

A M E N D E D R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

*WHEREAS, in consideration of evidence presented at two public hearings, one held on March 6, 2014 (the initial hearing), and March 19, 2015 (on the Remand from the District Council), for Detailed Site Plan, DSP-89063-07, the Planning Board finds as follows. Changes to the previously made findings for the case are indicated as follows: Additions are indicated by underlined text and language removed is indicated by [brackets] and strikethrough text.

~~*[WHEREAS, in consideration of evidence presented at a public hearing on March 6, 2014 regarding Detailed Site Plan DSP-89063-07 for Duvall Village Shopping Center, Wal-Mart, the Planning Board finds:]~~

1. **Request:** The subject application requests approval of a 77,916-square-foot Wal-Mart in the Duvall Village Shopping Center in the General Commercial, Existing (C-G) Zone:

2. **Development Data Summary:**

	EXISTING	APPROVED
Zone	C-G	C-G
Use(s)	Integrated Shopping Center	Wal-Mart within an Integrated Shopping Center
Acreage	14.64	14.64
Parcels	2	2
Wal-Mart Square Footage/GFA	56,238	77,916
Existing In-line Retail Square Footage/GFA	4,836	4,836
Bank Square Footage/GFA	26,591	26,591
Total Square Footage/GFA	87,665	109,343

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OTHER DEVELOPMENT DATA

	REQUIRED	APPROVED
Total parking spaces	459	513
including handicapped spaces	17	17 (including 14 handicapped van spaces)
Standard spaces (9.5' x 19')	N/A	445
Compact spaces (8.0' x 16.5')	N/A	51
Loading spaces	4	4

3. **Location:** The site is in Planning Area 70, Council District 5. More specifically, it is located in the southeastern quadrant of the intersection of Annapolis Road (MD 450) and Glenn Dale Road (MD 953).
4. **Surrounding Uses:** The subject property is bounded to the north by Annapolis Road (MD 450); to the west by Glenn Dale Road (MD 953); and to the east and south by single-family detached dwellings in the Residential Urban Development (R-U) Zone.
5. **Previous Approvals:** The subject site, which included the 2.39-acre environmental setting of Historic Site 70-017, Buena Vista, was rezoned from Planned Community/ General Commercial, Existing (R-P-C/C-2) to General Commercial, Existing (C-G) by Zoning Ordinance No. 73-1978 with conditions in 1978, in conjunction with companion cases Zoning Map Amendments A-9232, A-9234, and A-9235 for adjacent properties. Preliminary Plan of Subdivision 4-87104 for Duvall Village Shopping Center was approved by the Prince George's County Planning Board on September 24, 1987. In accordance with a rezoning condition (A-9233), Detailed Site Plan DSP-89063 was approved by the Planning Board on August 16, 1989. The DSP was revised six times thereafter. Detailed Site Plan DSP-89063 was approved by the Planning Board on August 16, 1989. Prince George's County Planning Board Resolution No. 89-44 was subsequently adopted by the Planning Board formalizing that approval. Detailed Site Plan DSP-89063/01 was approved at staff level on August 21, 1990 for minor changes to the architecture, parking, and landscaping. Detailed Site Plan DSP-89063/03 was approved at staff level on April 6, 1995 for a modification of the historic setting. Detailed Site Plan DSP-89063/05 was approved by the Planning Board on November 6, 2003 for the Educational Systems Federal Credit Union and removal of the historic site and the Maryland-National Capital Park and Planning Commission (M-NCPPC) trail. Prince George's County Planning Board Resolution No. 03-241 was subsequently adopted by the Planning Board on November 13, 2003, formalizing that approval. On March 6, 2003, Parcel A (including Historic Site 70-017, Buena Vista) was subdivided into two parcels by the Planning Board through its approval of Preliminary Plan 4-02103. On February 20, 2002, the historic house was moved from this location, though on May 15, 2002 the Historic Preservation Commission decided to keep a ten-foot by four-foot easement for signage referencing the historic site to be

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located on the eastern parcel. The site also has an approved Stormwater Management Concept Plan, 19201-2012-00, approved by the Department of Public Works and Transportation (DPW&T) on October 1, 2012 and valid until October 1, 2015.

6. **Design Features:** The subject Wal-Mart is herein approved as a part of the existing Duvall Village Shopping Center occupying an existing 56,238-square-foot unit augmented by a 21,678-square-foot addition, for a total of 77,916 square feet. A 4,836-square-foot bank pad site is located along the subject site's Annapolis Road (MD 450) frontage. An existing 26,591-square-foot strip shopping center extends perpendicularly from the herein approved Wal-Mart. Parking would be located in front of the Wal-Mart and the strip center, north of that main parking area and to the west of the pad site occupied by the bank on the northern end of the site.

The subject project, however, also encompasses a vacant Parcel B, recorded in Plat Book 205 at page 19, and located in the northeastern portion of the site, which was inadvertently omitted in the original submission in the case. As Parcel B was part of the original and continues to be a part of the Duvall Village Shopping Center DSP, a condition of this approval requires that, prior to signature approval of the plans for the project, the boundary of the project be revised on page 5 of the overall plan and throughout the plan set to include Parcel B.

The architecture of the Wal-Mart herein approved is a composite of a remodel of the existing building and an addition on its northern side. The architecture for the Wal-Mart includes a mix of architectural elements including metal, exterior insulation and finishing system (EIFS), concrete masonry units (CMU), and lapboard siding in several colors including red, light brown, dark brown, camel, and white.

The front façade offers a design with a central element with a peaked roof, with the Wal-Mart corporate logo on it, flanked by two areas of camel-colored lap siding punctuated by pilasters supported by double columns, giving some rhythm to this portion of the façade. The only other signage included in the subject approval is the addition of a new sign panel on the existing freestanding sign that serves the entire shopping center as described in detail on Sheet 2 of the architectural plan set entitled "Site Signage Location."

To either side of the central element on the front façade is a repetitive rectilinear decorative element constructed of new split face CMU specified to be painted in the camel color, to be ornamented with individual awnings, specified as standing seam metal, flanked in turn by an element that has a parapet roofline, and a combination of camel-colored lap siding and EIFS pilasters. On the far right, or southern end of the façade, a second entrance and a loading area with four roll-up doors is evident, though the portion of the existing shopping center that would be perpendicular to the proposed Wal-Mart would largely screen them from view. The architecture is

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enhanced by a condition of this approval which requires prior to certificate approval the replacement of the repetitive rectilinear elements with a more attractive architectural treatment.

The rear façade is the existing red CMU, with green metal downspouts offering the only visual relief across its entire expansive width. The side elevations offer marginally more in the way of design, with a lighter color CMU at their base, a band separating the two floors, and some detailing in lapboard siding and green standing seam metal roof.

As the architecture for the project has been adequately described on Sheet 1 of the architectural plan set entitled "Elevations," a condition of this approval requires that Sheet 3 entitled "Disclosure" be removed from the plan set as it is superfluous and such disclosure is not needed as part of the DSP.

7. **Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements in the General Commercial, Existing (C-G) Zone and the site plan design guidelines of the Zoning Ordinance.
 - a. The subject approval is in conformance with the requirements of Section 27-461(b), which governs permitted uses in commercial zones. The proposed Wal-Mart is a permitted use in the C-G Zone.
 - b. The approval also conforms to the requirements of Section 27-462, Regulations, regarding additional regulations for development in commercial zones.
 - c. See Finding 15 regarding the project's conformance with the requirements of Section 27-285(b).
 - d. The approval is also in conformance with the requirements of Section 27-568, Required number of parking spaces.
8. **Preliminary Plans of Subdivision 4-87104 and 4-02103:** Preliminary Plan 4-02103 was approved by the Planning Board on February 6, 2003. Resolution No. 03-22 was adopted on March 6, 2003, formalizing that approval. Preliminary Plan 4-87104 was approved by the Planning Board on September 24, 1987. Resolution No. 87-433 was subsequently adopted by the Planning Board, formalizing that approval. Each relevant condition of each approval is included in **boldface** type below followed by Planning Board comment:

Preliminary Plan of Subdivision 4-87104:

3. **Prior to issuance of any building permits, all necessary improvements (construction of four lanes, closed section divided highway with auxiliary turn lanes at the**

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intersection between Stations 155 and 180) to the intersection of MD 450 and Glenn Dale Road shall be in place or shall be programmed by the Maryland State Highway Administration or others in conjunction with the Maryland State Highway Administration.

