. Paving materials, landscape materials, green space, and tree canopy coverage area are all elements which fall under the review authority of the Urban Design Section and are addressed in a later section of this report. Review for the use of low-impact development techniques lies with the City of Bowie, Department of Public Works. The parking areas shown on the site plan are broken up into smaller sections by landscape islands. The parking has been reduced to the minimum required, provided the use comes in as part of an integrated shopping center.

- 20. The landscape plan submitted at time of detailed site plan shall demonstrate the following:**

- a. A minimum of twenty percent tree canopy coverage, after ten years of growth, to provide shading and reduce the heat-island effect within the parking lot area.**
- b. Planting strips designed to promote long-term growth of trees and increase tree canopy coverage. These strips should be considered for bioretention.**
- c. Distribution of tree planting throughout the site to provide shade to the maximum amount of impervious area.**
- d. The use of conservation landscaping techniques that reduce water consumption to the greatest extent possible.**
- e. Incorporate environmentally sensitive stormwater management techniques throughout.**

f. Provide bufferyard along Parcel 29 to create a transition between the Developing Tier and Rural Tier.

These conditions for DSP approval should be addressed within the limits of the special exception with the current application by the Urban Design Section. This will assure that the special exception site plan and the DSP are consistent at the time of final plat. These landscape elements should not be shown on the TCPII, unless they are proposed to be credited as woodland conservation and meet the woodland conservation methodology for on-site landscaping found in Section 25-122(c)(K) of the Prince George's County Code. Twenty percent tree canopy coverage is provided and the plans show numerous bioretention areas, mostly within the landscape islands within the parking lot.

- 26. Prior to submittal of the detailed site plan, a conceptual design for the environmentally sensitive restoration of the problem areas identified in the Stream Corridor Assessment Report shall be prepared and submitted for approval as part of that application. The restoration plan shall include a "Coastal Plain Outfall" type system, or its equivalent, to slow the velocity of the stormwater running through the stream bed, and stabilize the stream banks to prevent sedimentation into the Patuxent River. The final design shall show integration of the stormwater management and stream restoration.**

This condition is not applicable to the current special exception application which includes no regulated streams, but will be applied with the DSP for the remainder of the site which includes regulated environmental features and areas requiring stream restoration.

- 28. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.**

The limits of the special exception, as currently delineated, do not include any wetlands or wetland buffer, and does not propose impacts to any wetland features regulated by state or federal agencies. This condition may be applicable with the future DSP application.

- 30. Prior to signature approval of the preliminary plan, the preliminary plan and TCPI shall be revised to show a 40-foot-wide scenic easement, free of parallel public utility easements, adjacent to the ultimate right-of-way of Mill Branch Road.**

This condition was met prior to signature approval of the preliminary plan. It is not applicable within the currently delineated limits of the special exception application, and will be applied with the DSP for the remainder of the site.

- 32. The detailed site plan shall address: protection of significant visual features; preservation of existing woodlands; planting of the scenic easement; limiting of access points; supplemental landscaping appropriate to conserve and enhance the viewshed of the historic road; and the relationship between the Developing Tier and Rural Tier.**

The above condition should be applied to the current application as applicable, specifically the relationship between the proposed special exception in the Developing Tier and the adjacent Rural Tier. The Rural Tier is located 147 to 213 feet from the proposed structure and 50 feet from proposed circulation elements (including the drive aisle used by trucks for loading purposes and waste removal). There are no woodlands to be retained within the area of interface between the tiers, although a large 3.2-acre woodland reforestation/afforestation area is proposed. A 30-foot-wide landscape strip, consistent with the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual), is provided along the property line.

Although the intersection of the two tiers is partially off the special exception site plan, more information is needed to ensure that this condition is addressed.

Subdivision

- 4. At the time of final plat, the applicant shall dedicate a ten-foot public utility easement along the public rights-of-way as delineated on the approved preliminary plan of subdivision.**

The area under review with this special exception contains frontage on an area to be dedicated, which reflects the ten-foot-wide public utility easement.

- 5. At the time of final plat, the applicant shall dedicate rights-of-way along the property's street frontage consistent with the approved preliminary plan of subdivision, and subsequent detailed site plan if modified by SHA along the frontage of Mill Branch Road.**

The site plan delineates the right-of-way dedication along the frontage of Mill Branch Road and Crain Highway (US 301) as reflected on the approved preliminary plan. The property frontage along Mill Branch Road is not within the limit of this special exception. However, prior to building permits, dedication should be required for master plan and preliminary plan conformance to ensure adequate access.

- 6. Prior to the approval of final plats, a detailed site plan shall be approved by the Planning Board in accordance with Part 3, Division 9, of the Zoning Ordinance. The detailed site plan shall include, but not be limited to the following:**

- a. A final determination shall be made by SHA for the ultimate right-of-way dedication along the southern property line at Mill Branch Road,**
- b. Conformance to the *Prince George's County Landscape Manual*,**
- c. Establishing an appropriate relationship between the Developing and Rural Tiers while taking into account the impact of the proposed commercial development on the rural character of the area and the regional park facility currently under construction to the east,**
- d. The placement and orientation of buildings, landscaping, and driveways,**
- e. The architectural elevations, massing and scale of the improvements,**

- f. **Evaluate appropriate pedestrian connections and circulation including a connection to the Green Branch Regional Park,**
- g. **The use of LID and green building techniques,**
- h. **Conformance to the master plan guidelines,**
- i. **Viewshed analysis from US 301 corridor.**

A DSP is required for the site prior to approval of final plats. A DSP was submitted subsequent to the special exception application, and is not yet finally accepted or scheduled for review. The current proposed layout, placement, and orientation of the store with the rear of building closest to the Rural Tier and regional park do not clearly address the issues raised by the Planning Board in the conditions and findings of the preliminary plan, which required an analysis of the relationship of the buildings on this site as it relates to the Rural Tier boundary to the south and east. In addition, the special exception does not propose any pedestrian connection to the regional park and only peripherally addresses any green building techniques, and does not propose any mixed use on the site, which may not be consistent with the master plan guidelines. The special exception must better address Condition 6, which was a result of the master plan and General Plan tier designations and the relationship and impact on abutting properties.

- 7. **An automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.**

Condition 7 should be added to a general note on the special exception.

- 12. **Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees shall provide a financial contribution of \$210.00 to the DPW&T for the placement of a bikeway sign(s) along Mill Branch Road, designated a Class III Bikeway. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit. If DPW&T declines the signage, this condition shall be void.**

Conformance to Condition 12 will be determined at the time of building permits.

- 13. **The applicant and the applicant's heirs, successors and/or assignees shall provide, unless modified by the DPW&T and the SHA:**
 - a. **Multiuse sidepath for pedestrians and bicyclists on Mill Branch Road connecting to the intersection of US 301 and Excalibur Road.**
 - b. **Provide a wide crosswalk with pedestrian islands on US 301 to create a safe road crossing and accommodate both pedestrians and bicyclists using the recommended sidepath.**
 - c. **Raised crosswalks on roads approaching Mill Branch Road to create safe road crossings for pedestrians and bicyclists.**

- d. **Install "bikeway narrows" signage on the approach to Mill Branch Road and the site entrance.**

The site frontage along US 301 and Mill Branch Road are not within the limit of this special exception. Conformance to Condition 13 will be reviewed and determined at the time of the building permits. In fact, presently, the special exception boundary does not front on any public right-of-way. Prior to building permits, adequate dedication will be required in accordance with the approved preliminary plan.

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

"Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/022/07), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department."

Conformance to Condition 25 should be reviewed and determined at the time of final plat.

31. **At time of final plat, a scenic easement shall be established adjacent to Mill Branch Road as delineated on the preliminary plan, and a note shall be placed on the final plat as follows:**

"Mill Branch Road is a county designated Historic Road. The scenic easement described on this plat is an area where the installation of structures and roads and/or the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches or trunks is allowed."

The scenic easement adjacent to Mill Branch Road is not within the limit of this special exception. Conformance to Condition 31 should be reviewed and determined at the time of final plat.

Historic Preservation

The Planning Board determined that a Phase III recovery is appropriate for a historic site (Site 18PR857) contained within the special exception area. However, the applicant will be required to return some of the artifacts recovered for display and interpretation back to this site. Prior to the approval of the DSP, the applicant should submit a Phase III mitigation and data recovery plan for review and approval by the Historic Preservation staff and the Historic Preservation Commission. The applicant should provide a final report detailing the Phase III investigations and ensure that all artifacts are curated and some of them then brought back to the site for interpretative exhibits to be determined by the Planning Board at the time of review of the DSP.

As stated in PGCPB Resolution No. 09-85, "to ensure that an appropriate context is established, and to provide for the greatest benefit for an accurate interpretation of the site, the applicant should submit a proposal for the interpretation of the artifacts recovered which includes detailing the location and type of appropriate displays. The Planning Board will expect a creative and innovative approach to reach a wide audience and be easily accessible, all while ensuring that an appropriate context is established for the artifacts. The locations of the display and interpretation may include a structure(s), a park like setting or may be located in one of the buildings proposed on the site (i.e. the hotel). It is the desire of the Planning Board that the applicant presents a proposal that is inspiring and one which recognizes the importance of this site and the cultural significance it has to the County."

8. **Prior to the approval of the detailed site plan, the applicant shall submit a Phase III mitigation and data recovery plan for review and approval by the Historic Preservation staff and the Historic Preservation Commission for 18PR857. The applicant shall provide a final report detailing the Phase III investigations and ensure that all artifacts are curated in a proper manor and brought back to the site for interpretative exhibits to be determined by the Planning Board at the time of review of the Detailed Site Plan.**

A Phase III mitigation and data recovery plan was submitted to Historic Preservation staff on September 12, 2009. The Historic Preservation Commission reviewed and approved the Phase III mitigation and data recovery plan at its September 15, 2009 meeting. Phase III mitigation and data recovery cannot precede until the U.S. Army Corps of Engineers and the Maryland Historical Trust (MHT) completes their Section 106 review of potential impacts to Site 18PR857.