It is worth noting that, while Condition 3 required improvements to the critical intersection of Annapolis Road (MD 450) at Glenn Dale Road (MD 953), there was no trip cap explicitly identified among any of the conditions of approval. In reviewing the transportation aspects of the project, it has been documented in these reports that the transportation analyses required for a finding of adequacy were based on the subject property being developed with 104,050 square feet of retail and 19,850 square feet of office. At this time, all of the conditioned improvements have been constructed.

Preliminary Plan of Subdivision 4-02103:

- 1. Development of the subject property shall be consistent with the stormwater management concept plan approved by the Department of Environmental Resources, CSD No. 958006-480.**

General Note 3M on the SDP indicates that the site is subject to Stormwater Management Concept Plan 19201-2012-00, approved October 1, 2012. Additionally, the Planning Board is in receipt of Stormwater Management Concept Plan 19201-2012-00, approved October 1, 2012 and valid until October 1, 2015, which supports the site plan note. Apparently, the later approval replaced the earlier approval as the operative stormwater management approval for the site.

- 3. Prior to submission of a Detailed Site Plan, the applicant, the applicant's heirs, successors, or assignees shall consult with Historic Preservation staff regarding the optimum location for the historical marker and its Environmental Setting. (An appropriate location for the historical marker is south and east of the proposed concrete sidewalk, west of and at the foot of the retaining wall and fence).**

The applicant proposed and had approved by the Historic Preservation Commission (HPC) a small area (ten feet by four feet) at the southwestern corner of Parcel B as the location for the historic marker at the time of preliminary plan approval. Further, the approved location is shown on the plat (REP-205-19) and therefore the Planning Board finds that this condition has been satisfied.

- 4. The applicant shall prepare an exhibit showing the proposed size and location of the setting, as well as the text for the historical marker. This exhibit shall be reviewed by Historic Preservation staff, and the new Environmental Setting shall be approved by the Historic Preservation Commission (HPC) prior to approval of the Detailed Site Plan.**

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At its October 21, 2003 meeting, the HPC voted unanimously (7-0) to approve the size and location of the required historic marker (ten feet by four feet) as shown on the plat, thereby satisfying this condition.

5. **After the new Environmental Setting for Historic Site 70-017 has been reviewed and approved by HPC, and prior to approval of the first building permit for Parcel B, the applicant/owner of the property shall erect on that approved setting a historical marker with the text that has been approved by the staff of HPC.**

The HPC approved the removal of the existing environmental setting and replacing it with a historical marker. The applicant is currently working with the Planning Board on the proposed text for the historic marker. The text will be finalized at the time of submittal of a Historic Area Work Permit application for erection of the historical marker. Condition 5 has been carried forward as a condition of this approval.

6. **Prior to signature approval of the Preliminary Plan of Subdivision, TCPI/12/03 shall be revised to:**
 - a. **Show the full extent of the existing woodlands.**
 - b. **Show the current version of the TCP1 notes.**
 - c. **Revise the Woodland Conservation Worksheet to indicate the entire site will be cleared.**
 - d. **Have the revised plan signed and dated by a Qualified Professional.**

The Planning Board ensured that these requirements were met as required at the time of certificate approval of Preliminary Plan 4-12013.

7. **Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/12/03). 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/12/03), 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/Tree Preservation Policy."

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Type II Tree Conservation Plan TCP11/113/94-01 is being approved with the subject DSP. A review by the Planning Board indicates that the plan meets all applicable environmental requirements, as certain conditions have been attached to this approval. Therefore, the proposed project is in conformance with TCP1/12/03.

9. **Detailed Site Plan DSP-89063 and its revisions:** Detailed Site Plan DSP-89063 was approved by the Planning Board on August 16, 1989. Resolution No. 89-414 was subsequently adopted by the Planning Board, formalizing that approval. Each relevant condition of that approval is included in **boldface** type below followed by Planning Board comment:

8. **The applicant shall construct an eight-foot-wide hard surface pedestrian/bike trail along the entire frontage of Glenn Dale Road except for the last 50+ feet. This trail shall connect to the intersection with MD Route 450 to the north and the approved six-foot-wide path connection in the Glensford development to the south.**

This trail was not provided at the time of construction of the original shopping center. Instead, the subject site was improved with a standard five-foot-wide sidewalk along its entire frontage. This condition may have been modified by the Maryland State Highway Administration (SHA) at the time of road construction permitting, although as it is now more than 23 years since that time it would be difficult to determine this conclusively. However, based on his analysis of 2011 aerial photographs for the corridor, it appears that standard sidewalk along the site's frontage is consistent with frontage improvements elsewhere along Glenn Dale Road (MD 953). In fact, the entire eastern side of Glenn Dale Road has been improved with standard sidewalk from its intersection with Annapolis Road (MD 450) to just south of its intersection with Lottsford Drive. Therefore, despite the requirement of this prior approval, the Planning Board requires no changes to the existing sidewalks at this time. On-road bicycle facilities will be considered comprehensively by SHA for the corridor when it resurfaces or otherwise improves Glenn Dale Road.

Detailed Site Plan DSP-89063/05 was approved by the Planning Board on November 6, 2003 for the Educational Systems Federal Credit Union and removal of the historic site and the M-NCPPC trail. Prince George's County Planning Board Resolution No. 03-241 was subsequently adopted by the Planning Board on November 13, 2003, formalizing that approval. Condition 3 of that approval, relevant to this approval, is included in **boldface** type below followed by Planning Board comment:

3. **Prior to issuance of the Historic Area Work Permit for erection of the historic marker, the applicants and the applicants' heirs, successors, and/or assignees shall submit the text for the historic marker to be reviewed and approved by the Historic Preservation Commission.**

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This condition will be brought forward to the subject approval.

10. **Final Plat REP 205-19:** Parcel C was recorded in Plat Book REP 205-19 on February 14, 2005. The following plat note included in **boldface** type below and followed by Planning Board comment is relevant to the approval of the subject DSP:

1. **Access to parcel "B" along the Annapolis Road frontage is denied and all access to Parcel "B" shall be through the common access easement pursuant to Section 24-128 (b) (9) of the Prince George's County Subdivision Regulations.**

The record plat delineated the common access easement on Parcel C and indicated a denial of access along the Annapolis Road (MD 450) frontage on a portion of Parcel C. Further, the Planning Board finds that the subject DSP correctly shows the location of the common access easement and indicates the denial of access along the frontage of Annapolis Road. However, the Planning Board by condition of this approval requires that the DSP shall be revised prior to certificate approval to provide shading or hatching to more clearly identify the common access easement on the site plan and that Note 1 of the record plat shall be added as a general note on the DSP.

11. **2010 Prince George's County Landscape Manual:** The development herein approved is subject to the requirements of Section 4.2, Commercial and Industrial Landscaped Strip Requirements; Section 4.3(a), Landscaped Strip Requirements; and Section 4.7, Buffering Incompatible Uses of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). Pursuant to County Council Bill CB-17-2013, the project is exempt from the requirements of Section 4.3(c), Interior Planting of Parking Lots.

The Planning Board has reviewed the landscape plan and found that the submittals comply with the requirements of applicable sections of the Landscape Manual.

12. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The property is subject to the provisions of the Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the entire site is more than 40,000 square feet in area, more than 5,000 square feet of woodland was disturbed, and has previously approved Type I and Type II tree conservation plans (TCPI/TCPII).

The Planning Board completed a review of submitted TCPII-113-94-01 and found that the plan is in compliance with the WCO, as the approval is herein made subject to certain conditions. The project conforms to the relevant requirements of the WCO.

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13. **Prince George's County Tree Canopy Coverage Ordinance:** Pursuant to Council Bill CB-19-2013, the subject project is exempt from the requirements of the Tree Canopy Coverage Ordinance as it had a site plan approved for it before September 1, 2010. The Planning Board notes, however, that the project herein approved, if subject to the Prince George's County Tree Canopy Coverage Ordinance, would meet and exceed the requirement for properties in the General Commercial Zone.
14. **Further Planning Board Findings and Comments from Other Entities:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:
 - a. **Historic Preservation**—The review of the subject project revealed that Historic Site 70-017 (Buena Vista) was located on Parcel B, part of the subject site. Though the house has been demolished, the Historic Preservation Commission retained a ten- by four-foot environmental setting for an interpretive sign, which has not to date been erected, perhaps because the building expansion approved in DSP-89063/05, as formalized in PGCPB Resolution No. 03-241, was never completed. A condition of this approval however requires that the interpretive sign be erected prior to issuance of the first building permit for the subject project.
 - b. **Archeological Review**—With the adoption and approval of the 1981 *Prince George's County Historic Sites and Districts Plan*, Buena Vista, a Greek Revival-style plantation house of wood frame construction built in the mid-1850s, was designated as Historic Site 70-017. Its location was a 16.8-acre parcel of land at 4811 Glenn Dale Road in the Glenn Dale area. In December 1994, the Historic Preservation Commission (HPC) established a smaller environmental setting for Buena Vista (2.39 acres). In the late 1990s, a shopping center was constructed on the remainder of the 16.8-acre parcel, and the developers sought a plan for restoration and reuse of the Buena Vista house. After several proposals for renovation and use of the house failed, the owner/developer of the shopping center (Manekin) reached an agreement with Henry and Nora Wixon, by which the house was legally conveyed to the Wixons and was then moved in February 2002 to the Wixons' 25-acre farm approximately one mile to the northeast. The HPC and the Planning Board worked with the Wixons and their architect in reviewing the plans for relocation, restoration, and addition to the Buena Vista house.

The Planning Board hereby makes the following archeologically-related findings regarding the subject project:

- (1) In May 2001, the HPC approved Historic Area Work Permit 9-01 for the relocation and proposed addition to the Buena Vista house with several conditions. Condition 2 of that approval is the following:

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“At the next phase of development plans for the Duvall Village Shopping Center, or at the time of the amendment of the Detailed Site Plan, the Historic Preservation Commission shall redetermine and reduce the Environmental Setting of Historic Site 70-017(Site of Buena Vista) to include a small area of ground in the vicinity of the site, upon which a historical marker, visible to passersby, shall be erected by the owner of the property.”

- (2) In early 2003, the applicant submitted Preliminary Plan of Subdivision 4-02103 for the Duvall Village Shopping Center, including Parcel B, the former location of the Buena Vista house. This plan proposed a small (ten- by four-foot) area at the southwestern corner of Parcel B as the proposed location of the required historic marker (i.e., the proposed environmental setting of the Site of Buena Vista). The Planning Board required a minor change in its location. In March 2003, the Planning Board approved Preliminary Plan 4-02103 as formalized by the adoption of PGCPB Resolution No. 03-22. See Finding 8 for a discussion of archeologically-related Conditions 3, 4, and 5 of that approval.
- (3) The applicant revised the proposed location of the historical marker (i.e., the proposed environmental setting) as required by the Planning Board and as noted in Condition 3 of PGCPB Resolution No. 03-22, which was shown on DSP-89063/05. The applicant then submitted a request for determination of environmental setting for this location.
- (4) At the October 21, 2003 HPC meeting, the Commissioners reviewed the background of the case and the conditions of development that relate to the change in the historic site since the relocation of the Buena Vista house. The Planning Board required that, as the ten- by four-foot area proposed as the environmental setting was sufficient and appropriate for the erection of a historical marker, was very close to the original location of the Buena Vista house, and would be clearly visible to passersby, it constituted an appropriate environmental setting of Historic Site 70-017 (Buena Vista).
- (5) The Planning Board requires that the HPC approve the size and location of the required historical marker, ten feet by four feet, as shown on the plan for DSP-89063/05, with the condition that the text for the marker be finalized and approved by HPC prior to the submittal of an application for a historic area work permit for erection of the marker.

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- (6) The resolution of approval for DSP-89063/05 (PGCPB No. 03-241) contains one condition, Condition 3, which relates to the historic site. See Finding 9 for a discussion of that requirement.

In conclusion, the Planning Board required that a condition be attached to the approval regarding a trigger for approval by the Historic Preservation Commission of the text to be placed on the historic marker:

- (1) At its October 21, 2003 meeting, the Historic Preservation Commission voted unanimously to approve the size and location of the required historical marker, ten feet by four feet, as shown on the plan for DSP-89063/05, with the condition that the text for the marker be finalized and approved by the Historic Preservation Commission prior to submittal of the historic area work permit for erection of the marker.
- (2) The applicant shall by condition of this approval submit text for the historical marker through the submission of an application for a historic area work permit.
- (3) Condition 3 of PGCPB Resolution No. 03-241 shall by condition of this approval be carried forward with this application.
- (4) The applicant shall by condition of this approval make the following corrections to the detailed site plan, prior to signature approval:
 - (a) Sheet 4, Note R should read: "The Site of Buena Vista (70-017) and its ten- by four-foot environmental setting is located on Parcel B."
 - (b) On Sheets 5, 7, 9, 11, 13, and 16, show the location of the site of Buena Vista and its ten- by four-foot environmental setting (as shown on Plat REP 205-19) and label the historic site "The Site of Buena Vista (70-017)."

- c. **Community Planning**—The subject approval is consistent with the 2002 *Prince George's County Approved General Plan* Urban Design policies for the Developing Tier and conforms to the community design recommendations of the 2010 *Glenn Dale-Seabrook-Lanham and Vicinity Sector Plan and Sectional Map Amendment* (area master plan). More specifically, the area master plan recognizes the Duvall Village Shopping Center as one of eight commercially-zoned areas within the sector plan area that should incorporate green building standards and should reuse existing commercial space, such as blighted or vacant buildings.

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The following are planning comments regarding the subject project:

- (1) There are no area master plan issues associated with this approval. The area master plan states that, based on the condition of existing commercial areas and recently completed, pending, and planned development, commercial zoning amendments should focus on facilitating redevelopment in targeted commercially zoned areas, such as Duvall Village.
- (2) The shopping center is currently underutilized as there are a number of vacant spaces. The subject approval will enhance the utilization of the existing shopping center, provide a sense of stability, and reduce or eliminate the use of vacant space by "seasonal/temporary" retailers. The area master plan provides these additional recommendations for commercial/employment center design that are relevant to this approval:
 - **Provide landscaped parking areas:** Landscaping should be incorporated into parking areas to soften edges and screen surface lots from public streets and internal pathways...Landscaping can also visually break up large areas of empty space and reduce heat effects in summer months.
 - **Create internal pedestrian pathways that connect parking areas to building entrances:** Special attention should be paid to moving pedestrians safely from parking areas to building entrances. Traditional parking lot design forces pedestrians to walk along parking aisles, creating potential conflicts with vehicles trying to exit and enter parking spaces. Separate pathways should be provided to remove pedestrians from the vehicular aisle area, connecting directly to pedestrian crosswalks and sidewalks that lead to building entrances.
 - **Incorporate internal access drives to reduce the number of curb cuts onto major roadways:** Internal traffic should be considered in the context of circulation patterns on adjacent properties and roadways. Access points for vehicles should be minimized to reduce the number of driveways connecting to roadways, which often lead to traffic hazards. Internal connections should be provided to allow vehicles to travel between adjacent commercial properties without having to enter a major roadway, then exit again within a short distance.
 - **Provide adequate screening for utility and service features:** Service and utility areas should not be visible from public rights-of-way and should not block building access, views, or pedestrian pathways.

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Screening devices should be compatible with the design character of the shopping center.

- **Provide functional and attractive outdoor lighting:** Outdoor lighting should provide adequate illumination for building entrances, walkways, and parking areas, but should be sensitive to impacts on adjacent properties or into the sky. Lighting standards and fixtures should be human-scaled and compatible with the design character of the shopping center.
- **Ensure security and safety:** All parking lots and building entrances should have high degrees of visibility, appropriate lighting, and walkways. The use of crime prevention through environmental design (CPTED) is strongly encouraged.
- **Use high quality materials with compatible colors and textures:** Buildings should complement the design character of nearby properties. Materials, colors, and textures should create visual interest and contribute to a harmonious design.
- **Use design elements to break up long façades:** Windows, doors, and changes in textures can all be used to break long façades into smaller units that seem more inviting.
- **Create a unified signage system:** Buildings that are part of the same shopping center should have coordinated signage that emphasizes the visual design character of the center. Although signs do not have to have the same lettering, they should be of similar sizes and shapes. Signs with internal illumination, LCD (liquid crystal display) screens, or flashing/scrolling effects are not appropriate.
- **Promote energy efficient design:** If feasible, building design should incorporate energy-saving elements, such as solar panels, wastewater recycling, water-saving fixtures, and energy-efficient windows and HVAC (heating, ventilation, and air conditioning) systems.