9. **The applicant shall provide interpretive signage detailing the results of the archeological investigations at site 18PR857. The location, wording and timing for its installation shall be reviewed at the time of detailed site plan and be reviewed by the staff archeologist.**

The Phase III archeological investigation has not been completed and, therefore, Condition 9 above cannot be addressed at this time. In addition, the US Army Corps of Engineers and the Maryland Historical Trust have not completed their Section 106 review of potential impacts to Archeological Site 18PR857.

10. **If Archeological Site 18PR859, located in the northern portion of the property, will be impacted by the proposed development, the applicant shall provide a plan for:**
 - a. **Evaluating the resource at the Phase II level, or**
 - b. **Avoiding and preserving the resource in place.**

Archeological Site 18PR859 will not be impacted by this proposal.

11. **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 for their review of potential effects on historical resources on the subject property prior to approval of final plat.

The subject application clearly illustrates that the proposed commercial development would result in the destruction of Site 18PR857. In a letter dated June 4, 2013 (Beth Cole, Administrator, Project Review and Compliance, Maryland Historical Trust to Kathy Anderson, Chief, Maryland Section Southern, Regulatory Branch, Baltimore District, U.S. Army Corps of Engineers), MHT acknowledged the receipt of updated site plans for the Mill Branch Crossing project dated March 2013. MHT noted that the redesigned commercial development will still result in the complete destruction of Site 18PR857 and will still constitute an adverse effect on the eighteenth century site.

The letter states: "If site 18PR857 is located within the Corps' area of jurisdiction, the Corps and Mill Branch Crossing LLC will need to continue to coordinate with MHT on specific construction plans and on ways to reduce and/or mitigate the adverse effect on the historic property. If it is determined that site avoidance is not feasible, then Mill Branch Crossing LLC must provide MHT and the Corps with documentation detailing the constraints and providing justification as to why site 18PR857 cannot be avoided during construction. (Please note that both the Corps and MHT were provided with documentation on September 30, 2010 detailing why site avoidance would not be feasible in the case of the originally proposed development. As the proposed site development plans have been significantly altered, the possibility of site avoidance and/or the reduction of impacts must be revisited). If site avoidance is not possible, Phase III data recovery investigations will be warranted to mitigate the undertaking's adverse effects on the archeological resource."

Transportation

- 14. Total development within the subject property shall be limited to a mix of commercial/retail development or equivalent development which generates no more than 606 AM peak-hour trips and 1,017 PM peak-hour (weekdays) vehicle trips, and 1,431 peak trips on Saturdays. Any development generating a traffic impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.**

Based on trip generation rates obtained from the Institute of Transportation Engineers (ITE) Trip Generation Manual 9th Edition, 2012, the proposed Walmart Supercenter is expected to generate 282 AM net peak-hour vehicle trips and 582 net PM peak-hour (weekdays) vehicle trips, and 860 net peak trips on Saturdays. This is within the cap set by this condition.

- 15. At the time of final plat approval, the applicant and the applicant's heirs, successors or assignees shall either:**
- a. Dedicate of right-of-way along Mill Branch Road to facilitate the construction of the master plan interchange and associated improvements on Mill Branch Road as shown on the approved preliminary plan OR**
 - b. Dedicate the amount of land on Mill Branch Road to be determined by SHA redesign of the interchange and associated improvements on Mill Branch Road.**

6. At the time of final plat approval, the applicant and the applicant's heirs, successors or assignees, shall dedicate right-of-way along US 301 (including the right-in right-out) as shown on the approved preliminary plan and shall show dedication within MD 197 master plan alignment necessary for the right-in right-out.
17. Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances through either private money or full funding in the Maryland Department of Transportation "Consolidated Transportation Program (CTP)" or the Prince George's County "Capital Improvement Program (CIP);" (b) have been permitted for construction through the operating agency's permitting process; and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
 - a. US 301 at Governors Bridge Road-Harbor Way
 - Modify eastbound Harbor Way from a two lane approach to a three lane approach that would include an eastbound double left turn lane, and a combined left, through and right-turn lane
 - b. US 301 at MD 197-Rip's Restaurant Access
 - Modify the westbound exit from the Rips restaurant to a three (3) lane exit to provide an exclusive left lane, a through lane and a right-turn lane
 - Provide an additional left turn lane along the northbound approach to provide a total of three left-turn lanes
 - Provide three receiving lanes on the western leg (MD 197) of the intersection subject to SHA requirement
 - c. US 301 at Mill Branch Road-Excalibur Road
 - Construct a double southbound left turn along US 301 at Mill Branch Road
 - Widen Mill Branch Road to a four lane westbound approach providing two left-turn lanes, one through lane and a free right-turn lane
 - Provide two receiving lanes on the eastern leg of the intersection (Mill Branch Road) subject to the requirements of SHA and DPW&T
 - Provide a third northbound through lane along US 301 beginning at a point south of Mill Branch Road, and ending at a point north of Mill Branch Road. The beginning and end point of this third lane shall be determined by SHA

d. **US 301 at Heritage Boulevard**

- **Re-stripe the southbound right-turn lane along US 301 to a shared through/right lane**

e. **Mill Branch Road at Site Access**

- **Provide a double left-turn and a separate through lane on the eastbound approach**
- **Provide two receiving lanes on the site access leg**
- **On the site access approach leg, provide a channelized free right-turn lane and a separate left-turn lane**
- **Install a traffic signal**

f. **US 301 at Site Access**

Provide a right-in right-out access point on US 301 at the northernmost point of the site, subject to SHA's approval. This access point shall be designed so that left turns from this access point to MD 197 are prohibited.