The Planning Board herein approves the expansion of the proposed Wal-Mart at Duvall Village as it is in conformance with the area master plan recommendations for the shopping center. The expansion will cover an existing grassy portion of the site and will not impose on any other existing structures. The approval fills a retail vacancy in the shopping center and will serve as a necessary anchor. The economic benefits of the

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proposed Wal-Mart are also substantial, as the project will bring many new jobs to the community.

- d. **Transportation Planning**—The Planning Board reviewed the subject project with respect to transportation and makes the following findings:

The property has been the subject of two preliminary plans of subdivision approvals and a DSP review and approval. See Finding 8 for a discussion of transportation-related Condition 3 of the approval of Preliminary Plan 4-87104.

On November 14, 2002, the Planning Board approved Preliminary Plan 4-02103 (PGCPB Resolution No. 03-22) with ten conditions. This preliminary plan was approved with a development density of 114,139 square feet of commercial development. Preliminary Plan 4-02103 represented a resubdivision of an existing parcel and, because the parcel is partially developed and has an approved level of development which was the subject of an adequacy test in 1987 and no further development is proposed, the Planning Board deemed the application to have no net impact on surrounding roadways.

In the current approval, the existing building (vacant grocery store) will be expanded within the shopping center. The proposed expansion of 21,678 square feet (of which 12,519 square feet was previously approved) brings the total area of development within the shopping center to 109,342 square feet. In light of the fact that the shopping center expansion falls below the development thresholds that were the subject of previous approvals, the Planning Board concludes that there will be no net increase in off-site traffic.

The Planning Board then offered the following comments regarding internal circulation on the site:

The expansion of the existing development herein approved will have no impact on access to the site. All of the previous access points will remain and there will be no new access point provided. Regarding on-site circulation, the Planning Board has no issues.

In conclusion, the Planning Board stated that, from the standpoint of transportation, the subject plan is acceptable and meets the finding required for a DSP as described in Section 27-285 of the Zoning Ordinance. Further, in accordance with our review, there are no transportation planning issues that require resolution prior to issuance of building permits for the project, but that the applicant should be advised that SHA may require that other transportation planning considerations be addressed before they issue the required access permit.

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- e. **Subdivision Review**—The subject property is known as Parcel C and located on Tax Map 45 in Grid C-4. The site is currently improved with a 4,835-square-foot bank, a 26,591-square-foot retail center, and a 56,238-square-foot vacant store, and a 21,678-square-foot addition to the vacant store makes the total gross floor area of development on the site 109,342 square feet.

The site is subject to the requirements of the approval of Preliminary Plan of Subdivision 4-02103 approved by the Planning Board on March 6, 2003 and which approval was formalized in PGCPB Resolution No. 03-22, and made subject to ten conditions, all of which are relevant to this approval. See Finding 8 for a full discussion of those conditions. The approval also contained 15 findings. See Finding 8 also for a full discussion of Finding 8 of the preliminary plan approval, which is relevant to the subject project.

Parcel C was recorded in Plat Book REP 205-19 on February 14, 2005. The subject DSP correctly shows the bearings and distances and ten-foot-wide public utility easements on Parcel C, except for the southern property line. In that regard, by condition of this approval the DSP shall be revised prior to signature approval to show the bearings and distances on the southern property line for Parcel C as reflected on the record plat.

A condition of this approval requires that, prior to signature approval, the DSP be revised along the southern property line for Parcel C to mirror the record plat.

The record plat contains notes, including Note 1 which is relevant to the subject review. See Finding 9 for a full discussion of that note.

DSP-89063-07 is in substantial conformance to the requirements of approved Preliminary Plans 4-02103 and 4-87104 and record plats, as all subdivision-related concerns have been addressed. Failure of the site plan and record plats to match, including bearings, distances, and lot sizes, will result in permits being placed on hold until the plans are corrected.

- f. **Trails**—The Planning Board has reviewed the subject DSP for trail-related issues of the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and/or the 2010 *Glenn Dale-Seabrook-Lanham and Vicinity Sector Plan and Sectional Map Amendment* (area master plan) in order to implement planned trails, bikeways, and pedestrian improvements, and indicated that Prince George's County rights-of-way and sidewalks were an issue.

More particularly, the Complete Streets section of the MPOT includes the following policies regarding sidewalk construction and the accommodation of pedestrians:

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POLICY 1: Provide standard sidewalks along both sides of all new road construction within the Developed and Developing Tiers.

POLICY 2: All road frontage improvements and capital improvement projects within the Developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.

The area master plan makes two recommendations for Glenn Dale Road (MD 953) with both bicycle facilities and sidewalks on pages 171 and 172 of the master plan, respectively, as follows:

- **Glen Dale Road (MD (953): On-road bicycle facilities. Will improve non-motorized access to the WB&A Trail, the MD 450 sidepath, and the former Glenn Dale Hospital site.**
- **Glenn Dale Road: Construct standard or wide sidewalks.**

The subject site's frontage has been improved with the required right-of-way dedication and a standard sidewalk. The sidewalk accommodates pedestrians along the frontage of the subject site and provides access to the existing master plan trail along Annapolis Road (MD 450).

The original approval for the subject site included Condition 8 requiring a trail along Glenn Dale Road. See Finding 8 for a discussion of that condition.

The Planning Board analyzed the internal pedestrian facilities and finds the following:

- Crosswalks have been provided from the handicapped spaces to the building entrance or nearby sidewalks;
- A designated walkway has been striped leading from the public sidewalk along Glenn Dale Road to the proposed extension of the Wal-Mart building;
- A pedestrian zone is also designated immediately in front of the building entrance.

The Planning Board supports the provision and retention of the above facilities and that, in recognition of the existing master plan trail along MD 450, a small amount of bicycle parking is recommended near the entrance to the Wal-Mart.

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From the standpoint of non-motorized transportation the Planning Board finds that the site plan is acceptable, fulfills the intent of the applicable master plans and functional plans, fulfills prior conditions of approval, and meets the finding required for a DSP as described in Section 27-285 of the Zoning Ordinance as a condition of this approval requires bicycle rack(s) accommodating a minimum of five bicycle parking spaces are located conveniently to the entrance of the subject Wal-Mart.

- g. **Environmental Planning**—This site was previously reviewed by the Planning Board for Preliminary Plan of Subdivision 4-02103 and associated Type I Tree Conservation Plan TCPI-012-03. Detailed Site Plan DSP-89063 and Type II Tree Conservation Plan TCPII-113-94 were also reviewed for the site. The preliminary plan and TCPI were approved with conditions, which are found in PGCPB Resolution No. 03-22. There have been several revisions to the DSP since the original DSP and TCPII was approved in 1989. The most recent approval was DSP-89063/05.

The site is not subject to the environmental regulations in Subtitles 25 and 27 of the Prince George's County Code that became effective on September 1, 2010 and February 1, 2012.

A review of the information available indicates that wetlands, streams, 100-year floodplain, and steep and severe slopes are not found to occur on the property. This site is located within the Western Branch sub-watershed which is part of the Patuxent Watershed. According to the Sensitive Species Project Review Area (SSSPRA) map prepared by the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or in the vicinity of this property. The site contains approximately 0.78 acre of woodland and 2.32 acres of reforested woodland according to the currently approved TCPII. This site is located in the Developing Tier as reflected in the *Prince George's County Approved General Plan* (General Plan). According to the U.S. Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), Web Soil Survey (WSS), the predominant soils found to occur on-site include Collington-Wist-Urban land complexes; Sassafras-Urban land complexes; Udorthents, highway; Urban land-Collington-Wist complex; and Urban land-Sassafras complex. According to available information, Marlboro clay and Christiana complexes are not found to occur on this property. The site has frontage on Glen Dale Road, which is designated as a collector in the 2009 *Approved Countywide Master Plan of Transportation* and is not regulated for noise; however, Annapolis Road (MD 450) is a master-planned arterial roadway within close proximity to the site that is regulated for noise. Both of these roads are designated as scenic and historic roads according to PG Atlas. The site is not located in the Joint Base Andrews imaginary runway surface area. The site is located in the Developing Tier of the General Plan.