The applicant recognizes and acknowledges their responsibility to provide these dedications and improvements.

- H. **Parks and Recreation Concerns:** The Department of Parks and Recreation (DPR) has reviewed the above referenced special exception application submitted jointly by the owner of the property, Mill Branch Crossing LLC, and Wal-Mart Real Estate Business Trust for conformance with the requirements and recommendations of approved Preliminary Plan 4-08052, the existing Joint Access Easement Agreement (Liber 28018, at Folio 685), current zoning, and Subdivision Regulations, as well as the impact of this special exception on adjacent parkland.

DPR staff believes that it should be noted that the access drive from Mill Branch Road shown on the special exception plan will serve both Walmart and Green Branch Park from Mill Branch Road, but this access drive was not included in the special exception application. During the Subdivision and Development Review Committee meeting held on August 2, 2013, DPR staff made a request to revise the boundaries of SE-4734 to include the access drive as part of the special exception because the drive will provide an important vehicular access to Wal-Mart from Mill Branch Road and because it is needed to facilitate the development of the public park. The September 23, 2013 resubmission of SE-4734 does not include the access drive as part of the special exception.

The applicant has shown a "proposed 62-foot easement to M-NCPPC" in the submitted plans, but has not included the easement within the boundaries of the special exception, or requested that the existing 50-foot easement be relocated to the proposed 62-foot easement area. We are assuming that the applicant intends to request relocation of the existing 50-foot-wide easement, which is currently located along the southeastern property line. While DPR has no objection to the applicant's proposed commercial development on this property, the owner of the property has not addressed the need to relocate the existing 50-foot easement that was executed to provide joint access to the adjacent parkland from Mill Branch Road.

Existing Joint Access Easement

As previously noted, the subject property is encumbered by an existing 50-foot-wide joint access easement (Liber 28018, Folio 685) along the southeastern property line. The submitted landscape plan shows a 30-foot landscape buffer within the same area. The access easement was conveyed to M-NCPPC on April 21, 2007 for the installation, construction, reconstruction, maintenance, repair, and operation of a two-lane drive (access drive) for vehicular and pedestrian ingress/egress from Mill Branch Road to the planned Green Branch Athletic Complex.

The easement agreement states that the grantor (owner of the property) retains the right to use the easement in common with the grantee (M-NCPPC). In addition, the easement agreement states that the grantor at any time may request the grantee to relocate all or any portion of the right-of-way to a different easement area at the location designated by the grantor at the sole cost and expense of the grantor, and the grantee shall have the same rights and privileges in the new location.

In 2009, DPR retained a consultant to prepare plans for the construction of the access drive within the existing easement area as part of the first phase of the Green Branch Athletic Complex development plan. The access drive was designed within the easement area with minimal alteration to existing topography and with minimal impact to the applicant's property. During the review and approval of Preliminary Plan 4-08052, the owner of the property requested that DPR relocate the planned access drive 45 feet from the southeastern property line in order to accommodate the required 40-foot-wide landscaping buffer between the subject property and adjacent property to the southeast, which is located in the Rural Tier. DPR staff agreed to relocate the access drive 45 feet from the property line.

The easement agreement also states that the design of the access drive shall be such that it can readily be assimilated into the ultimate four-lane entrance drive design. After approval of Preliminary Plan 4-08052, the owner also requested that DPR build the access drive at the elevation suitable for the ultimate four-lane drive. The owner of the property provided proposed elevations for the ultimate four-lane entrance drive to DPR. DPR redesigned the access drive at the elevations proposed by the applicant and agreed to build a 22-foot-wide asphalt cross section ("half-section" of the ultimate four-lane drive) as requested by the applicant. The relocation of the access drive from the existing easement area to a new location, and construction of the access drive at the elevation suitable for the ultimate four-lane access drive, created additional costs associated with design, engineering, and construction. DPR staff has concerns that this special exception for the portion of the property, including a new layout of the site, may result in the need for redesign of the ultimate four-lane access drive. This would result in additional costs for engineering and construction of the half-section of access drive to be constructed by DPR.

Joint Access Drive Construction Status

DPR has county-issued permits for construction of the access drive which will serve as "half-section" of the future four-lane drive through this property (at the location suggested by the Applicant) and construction of the phase-one recreational facilities in the Green Branch Athletic Complex. The construction drawings for the access drive include: grading, stormwater management, soil erosion and sediment control, tree conservation plans, construction details, and horizontal and vertical alignments of the access drive. Since there is no other suitable public access to the Green Branch Athletic Complex available at this time, the development of the access drive through this property is needed to facilitate construction of the first phase of the Green Branch Athletic Complex and provide public access to the new park. Construction of this project cannot begin until a new joint access easement agreement is executed.

- I. **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 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 does not have frontage on or access to an arterial roadway. The site plan shows frontage on an entrance drive off of Crain Highway (US 301) which is proposed to be dedicated to the Maryland State Highway Administration. If this dedication were to transpire, this would satisfy this requirement. The secondary access is to a driveway from Mill Branch Road within an area proposed as an easement to M-NCPPC for shared access to the park property to the east. This section of Mill Branch Road is classified as a local collector, not a primary or secondary street.

- (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 commercial uses and a hotel 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 606 AM peak-hour vehicle trips and 1,017 PM peak-hour (weekdays) vehicle trips, and 1,431 peak trips on Saturdays. The proposed Walmart Supercenter is well within the established trip cap.

- (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 multiple entrances to the building. Clearly marked pedestrian crosswalks are shown.

- (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 five loading spaces being provided at the rear of the building in the southeastern corner of the site. The loading spaces are shown to have a separate driveway cut from the shared driveway for the shopping center and regional park. 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.

- (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 plan shows conformance with this requirement.

- (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 overall site and the Rural Tier remains to be analyzed as part of the required DSP for the site. See the Landscape Manual Requirements finding below for a full discussion of the project's compliance and the Urban Design Section's suggestions regarding buffering and screening.

- (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 shows each of these design elements in a manner acceptable to staff.

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

The applicant has submitted both of these, and is proposing high-quality signage and lighting which meet the requirements of the Zoning Ordinance.

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

Given the location of the site, there is not much in the way of surrounding architecture to enhance. However, if approved, the proposal has the effect of setting the tone for the development that follows. With that in mind, in a memo dated November 21, 2013 (Grover to Lockard), the Urban Design Section evaluated the architectural details submitted and made the following comments:

- a. 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:

- Though the revisions to the architecture comprise a slight improvement in design relationships in design efforts, concentrated on the front façade, the overall design of the project remains unimaginative, with quality materials lacking, and the overall shape of the building monolithic, and the roofline predominantly flat and visually uninteresting.
- The revisions to the architecture are not sufficiently substantial to afford each segment of the building an individual identity, nor do the segments have a comprehensible design relationship with one another in architectural form, detailing, and use of architectural materials so as to create an aesthetically pleasing whole.
- The four architectural façades of this building do not all receive equal treatment as was recommended and the façades that will be visible from the access to the adjacent park do not present an aesthetically pleasing aspect as was recommended.
- Quality architectural materials, including brick, have not been utilized. Concrete masonry units (CMU) and exterior insulation finishing system (EIFS) predominate.
- Visual interest has not been ensured by attention to the form and massing of the building, the use of contrasting materials, colors, and/or various regular patterns of the application of architectural detail.
- The pattern of the black ornamental fence above a brick knee wall that was previously provided on the far right of the front elevation of the building, instead of being augmented as recommended, appears to have been removed.

The proposed architecture for the subject project, rather than enhancing compatibility with existing commercial and residential in the vicinity of the subject project, sets the bar dangerously low for acceptable architecture and provides an undesirable design precedent for future development in the area. More particularly, the architectural features of concern include the following: materials, form, massing and roof articulation, and use of architectural detail and ornament, or lack thereof. Each is discussed individually below in greater detail:

- Materials for the proposed building include almost exclusively EIFS and CMU, both known in the industry as inexpensive and inferior quality materials. A small amount of metal coping and ornamental fence is utilized in the design; however, on a building this large, its quantity does not create a design element of significance. The addition of brick or cementitious siding (both higher quality more durable materials) would add a sense of quality and permanence to the development and the addition of a standing seam metal roof, or other significant contrasting quality architectural material, would provide more visual interest to the architectural composition.

- All of the façades of the building should receive at least the same level of architectural treatment as the front façade as they will be highly visible from the approach road to and the adjacent parkland itself. The proposed rear and left elevation façades, though offering some variation in color of both the CMU and EIFS, otherwise provide little architectural variation that would create visual interest and an aesthetically pleasing aspect. The regular application of architectural detail, noticeably absent from the overall architectural composition, would greatly enhance the design.
- The overall form and massing of the proposed building is unimaginative and monolithic with little articulation of the building. A previous design suggestion to articulate the various segments of the building (market, home and pharmacy, outdoor living, and automotive center) appears to be reflected in only token signage rather than architectural expression in terms of form and massing. The overall monolithic nature is accentuated by a primarily flat roof which, like the form and massing, offers no visual interest. Imaginative form and massing and an articulated roofline would result in more appropriate architecture.

Staff finds the proposed architecture to be insufficient to set the tone for the type of quality development envisioned by the master plan. Staff is particularly concerned that the architecture of the southern and eastern walls facing the Rural Tier and the park property, respectively, do not show an imaginative or aesthetically-pleasing treatment.

(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 30 percent green area.