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The Planning Board then offered the following environmental review of the subject project.

- (1) The site has a forest stand delineation (FSD) that was submitted as part of the DSP review in 1994. The FSD showed that the site originally contained 1.68 acres of fragmented woodland areas. The FSD stated that numerous specimen trees existed on-site, but no total was provided.

A natural resources inventory (NRI) is not required at this time because the site is grandfathered from the current environmental regulations contained in Subtitle 27 with regard to the submittal requirements for a NRI.

- (2) The site is subject to the Woodland Conservation Ordinance because it has a previously approved tree conservation plan. The previously approved TCP II was also submitted to fulfill the landscape requirements of the site and thus shows woodland conservation treatment areas and required landscape buffers with associated plantings. Based on a review of the DSP, it appears that there will be no change in the approved limits of disturbance (LOD) on the TCP, indicating that the previously approved 0.78 acre of preservation and 2.32 acres of woodland planting will remain intact on the site; however, these areas have not been sufficiently identified and labeled on the plan. The TCP II will need to be revised to clarify some information, and restore information approved on the previous plan.

The plan shows a very large label on Parcel B. This previously approved plan showed that this parcel contained woodland preservation and a significant amount of woodland planting; however, the label makes these areas unreadable due to its opaque placement on the plan. Additionally, none of the approved woodland conservation treatment areas identifying the 0.78 acre of woodland preservation and 2.32 acres of woodland afforestation are identified. A condition of this approval requires that, prior to certificate approval, the TCP II will be revised to show where the required 3.10 acres of preservation and reforestation/afforestation will be provided, distinguish the preservation and reforestation/afforestation areas from the landscaped areas, and demonstrate that the total acreage required for all requirements have been satisfied.

- (3) According to the NRCS Web Soil Survey, the predominant soils found to occur on-site include the Collington-Wist-Urban land complex, 0 to 5 percent slopes; Collington-Wist-Urban land complex, 15 to 25 percent slopes; Sassafras-Urban land complex, 0 to 5 percent slopes; Sassafras-Urban land complex, 5 to 15 percent slopes; Udorthents, highway, 0 to 65 percent slopes; Urban

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land-Collington-Wist complex, 0 to 5 percent slopes; and Urban land-Sassafras complex, 0 to 5 percent slopes. According to available information, Marlboro clay and Christiana complexes are not found to occur on this property.

This information is provided for the applicant's benefit. The county may require a soils report in conformance with Council Bill CB-94-2004 during the building permit review process.

- (4) The stormwater management design is conceptually and technically required to be reviewed and approved by the Department of Permitting, Inspections and Enforcement (DPIE) to address surface water runoff issues in accordance with Subtitle 32, Water Quality Resources and Grading Code, which requires that environmental site design be implemented to the maximum extent practicable. An approved Stormwater Management Concept Plan (19201-2012-00) shows three micro bioretention areas, an existing underground stormwater detention area, and two existing infiltration trenches throughout the development. The fee-in-lieu of providing on-site attenuation/quality control measures for the site is \$1,120.00 and the permit expires October 1, 2015.

The LOD shown on the approved stormwater management concept plan along the northeastern corner of Parcel C differs significantly from that shown on the DSP and TCPII for the proposed addition. Specifically, the LOD shown on the approved concept plan shows clearing in the existing afforestation area on-site that is shown to be retained on the TCPII. Furthermore, the approved stormwater management concept plan shows a proposed retaining wall in the afforestation area that is not reflected on the DSP and TCPII.

The Planning Board by condition of this approval that the TCPII be revised prior to certificate approval to match the approved concept plan by expanding the LOD and adding the retaining wall to the plan, or obtain a new stormwater management concept approval based on the TCPII LOD.

- h. **Prince George's County Fire/EMS Department**—In a memorandum dated February 6, 2014, the Fire/EMS Department offered comment on private road design, needed accessibility, and the location and performance of fire hydrants.
- i. **Department of Permitting, Inspections and Enforcement (DPIE)**—In a memorandum dated January 31, 2014, DPIE stated that, in response to Detailed Site Plan DSP-89063-07, they wanted to offer the following referral comments:

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- The property is located in the southeastern quadrant of Annapolis Road (MD 450) and Glenn Dale Road (MD 953). Glenn Dale Road and Annapolis Road are state-maintained highways; therefore, coordination with SHA is required and the project does not directly impact any county-maintained roadways;
- The proposed development is not consistent with the requirements of approved Stormwater Management Concept Plan 19201-2012 dated October 1, 2021.

A condition of this approval requires that, prior to signature approval, the applicant revise the site plan and/or stormwater management concept plan so they are able to garner and submit to the Planning Board (or its designee) a writing that the proposed site plan is consistent with an approved stormwater management concept plan for the site.

- j. **Prince George's County Police Department**—In a memorandum dated January 6, 2014, the Police Department stated that, after reviewing the plans and visiting the site, they found no crime prevention through environmental design (CPTED) issues that needed attention. They noted, however, that the trees located next to the existing pole-mounted light fixture near the loading dock are in need of pruning or removal, as they block light transmission to the service roadway and loading dock areas. He said that this is an example of both a lack of site maintenance and improper selection and placement of selected trees planted.

A condition of this approval requires that, prior to signature approval of the plans, the applicant provide evidence that the trees interfering with the proper functioning of the light fixtures have been appropriately pruned. Conformance to this requirement shall be determined by the Planning Board or its designee.

- k. **Prince George's County Health Department**—In a memorandum dated January 15, 2014, the Health Department completed a desktop health impact assessment review of the DSP submission for the above-referenced site and has the following comments/recommendations:

- (1) Research suggests that artificial light pollution can have lasting adverse impacts on human health. Indicate that all proposed exterior light fixtures will be shielded and positioned so as to minimize light trespass caused by spill light on existing residential areas that are located behind and beside the site.
- (2) Increased traffic volumes in the area can be expected as a result of the inclusion of the Wal-Mart on the site. Scientific reports have found that road traffic is considered a chronic environmental stressor and may impact people living in the

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adjacent communities. In addition, there should be clearly marked pedestrian crossings in the roads between the community and shopping center.

- (3) Indicate the dust control procedures to be implemented during the construction phase of this project. No dust should be allowed to cross over property lines and impact adjacent properties.
- (4) Indicate the noise control procedures to be implemented during the construction phase of this project. No construction noise should be allowed to adversely impact activities on the adjacent properties.
- (5) Barriers should be created between the shopping center and the adjacent communities to eliminate the migration of trash and refuse to the adjacent communities from the shopping center.

Conditions have been attached to the subject approval in response to the Health Department's suggestions in those areas where the Planning Board has appropriate authority.

- l. **Maryland State Highway Administration (SHA)**—In a memorandum dated January 8, 2014, SHA offered numerous comments that have either been addressed through revisions to the plans, by conditions of this approval, or through SHA's separate permitting process.
 - m. **Washington Suburban Sanitary Commission (WSSC)**—In emailed comments received December 26, 2013, WSSC offered standard comments, comments regarding existing and proposed pipe labeling, existing water and sewer on-site and on-site connections, existing water and sewer easements on-site, the possibility that some water and sewer lines on-site may require abandonment and relocation, and that site utility on-site review is required for water and sewer service.
 - n. **Verizon**—In an email dated January 3, 2014, a representative of Verizon stated that they would like a ten-foot-wide public utility easement, indicated free and clear of any obstructions adjacent and parallel to and contiguous with all public rights-of-way.
 - o. **Baltimore Gas and Electric (BG&E)**—BG&E did not offer comment.
15. *Remand: The subject case was initially approved on March 6, 2014. The Planning Board adopted PGCPB Resolution No. 14-16 on March 27, 2014, formalizing that approval. The resolution was mailed out to the applicant and all Parties of Record on April 1, 2014. Subsequently, and within the required time frames, the District Council elected to review the case

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and the case was also appealed to the District Council. The District Council heard oral argument on the case on September 22, 2014. The case was then taken under advisement, and remanded to the Planning Board on September 23, 2014. A detailed site plan and a copy of the Order of Remand were circulated to the appropriate parties in order to garner comment on the Points of Remand. Based upon the analysis of the subject application, the Planning Board adopts the following findings regarding the Remand of the subject case:

***Further Planning Board Findings and Comments from other Entities Regarding the Remand:**

- *a. Legal Department—In a memorandum dated January 27, 2015, the M-NCPPC Legal Department stated that, pursuant to the Order of Remand from the District Council, the District Council remanded DSP 89063-07 for consideration of five issues. Three of the issues were legal in nature, warranting further analysis. The first issue of the Order of Remand states the following:**

***Issue 1.x**

On remand, the Planning Board shall direct its technical staff to prepare the application over again as if it were a new one; as such, Planning Board is instructed to consider and incorporate all findings and conclusions set forth in this order, to conduct all necessary referrals, and to issue all specified reports set forth in Part 3, Division 9 of the Zoning Ordinance and §§22-104(b)(5), 22-206(b), 25-210(a-d)(2012 & Supp. 2013) of the RDA. However, nothing in this Order of Remand De Novo shall require the Applicant to submit a new application for the proposed development project. Accordingly, after conducting a new public hearing after submission of the new technical staff report, Planning Board shall adopt a new decision on the subject application, and transmit its adopted resolution to the District Council.