- J. **Parking Regulations:** The site plan correctly notes that a total of 748 parking spaces are required and provided for the proposed use if it is developed as part of an integrated shopping center. As a single retail use, the Walmart Supercenter by itself does not meet the definition of an "integrated shopping center" which Section 27-108.01(208) of the Zoning Ordinance defines as "a group of (three (3) or more) retail stores planned and developed under a uniform development scheme and served by common and immediate off street parking and loading facilities." If the applicant comes in for permits with a mixture of uses which does not meet the definition of an integrated shopping center, they run the risk of having to park the use at a general retail rate, which is substantially higher. If the use comes in with a mix that does show it to be an integrated shopping center, the applicant's parking calculations are correct.
- 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; 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**—Section 4.2 specifies that, for all nonresidential uses in any zone and for all parking lots, a landscape strip shall be provided on the property abutting all public and private streets. Landscape strips will be required along the overall site frontage on Crain Highway (US 301) and Mill Branch Road. The required landscape strips are outside of the special exception area, and are not shown on the submitted special exception. This is acceptable.
- b. **Section 4.3, Parking Lot Requirements**—Section 4.3 specifies that proposed parking lots larger than 7,000 square feet will be subject to Section 4.3. Section 4.3 requires that parking lots provide planting islands throughout the parking lot to reduce the impervious area. When these planting islands are planted with shade trees, the heat island effect created by large expanses of pavement may be minimized. The special exception area includes two parking lots greater than 7,000 square feet. The submitted landscape plan indicates conformance with this requirement.
- c. **Section 4.4, Screening Requirements**—Section 4.4 requires that all dumpsters, loading spaces, and mechanical areas be screened from adjoining existing residential uses, land in any residential zone, and constructed public streets. The loading appears to be provided at the rear of the site and no dumpster areas are indicated on the plan. The transformer planned as a standalone structure along the eastern side of the rear of the building, however, should be screened from the adjoining land pursuant to the requirements of this section as it is in the R-A Zone.
- d. **Section 4.7, Buffering Incompatible Uses**—The site is subject to Section 4.7. A goal of Section 4.7 is to provide a comprehensive, consistent, and flexible landscape buffering system that provides transitions between moderately incompatible uses. Notes indicating the site's conformance to this section have been provided.
- e. **Section 4.9, Sustainable Landscaping Requirements**—Section 4.9 requires a percentage of plants within each plant type, including shade trees, ornamental trees, evergreen trees, and shrubs, to be native species or the cultivars of native species. The subject application indicates conformance with the requirements of Section 4.9.

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 contained in Section 25-128 of the County Code. As the subject property is zoned C-S-C, a minimum of ten percent tree canopy coverage of the gross tract area is ordinarily required. However, one of the conditions of approval for the preliminary plan required a total of 20 percent coverage. The landscape plan shows conformance with this requirement.

- L. **Zone Standards:** The proposed use meets all of the bulk and height standards for the C-S-C Zone. The proposal also meets all setback requirements.
- M. **Sign Regulations:** The site plan indicates one freestanding 95-square-foot monument sign located at the southwest corner of Parcel A. The sign location is in conformance with Zoning Ordinance regulations.

N. **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 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. Two of the purposes that staff considers particularly critical to this proposal are:

- (2) **To implement the General Plan, Area Master Plans, and Functional Master Plans;**

The proposed use and site plan do not serve the purpose of implementing the policies, guidelines, and strategies of the 2006 Bowie Master Plan and SMA. In fact, they directly contradict almost every one of the site-specific design guidelines contained in the plan. Staff cannot find the use to be the level of quality specified by the Planning Board and District Council, nor do we find the architecture to be a level sufficient to set the tone for future development to follow.

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

The District Council, through the 2002 General Plan, made sometimes difficult decisions as to where the line between the Rural Tier and Developing Tier was to be located. This property was one of those instances. The District Council decided that the subject property was appropriate for development. The 2006 master plan recommended commercial zoning for the site, and the subsequent sectional map amendment placed the site in the C-S-C Zone. If this was a question of another strip-commercial center along a major roadway in Prince George's County, staff would have concerns over impacts. But this particular use, located adjoining the Rural Tier and a planned regional park facility was correctly singled out for more intensive scrutiny, both through the master plan design guidelines, as well as the 36 conditions of approval imposed by the Planning Board in their approval of the preliminary plan. The setbacks and buffering shown on the site plan may meet the strict application of the code. However, the willingness to believe that an automotive center, loading docks, compactors, and recycling areas backed by imaginative façades are the most beneficial portions of the use to present to the landowners in the Rural Tier, and the users of the park is more than staff's credulity can bear. Even if staff could accept that the use itself were appropriate, the proposed layout of the building, its constituent parts, and the perceived less than sufficient construction materials does not help raise the level of appropriateness to the point that we can find it to protect against adverse impacts.

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

Staff does not believe the applicant has shown evidence that the level of architecture proposed meets the requirement of Section 27-348.02(9) of the Zoning Ordinance. We concur with the comments of the Urban Design staff that the proposed architecture sets the bar dangerously low

and provides an undesirable design precedent for future development on and around the site. Staff must also repeat our concern that, while the parking shown is sufficient for a retail use as part of an integrated shopping center, this single retail use does not meet that definition. If the remainder of the site were to develop with uses other than retail (the proposed hotel, restaurants, offices etc.), it is unlikely to ever be considered an integrated shopping center for permitting purposes.