***In its memorandum dated January 27, 2015, the Legal Department stated that the Planning Board cannot direct technical staff to prepare a new application because staff does not prepare applications on behalf of applicants. Further, in accordance with Section 27-282(a) of the Zoning Ordinance, only the property owner or his authorized representative may prepare and submit a DSP application, which staff would then review in the normal course. The Planning Board was in full accord with the Legal Department's statements regarding Issue 1.**

***The third issue in the Order of Remand states the following:**

***Issue 3.**

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On remand, the Planning Board shall review the project application based on a new administrative record, incorporating the findings and conclusions updated County policies embodied in the 2014 Plan Prince George's 2035 General Plan Amendment, including analysis as to pertinent changes in growth policies, transportation priorities, the elimination of tier designations previously designated under the 2002 Prince George's County General Plan, and other pertinent policy changes affecting development in the area of the subject proposal.

*In its memorandum dated January 27, 2015, the Legal Department stated that there is no requirement of master plan conformance at the time of approval of a DSP in the Zoning Ordinance. Further, the use is permitted by right in the zone. The Planning Board was in full accord with the Legal Department's statements regarding Issue 3.

*The fourth issue in the Order of Remand states the following:

*Issue 4.

On remand, the Planning Board shall review all applicable master plans and area master plans for the area that includes the site proposed for this project. To this end, the Planning Board is instructed to create a new administrative record incorporating specific analysis as to the recommendations within all applicable master plans. The District Council also instructs the Planning Board to conduct a new public hearing where County staff, the Applicant, and all Persons of Record will be permitted to present evidence regarding compatibility with applicable master plan recommendations, and to present evidence regarding whether the proposed retail use will create economic benefits for the County and surrounding communities.

*In its memorandum dated January 27, 2015, the Legal Department stated that a public hearing before the Planning Board has been scheduled for March 19, 2015 on this matter. Further, there is no requirement of master plan conformance at the time of DSP in the Zoning Ordinance. Additionally, there is no requirement of economic benefit and no standard by which to determine the economic benefit of the use in the Zoning Ordinance. In closing on this issue, the Legal Department stated that the retail use is permitted by right in the zone. The Planning Board was in accord with the Legal Department's stance on Remand Point 1. The Planning Board was in full accord regarding the Legal Department's statements regarding Issue 4.

- *b. Transportation Planning–The Planning Board indicated that they had reviewed the transportation planning-related issues raised in the Order of Remand from the District Council particularly Remand Order Point 2, which states:

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*On remand, Planning Board shall process this matter anew in accordance with the prescriptions of Part 3, Division 9 of the Zoning Ordinance. In conducting de novo proceedings, the District Council instructs the Planning Board to evaluate the adequacy of transportation facilities, including relevant roads and intersections in the vicinity of the property that is the subject of this application, and to make specific findings and determinations as to the adequacy of those transportation facilities. In so doing, Planning Board is additionally instructed to conduct a new public hearing where County staff, the Applicant, and all Persons of Record will be permitted to present evidence regarding adequacy of transportation facilities, including relevant roads and intersections in the vicinity of the subject application.

*Regarding Remand Order Point 2, the Planning Board stated that, pursuant to Section 24-124 of the Subdivision Regulations, the Planning Board is required to find that there will be adequate access roads available to serve the traffic which would be generated by the proposed development at the time of approval of a preliminary plan of subdivision for the project. Further, the Planning Board stated that the transportation guidelines require the submission of a traffic study when more than 50 trips are expected to be generated during either peak hour by the proposed subdivision, not at the time of site plan. With respect to the subject project, the Planning Board noted that, in September 1987, the Planning Board approved Preliminary Plan of Subdivision 4-87104 for the subject property which included a finding of transportation adequacy based on information provided in a 1987 traffic study which was required pursuant to the Subdivision Regulations. The approval of the preliminary plan required a set of road improvements, all of which were subsequently built.

*On November 14, 2002, the Planning Board approved Preliminary Plan 4-02103 (PGCPB Resolution No. 03-22) with ten conditions. This preliminary plan was approved with a development density of 114,139 square feet of commercial development. Preliminary Plan 4-02103 represented a resubdivision of an existing parcel and, because the parcel is partially developed and has an approved level of development which was the subject of an adequacy test in 1987 and no further development is proposed, the Planning Board deemed the application to have no net impact on surrounding roadways.

*The Planning Board then, citing Section 27-285(b) of the Zoning Ordinance which sets forth the required findings for approval of a DSP by the Planning Board as: "...that the plan represents a reasonable alternative for satisfying the site design guidelines, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use," stated that there is no requirement for the provision of a traffic study in support of a DSP application. The Planning Board stated that they consider the following in reviewing a DSP from a transportation planning perspective:

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- * Adequacy of access points;
- * Adequacy of internal site circulation; and
- * Conformance to, evaluation, and/or implementation of preliminary plan of subdivision conditions.

*In conclusion, regarding transportation planning –related issues, the Planning Board stated that, since the subject approval does not change the previously approved site layout and access, they had no additional findings regarding Points of Remand 1 and 2. The subject project conforms to all of the preliminary plan requirements that previously required certain road improvements because those improvements have been built. Therefore, this DSP conforms to the preliminary plan conditions related to transportation adequacy.

*c. The Prince George's County Department of Permitting, Inspections and Enforcement DPIE)—In a memorandum received February 24, 2015, DPIE stated that the subject property is located on the eastern side of Glenn Dale Road (MD 953), approximately 600 feet south of its intersection with Annapolis Road (MD 450). Further, they stated that as the subject property does not front on any County-maintained roadway. MD 450 and MD 953, are state-maintained roadways. Therefore, coordination regarding these roadways should be done more appropriately with the Maryland State Highway Administration (SHA).

*DPIE then stated that any proposed and/or existing master plan roadways or trails that lie within the property limits must be addressed through coordination between M-NCPPC, DPIE, and SHA and may involve rights-of-way reservation, dedication, and/or construction in accordance with the Prince George's County Department of Public Works and Transportation's (DPW&T) specifications and standards. They also noted that sidewalks would be required along all roadways within the property limits in accordance with Sections 23-105 and 23-135 of the County Road Ordinance, and that all storm drainage systems and facilities are to be designed in accordance with the requirements of DPW&T's specifications and standards.

*Further, with respect to stormwater management, DPIE stated that the site was originally approved under Storm Drain Permit No. 800640-1995. Further, they stated that this approval showed both the parking lot and building addition as impervious areas. The proposed stormwater management system at the time was sized based on both these areas being impervious and stormwater management was provided in accordance with the Maryland Department of the Environment (MDE) prior to 2000 stormwater management regulations. The applicant currently has revised Stormwater Management Concept Plan No. 19201-2012-01 under review that proposes to treat the parking area as new

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development. This proposed improvement will meet Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP).

*The building addition is considered redevelopment and the applicant is providing a stormwater management facility to treat the runoff from the building addition in accordance with the County's stormwater management code.

*In closing, DPIE stated that their referral comments incorporate the ongoing site development plan review pertaining to stormwater management (County Code Section 32-182(b)) and offered the following comments:

- *(1) Final site layout and the exact impervious area locations must be shown on plans.
- *(2) Exact acreage of impervious areas must be shown on the plan.
- *(3) Proposed grading is shown on plans.
- *(4) Delineated drainage areas at all points of discharge from the site must be shown.
- *(5) Stormwater volume computations must be provided.
- *(6) Erosion/sediment control plans that contain the construction sequence, and any phasing necessary to limit earth disturbances and impacts to natural resources, and an overlay plan showing the types and locations of ESD devices and erosion and sediment control practices must be included in the submittal.
- *(7) A narrative, as required by and in accordance with the requirements of the code, must be provided.

*A condition of this approval requires that, prior to certificate approval of the plans, applicant shall provide proof to the Planning Board or its designee that they have successfully revised the stormwater management concept for the subject site and on it indicated that the portion of the site proposed to accommodate the additional parking as part of this project be indicated to have been previously pervious, considered "new" development and that the applicant has met all of the ESD to the maximum extent practicable requirements of DPIE in pursuing this approval.

- *2. The Order of Remand—Each Point of Remand is included below, followed by Planning Board comment.

***ORDER**

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*Based on the review of the administrative record, and the findings and conclusions, it is hereby ORDERED, that this matter is remanded to the Planning Board to conduct proceedings de novo pursuant to §§27-107.01(a)(198) and 27-132(f)(2) of the Zoning Ordinance.

*(1) On remand, the Planning Board shall direct its technical staff to prepare the application over again as if it were a new one; as such, Planning Board is instructed to consider and incorporate all findings and conclusions set forth in this Order, to conduct all necessary referrals, and to issue all specified reports set forth in Part 3, Division 9 of the Zoning Ordinance and §§ 22-104(b) (1, 5), 22-206(b), 22-108(b), 25-210(a-d) (2012 & Supp. 2013) of the RDA. However, nothing in this Order of Remand De Novo shall require Applicant to submit a new application for the proposed development project. Accordingly, after conducting a new public hearing after submission of the new technical staff report, Planning Board shall adopt a new decision on the subject application, and transmit its adopted resolution to the District Council.

*In a memorandum dated January 27, 2015, the M-NCPPC Office of the General Counsel, stated that the Planning Board cannot direct technical staff to prepare a new application because staff does not prepare applications on behalf of applicants. Further, she stated that, in accordance with Section 27-282(a) of the Zoning Ordinance, only the property owner or his authorized representative may prepare and submit a DSP application, which staff would then review in the normal course. The Planning Board was in full accord regarding the Legal Department's statements regarding Issue 1.

*(2) On remand, Planning Board shall process this matter anew in accordance with the prescriptions of Part 3, Division 9 of the Zoning Ordinance. In conducting de novo proceedings, the District Council instructs the Planning Board to evaluate the adequacy of transportation facilities, including relevant roads and intersections in the vicinity of the property that is the subject of this application, and to make specific findings and determinations as to the adequacy of those transportation facilities. In so doing, Planning Board is additionally instructed to conduct a new public hearing where County staff, the Applicant, and all Persons of Record will be permitted to present evidence regarding adequacy of transportation facilities, including relevant roads and intersections in the vicinity of the subject application.

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*Pursuant to Section 24-124 of the Subdivision Regulations, the Planning Board is required to make a finding that there will be adequate access roads available to serve the traffic that would be generated by the proposed development/ subdivision. Further, the transportation guidelines require the submission of a traffic study at the subdivision stage of development when more than 50 trips are expected to be generated during either peak hour by a particular development. In the subject case, the Planning Board stated that, in September 1987, the Planning Board approved Preliminary Plan 4-87104 (which approval was formalized in PGCPB Resolution No. 87-433) for the subject property. Further, with respect to the subject case, the Planning Board stated that this preliminary plan approval included a finding of transportation adequacy based on information provided in a 1987 traffic study which was required by the subdivision regulations at that time. As all road improvements required by that approval were subsequently built, the Planning Board hereby finds that, from a standpoint of transportation planning, the DSP conforms to the approved preliminary plan and that the following finding required to be made by Section 27-285(b) of the Zoning Ordinance by the Planning Board at the time of DSP approval has been demonstrated: That the plan represents a reasonable alternative for satisfying the site design guidelines, without detracting substantially from the utility of the proposed development for its intended use.

*Note that there was a second preliminary plan of subdivision approved for the site. On November 14, 2002, the Planning Board approved Preliminary Plan 4-02103 (PGCPB Resolution No. 03-22) with ten conditions. This preliminary plan was approved with a development density of 114,139 square feet of commercial development. Preliminary Plan 4-02103 represented a resubdivision of an existing parcel and, because the parcel is partially developed and has an approved level of development which was the subject of an adequacy test in 1987 and no further development is proposed, the Planning Board deemed the application to have no net impact on surrounding roadways.

*Further, the Planning Board found that, as the subject approval proposes no changes to the previously approved site layout or access, the applicant had no additional requirements pertaining to transportation since all of the road improvements required by the preliminary plan were subsequently constructed, and that the DSP conforms to the requirements of the preliminary plan regarding transportation adequacy. As a matter of law, the Planning Board determined that evidence on the adequacy of transportation facilities was not relevant for the hearing on the DSP and confined itself to determining whether the proposed development conformed to transportation adequacy findings made as part of the previous two subdivision approvals.

***(3) On remand, the Planning Board shall review the project application based on a new administrative record, incorporating the findings and conclusions updated County policies embodied in the 2014 Plan Prince George's 2035**

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General Plan Amendment, including analysis as to pertinent changes in growth policies, transportation priorities, the elimination of tier designations previously designated under the 2002 Prince George's County General Plan, and other pertinent policy changes affecting development in the area of the subject proposal.

*In a memorandum dated January 27, 2015, the M-NCPPC Office of the General Counsel, stated that there is no requirement of master plan conformance at the time of DSP in the Zoning Ordinance. In this case, the use is permitted by right in the zone. The Planning Board was in full accord regarding the Legal Department's statements regarding Issue 3.

- * (4) On remand, the Planning Board shall review all applicable master plans and area master plans for the area that includes the site proposed for this project. To this end, Planning Board is instructed to create a new administrative record incorporating specific analysis as to the recommendations within all applicable master plans. The District Council also instructs the Planning Board to conduct a new public hearing where County staff, the Applicant, and all Persons of Record will be permitted to present evidence regarding compatibility with applicable master plan recommendations, and to present evidence regarding whether the proposed retail use will create economic benefits for the County and surrounding communities.

*In a memorandum dated January 27, 2015, the M-NCPPC Office of the General Counsel, stated that a public hearing before the Planning Board has been scheduled and will be held on this matter. Further, she stated that there is no requirement of master plan conformance at the time of DSP in the Zoning Ordinance. Additionally, there is no requirement of economic benefit and no standard by which to determine the economic benefit of the use in the Zoning Ordinance. In closing, it was reiterated that the retail use is permitted by right in the zone. The Planning Board was in full accord regarding the Legal Department's statements regarding Issue 4.

- * (5) On remand, the Planning Board should thoroughly address grading and storm water management on the subject property. While the record indicates that there is an approved Storm Water Management Concept Plan for the site, expert witness testimony produced at the Planning Board hearing reveals significant factual dispute regarding that plan's capacity to accommodate storm water under in its current state of development. Further, neither the record nor Planning Board resolution indicate whether the current Concept Plan assess changes in storm water runoff resulting

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from the additional development and impact on adjoining properties. As a result, on remand the Planning Board should evaluate whether the Applicant's current storm water plan satisfied all regulatory requirements for approval of storm water management concept plans. The District Council also instructs the Planning Board to conduct a new public hearing where County staff, the Applicant, and all Persons of Record will be permitted to present evidence regarding whether the Applicant's storm water plan satisfied all regulatory requirements.

*In a memorandum received February 19, 2015, DPIE stated that, with respect to stormwater management, the applicant had recently submitted an application to DPIE requesting a revision to the approved stormwater concept plan for the site, 19201-2012 which was approved October 1, 2012, and will expire on October 1, 2015. The revision, which is not legally required, would show the area where the new parking is proposed as a pervious area to be converted to impervious surface. This is significant because it would then be considered new development and be required to meet the higher standards of ESD to the maximum extent practicable to treat stormwater runoff from that area, unlike the building addition which would be considered redevelopment and not required to meet these higher standards.