- (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 explained in the previous sections of this report, staff has serious misgivings about the applicant's proposal and its impact on the integrity of the 2006 master plan. The proposed big-box discount store of 186,933 square feet is the antithesis of the vision adopted by the Planning Board and District Council for this site. While it is certainly true that the proposed use conforms to the retail commercial recommendation, this finding is not one of conformance with the master plan. Whether or not the use conforms to the master plan's land use map recommendation is not dispositive of the question, nor does staff accept the argument that the use, now permitted by the District Council as a special exception in the C-S-C Zone, has somehow been legislatively deemed to not impair the master plan. Staff would point out that either permitted by-right uses or special exception uses, in the wrong location, can substantially impair the integrity of the master plan. We strongly believe that to be the case here.

Staff has difficulty in assessing the true impacts to the environmental guidelines of the master plan, since the special exception area is only a portion of the overall site, which is subject to the requirement for a DSP. An attempt has been made, although some of the guidelines are either not applicable or only partly applicable to the subject property.

POLICY 1: Protect, preserve and enhance the identified green infrastructure network within the master plan area.

Strategies:

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

No portion of the current application falls within the *Approved Countywide Green Infrastructure Plan*, but the special exception boundaries abut evaluation area located on the adjacent parkland to the northeast.

2. **Protect primary corridors (Patuxent River and Collington Branch) 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 (Horsepen Branch, Northeast Branch, Black Branch, Mill Branch, and District Branch). To restore and enhance environmental features and habitat.**

This site abuts a major regional park site, which provides a large contiguous block of woodlands connecting eastward to the Patuxent River, a plan-designated primary corridor. Protection of sensitive environmental areas related to this primary corridor is a

priority, and will be addressed through stormwater management associated with the current application. The current application does not directly impact regulated environmental features of the site.

3. **Evaluate carefully land development proposals in the vicinity of identified Special Conservation Areas (SCA) to ensure that the SCAs are not impacted and that connections are either maintained or restored.**

This site is located in the vicinity of the Patuxent River Special Conservation Area. Connections and corridors to the Patuxent SCA will be evaluated during the review of the DSP related to this site, but do not fall within the limits of the special exception.

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

Strategies:

1. **Implement the strategies contained in the Western Branch Watershed Restoration Action Strategy (WRAS).**
2. **Add identified mitigation sites from the WRAS to the countywide database of mitigation sites.**
3. **Encourage the location of necessary off-site mitigation for wetlands, streams and woodland within sites identified in the WRAS and within sensitive areas that are not currently wooded.**

This site is not located in the Western Branch Watershed Restoration Action Strategy area.

4. **Ensure the use of low impact development techniques to the extent possible during the development process.**

The special exception site plan and subsequent DSP should demonstrate the use of low-impact development stormwater management techniques such as bioretention, French drains, depressed parking lot islands, and the use of native plants, to the fullest extent possible subject to approval by the City of Bowie Department of Public Works during technical stormwater management review. Approval of the stormwater management concept plan by the City of Bowie is still pending.

5. **During the development review process evaluate streams that are to receive stormwater discharge for water quality and stream stability. Unstable streams and streams with degraded water quality should be restored, and this mitigation should be considered as part of the stormwater management requirements.**

The Green Branch Tributary, which crosses this site along its northern boundary and receives stormwater discharge from this site, has been evaluated for existing water quality and stream stability, and the impact of the proposed development on stream stability and water quality, specifically related to the proposed stormwater discharge, was analyzed.

A stream corridor assessment was prepared by McCarthy & Associates, Inc. in April 2009 which identified problem areas located on the Green Branch Tributary adjacent to this site, and a subsequent field walk was held to review the areas of concern. Seven specific problem areas were identified, and remediation methodologies were proposed. Subsequently, it has been concluded that disturbance in these areas may be more problematic than previously identified. Staff and the applicant are currently looking at the countywide stream corridor assessments prepared by the Maryland Department of Natural Resources to see if other mitigation opportunities can be identified downstream within the same stream network at time of DSP.

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

The landscape plan submitted with the current application should demonstrate the use of native plant materials and conservation landscaping techniques that reduce water consumption to the fullest extent possible, as determined by the Urban Design Section.

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

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

A large parking lot with expansive areas of impervious areas is proposed for this commercial development, and within the area of the special exception. The design does allow for the micromanagement of stormwater through bioretention and demonstrates the application of tree canopy coverage requirements to reduce the heat island effect directly adjacent to the Patuxent River primary corridor. Staff recommends that the special exception site plan be further revised to the extent possible to break up the areas of impervious surfaces and provide larger islands of shade.

During the review of the DSP, the plan application should include a justification for any parking spaces above the minimum parking requirements, and alternative paving surfaces should be considered for all parking spaces above the minimum requirements. The application of alternative parking materials such as grass block, or reinforced turf, combined with low-impact development techniques, such as bioretention areas, should be used to the greatest extent possible.

POLICY 3: Protect and enhance tree cover within the master plan area.

Strategies

1. Encourage the planting of trees in developed areas and established communities to increase the overall tree cover.

This is a new commercial development, located adjacent to the Rural Tier, on a largely open site that has been in agricultural use up to the present time. The use of trees and landscaping materials to provide a transition between the Developing and the Rural Tiers is desirable, and will result in an increase in overall tree canopy cover where it is currently lacking. In accordance with the requirements of the Landscape Manual, a minimum of a Type "C" bufferyard (30-foot landscaped strip and 40-foot building

setback) is required to be provided. A wider bufferyard may be appropriate to create an appropriate transition between differing development patterns. In this case, the ability to determine the most appropriate transition is hampered by two factors; the area is outside of the special exception boundary, and is encumbered by the easement for the shared drive to serve the proposed park.