*Also in that memorandum, DPIE noted that certain items had to be addressed in the submission requesting revision to the approved stormwater management concept for the subject property. A condition of this approval requires that, prior to signature approval of the subject project, the applicant address the cited issues and be required to successfully pursue approval by DPIE of that revised concept and that the applicant submit to the Planning Board or its designee a written statement from DPIE that the area where the additional parking was placed as part of the subject project was considered new development, not redevelopment, and that the applicant was held to the new and higher standards of ESD before building permits would be issued for the subject development. As one of the outstanding items mentioned by DPIE in that list was proposed grading, it will be shown on the revised stormwater concept and included in the stormwater management calculations so that the stormwater runoff from the site resulting from the additional development on the site will not negatively impact the adjoining properties. Additionally, the Planning Board heard testimony from several witnesses including Robert Bathurst relative to the applicant's revised stormwater concept plan and directed those concerns be provided to DPIE for consideration during its review of the revised stormwater concept plan.

*(6) As provided in Section 27-108.01 (a) (198), as a Remand De Novo is a remand of a zoning case back to the Planning Board for the purpose of processing the application over again as if it were a new one, all persons who

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wish to do so may register as persons of record in the de novo proceedings for this matter.

*On February 5, 2015, the Planning Board instructed technical staff that, in accordance with this Point of Remand, all persons who wish to do so may register as persons of record in the Remand case of Duvall Village Shopping Center Wal-Mart, DSP-89063-07, scheduled at that time to be heard by the Planning Board on March 19, 2015 in accordance with this Remand Point.

- *16.** Based on the above and in accordance with Section 27-285(b) of the Zoning Ordinance, the detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9 of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and ***REAPPROVED** the Type II Tree Conservation Plan (TCPII 113-94-04) and further ***REAPPROVED** Detailed Site Plan DSP-89063-07 for the above-described land, subject to the following conditions ***and considerations**:

1. Prior to certificate approval of this detailed site plan (DSP), the applicant shall make the following revisions to the plans and provide the specified additional documentation:
 - a. Sheet 4, Note R shall be revised to read: "The Site of Buena Vista (70-017) and its ten- by four-foot environmental setting is located on Parcel B."
 - b. Sheets 5, 7, 9, 11, 13, and 16 shall show the location of the site of Buena Vista and its ten- by four-foot environmental setting (as shown on Plat REP 205-19) and shall label the historic site as "The Site of Buena Vista (70-017)."
 - c. The applicant shall revise the plans to provide parking for a minimum of five bicycles at a location convenient to the entrance of the subject Wal-Mart. The location and design of the racks shall be approved by the Planning Board or its designee.
 - d. The applicant shall revise the plans to clearly indicate all items requiring screening and the screening required by Section 4.4 of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). The final approval of the screening shall be approved by the Planning Board or its designee to conform to the requirements of the Landscape Manual.

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- e. A list of any energy-saving elements, such as solar panels, wastewater recycling, water-saving fixtures, and energy-efficient windows and heating, ventilation, and air conditioning (HVAC) systems shall be provided as a note on the plans.
- f. The applicant shall revise the plans so that the southern property line of Parcel C as represented on the DSP mirrors the southern property line on the record plat recorded in Plat Book REP 205-19.
- ~~*[g.]~~ The applicant shall revise the stormwater management concept plan and obtain documentation from the Department of Permitting, Inspections and Enforcement (DPiE) stating that the proposed development is in conformance to the requirements of that revised stormwater management concept plan. If the applicant wishes to revise the site plan to conform to the existing approved stormwater management concept plan, the applicant shall pursue a formal revision to the plan.]
- *[h]g. The DSP shall be revised to more clearly graphically identify the common access easement on the site plan, and Note 1 from the record plat recorded in Plat Book REP 205-19 shall be added as a general note to the DSP.
- *[i]h. The applicant shall remove the Tree Canopy Coverage Ordinance schedule from the plan set as the project is exempt from its requirements.
- *[j]i. The applicant shall remove the architectural disclosure sheet from the plan set.
- *[k]j. The architecture shall be revised in consultation with the Urban Design staff to replace the repetitive rectilinear decorative elements flanking the main entrance on the front elevation with more attractive decorative elements, such as lattices and/or ornamental masonry.
- *[l]k. The Type II tree conservation plan (TCPII) shall be revised to clearly show the previously approved plantings and woodland conservation areas. Specifically, the areas on Parcel B and the plantings along the western boundary of Parcel C shall be shown and labeled appropriately with the correct woodland conservation type and acreage.
- *[m]l. The TCPII shall be revised to show the proposed building footprint to be consistent with the footprint shown on the DSP.
- *[n]m. The TCPII shall be revised to identify and demonstrate where the required 3.10 acres of preservation and reforestation/afforestation will be provided on the site. Identify these woodland conservation areas on the revised TCPII and distinguish the preservation and reforestation/afforestation areas from the landscaped areas. Demonstrate on the plan that the total acreage required for these two woodland conservation types has been satisfied.

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- *[e]n. The approval block on the TCPII shall be revised to correctly show the previous approvals typed in the box with the correct dates as follows:

00	PGCPB95-100	*4/[0]27/95
01	H. Miller	6/27/95
02	H. Miller	6/10/99
03	L. Shirley	10/29/03

- *[p]o. The TCPII shall be revised to reflect the design shown on the concept plan consistent with the proposed DSP and TCPII. Revise the TCPII worksheet as necessary.

- *[q]p. The boundary of the project shall be revised on page 5 (Overall Plan) of the DSP and throughout the plan set to include Parcel B.

- *[r]q. The asphalt pedestrian pathway currently striped from the southern access to the property to the building shall be revised to a concrete standard sidewalk.

- *r. The applicant shall supply and maintain a high-quality fence to restrict access to the shopping center in the northeastern corner of the site between the anchor tenant and other retail tenants in the southern building.

- s. ~~*[The applicant shall supply and maintain a high quality fence to restrict access to the shopping center in the northeastern corner of the site between the anchor tenant and other retail tenants in the southern building.]~~ The applicant shall have the stormwater management concept revised through application to the Department of Permitting, Inspections and Enforcement (DPIE) and provide proof to the Planning Board or its designee that the required stormwater management concept revision met the following qualifications:

- *(1) Assumed that the land area to be covered by the additional parking was previously pervious;
- *(2) That the proposed additional parking be considered "New" development; and;
- *(3) That all of the environmental site design (ESD) to the Maximum Extent Practicable (MEP) requirements have been met in the required revision.

2. Any new outdoor lighting provided for the site shall be functional and attractive and shall provide adequate illumination without causing negative off-site impacts. Existing overgrown vegetation proximate to the existing outdoor light fixtures shall be pruned so as to not interfere with their proper functioning.

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3. Prior to issuance of the historic area work permit for erection of the historic marker, the applicant and the applicant's heirs, successors, and/or assignees shall submit the text for the historic marker to be reviewed and approved by the Historic Preservation Commission.
4. Prior to approval of the next building permit for Parcel C, the applicant/owner of the property shall erect on the approved setting a historical marker with the text that has been approved by the Historic Preservation Commission.
5. The applicant shall explore the addition of signage to help highlight the 450 access point in consultation with the Urban Design Section at time of approval of a building permit.
6. Overnight (all night) parking for non-employees shall be prohibited on the site.
- *[~~7. The detailed site plan shall be sent to the Department of Permits, Inspections and Enforcement (DPIE) with the request that they consider and address the issues raised in a letter dated March 5, 2014, from Mr. Roger Bathurst of Century Engineering, regarding stormwater management and to consider the run-off that is going into the townhouses located immediately adjacent to the subject site.]~~

Considerations

1. The applicant shall consider the impact on the neighborhood when deciding on reasonable hours of operation for the Wal-Mart.
2. The applicant should be a good neighbor and continue the communication with its neighbors.
- *3. The report by Robert Bathurst and other similar information should be provided to DPIE to be considered during its review of the revised stormwater concept plan.

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

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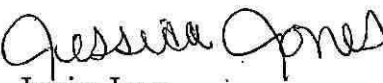
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Shoaff, seconded by Commissioner Geraldo, with Commissioners Shoaff, Geraldo, Bailey and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, March 6, 2014, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of March 2014.

*This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey and Hewlett voting in favor of the motion, with Commissioner Geraldo temporarily absent, and with Commissioner Shoaff absent at its regular meeting held on Thursday, March 19, 2015, in Upper Marlboro, Maryland.


*Adopted by the Prince George's County Planning Board this 2nd day of April 2015.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:RG:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department
Date 4/2/15

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