2. **Provide a minimum of ten percent tree cover on all development projects. This can be met through the provision of preserved areas or landscape trees.**
3. **Establish street trees in planting strips designed to promote long-term growth and increase tree cover.**
4. **Establish tree planting adjacent to and within areas of impervious surfaces. Ensure an even distribution of tree planting to provide shade to the maximum amount of impervious areas possible.**

With the current application and at the time of DSP review, the landscape plan should be reviewed for conformance with these requirements and those of the Landscape Manual.

POLICY 4: 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 reused 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.**

The use of green building and energy conservation techniques should be evaluated with the current application and at the time of DSP review by the Urban Design Section. The statement of justification points out some of Walmart's corporate green building techniques, which include an impressive array of efficiencies.

Policy 5: 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 is minimized. Limit the total amount of light output from these uses.**
2. **Require the use of full cut-off optic light fixtures should be used for all proposed uses.**

3. Discourage the use of streetlights and entrance lighting except where warranted by safety concerns.

The minimization of light intrusion from this site, located in the Developing Tier, onto adjacent properties in the Rural Tier is a special concern because the Patuxent River is an inter-continental migratory bird route and high light levels can severely impact these bird populations. With the current application and at time of DSP, the use of alternative lighting technologies and the limiting of total light output should be demonstrated.

The lighting plan submitted for review with the special exception and DSP addresses the use of lighting technologies which minimize light intrusion into the Rural Tier and environmentally sensitive areas. Full cut-off optic light fixtures are proposed throughout this site to reduce light intrusion outside of the Developing Tier. Additional details are needed to ensure more effective directed lighting, and address the best management practices for maintaining a dark sky.

POLICY 6: 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. Using the Environmental Planning Section's noise model, a soft surface range for the 65 dBA Ldn noise contour of approximately 470 feet from the centerline of US 301 was established, which has been shown on the proposed site plan.

From an environmental perspective, the proposed use will not impair the Green Infrastructure Plan or the 2009 *Approved Countywide Master Plan of Transportation* with regard to scenic and historic roads. As discussed previously, the problems presented by the dual-application process (special exception and DSP, of which the special exception site plan will control) make it difficult to distinguish exactly which environmental evaluations are applicable at this time. That is not the fault of the applicant; however, staff fears that development of the use without a full appreciation of environmental infrastructure guidelines will result in a strong possibility of further substantially impairing the integrity of the approved master plan.

- (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 pastoral agricultural fields 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 question of the relationship between the Developing and Rural Tiers is a concern. Each side of the boundary has the potential for negatively impacting the other. We most often think of the impact of the new development, without regard to the impact of the existing use on the other side of the property line. The impact of the applicant's proposal is largely visual and upsetting to its neighbors because of a perceived loss of the long-standing rural character of the area and Mill Branch Road. We do not accept the building architecture, materials, or layout. The possibility of additional trash and detritus blowing off the parking lot and onto adjoining properties seems likely, although this is to be expected.

On the other hand, agricultural fields, even those employing best management practices, have impacts on adjoining properties of their own. Tilling and cultivation of dry earth produces dust. Modern sprayers for pesticides/insecticides/fungicides/herbicides, while improvements over their previous incarnations, still have the potential for drift. Runoff from fertilizer application remains a problem, not to mention the malodorous aroma of freshly applied manure. Staff is not convinced that adequate justification has been made that the best relationship is being created between the subject property and the surrounding 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 the technical concerns and required revisions previously discussed.

(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.

There are no regulated environmental features on the subject property that would require preservation and/or restoration.

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.**

Much of staff's difficulty with the applicant's proposal relates to the aspirations for this site as envisioned in the recommendations and the site-specific design guidelines of the 2006 *Approved Master Plan for Bowie and Vicinity and Sectional Map Amendment*. Staff understands the arguments that the plan is "merely a guide" and that the use of the permissive "should" rather than the mandatory "shall" in the

guidelines leaves greater latitude in reviewing the impact of the use. We are also cognizant of the argument that the District Council has chosen to deal with the plan's design guidelines by creating this special exception, giving the District Council the ability to judge the merits of each "big-box" retail use separately. Staff does not find this argument persuasive. The District Council made an effort in the master plan to steer a quality department store to the site not simply through encouraging such uses, but through actively discouraging big-box discount stores. Staff must presume that at least some of the reason for this was because of the site's location on the edge of the Rural Tier adjoining a proposed park and not just its proximity to the Bowie Regional Center.

While the applicant bears the burden of showing conformance to each and every required finding in order for the special exception to be approved, a single negative finding is sufficient to deny the application. Staff has identified several instances where we feel the applicant's case is deficient. Even if each one by itself were not adequate, certainly the cumulative impact of our identified concerns could justify the lack of support for this proposal.

Based on the preceding analysis, staff must conclude that the applicant has not met their burden of proof in this instance. Therefore, staff is compelled to recommend DISAPPROVAL of Special Exception Application No. SE-4734.