



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

Special Exception Variance Request

SE-4695
VSE-4695

| Application | General Data | |
|---|------------------------------|-----------------|
| Project Name: CVS, Lanham (Ardwick-Ardmore) Location: Southeast corner of Martin Luther King Jr. Highway (MD 704) and Ardwick-Ardmore Road. Applicant/Address: Maryland CVS Pharmacy, LLC C/O Velmeir Companies 5285 Shawee Road, Suite 106 Alexandria, VA 22312 Property Owner: Dixie Dale, LLC 3729 Brightseat Road Landover, MD 20785 | Planning Board Hearing Date: | 11/17/11 |
| | Staff Report Date: | 10/26/11 |
| | Date Accepted: | 04/22/11 |
| | Planning Board Action Limit: | N/A |
| | Plan Acreage: | 2.216 |
| | Zone: | C-M |
| | Gross Floor Area: | 13,225 sq. ft. |
| | Lots: | 4-7, 13-14 & 35 |
| | Parcels: | N/A |
| | Planning Area: | 72 |
| | Tier: | Developed |
| | Council District: | 05 |
| | Election District: | 20 |
| | Municipality: | N/A |
| 200-Scale Base Map: | 205NE08 | |

| Purpose of Application | Notice Dates | |
|---|------------------------|----------|
| This case was reviewed by the Planning Board on October 6, 2011. The Planning Board has scheduled this application for a public hearing on the agenda date of November 17, 2011. SE-4695: Department or variety store combined with a food or beverage store in the C-M Zone. VSE-4695: Variance to the 50-foot setback requirement of Section 27-348.02(a)(5)(B) | Informational Mailing | 10/01/10 |
| | Acceptance Mailing: | 03/01/11 |
| | Sign Posting Deadline: | N/A |

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

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

TECHNICAL STAFF REPORT

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

VIA: Jimi Jones, Zoning Supervisor, Development Review Division

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

SUBJECT: **Special Exception Application No. SE-4695**
Variance Request No. VSE-4695
CVS, Lanham (Ardwick-Ardmore)

REQUEST: **SE-4695:** Department or variety store combined with food or beverage store in the C-M Zone.

VSE-4695: Variance to the 50-foot setback requirement of Section 27-348.02(a)(5)(B).

RECOMMENDATION: **SE-4695: DISAPPROVAL**
 VSE-4695: DISAPPROVAL

NOTE:

This case was reviewed by the Planning Board on October 6, 2011. The Planning Board has scheduled this application for a public hearing on the agenda date of November 17, 2011. The Planning Board also encourages all interested persons to request to become a person of record for this application.

Requests to become a person of record should be made in writing and addressed to The Maryland-National Capital Park and Planning Commission, Development Review Division, 14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772. Please call 301-952-3530 for additional information.

FINDINGS

- A. **Location and Field Inspection:** The subject property is a combination of parts of six lots and two parcels and is located at the northeast corner of Martin Luther King Jr. Highway (MD 704) and Ardwick-Ardmore Road. The property consists of approximately 2.216 acres in the Miscellaneous Commercial (C-M) Zone and is currently improved with a 3,334-square-foot commercial building that was constructed in approximately 1968. The existing building has an outdated appearance and is divided into several units, some of which are occupied with medical uses.

The property is substantially wooded and has varied topography, with the center of the site being the lowest point and sloping up along the periphery in a classic “bowl” effect. The abutting uses consist of vacant land, an apparent single-family residence, and contractor’s storage yards in the C-M Zone.

Because the applicant is proposing to create a new lot out of parts of several recorded lots and parcels, the property will have to be resubdivided before development can occur.

- B. **Development Data Summary:**

| | EXISTING | PROPOSED |
|--------------------|------------------|--|
| Zone(s) | C-M | C-M |
| Use(s) | Vacant & Offices | Department/Variety Food & Beverage Store |
| Lots | 6 | 6 |
| Parcels | 2 | 2 |
| Square Footage/GFA | 3,334 | 13,2225 |

- C. **History:** The property is located on Tax Map 52 in Grid C4 and is known as Parts of Lots 4, 5, 6, 7, 13, and 14 and Parcels A and 35 of Block 9 of the Dixie-Dale Subdivision. The property was the subject of a final plat of subdivision recorded in Liber 1, Folio 40, in 1907. Several later resubdivisions of this old plat have resulted in the present lotting pattern.

- D. **Master Plan and General Plan Recommendations:** The 2009 *Approved Subregion 4 Master Plan and Adopted Sectional Map Amendment* recommends a commercial land use for the subject property. The applicant’s proposed use of a CVS pharmacy as a department/variety store with a food or beverage store is in conformance with this recommendation.

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

- E. **Request:** The applicant seeks approval of a special exception application for the use of a department/variety store with a food or beverage store in the C-M Zone. If approved, the applicant proposes to build a 13,325-square-foot CVS Pharmacy store.

F. **Neighborhood and Surrounding Uses:** The immediate neighborhood can be generally characterized as industrial/strip commercial in nature. The subject property fronts on a major arterial roadway, Martin Luther King, Jr. Highway (MD 704), and is intended to help service the convenience needs of the residential community in the surrounding area as well as the traveling public along MD 704. The neighborhood boundaries in this case are identified as follows:

North— Martin Luther King, Jr. Highway (MD 704) and the Capital Beltway (I-95/495)

South— The municipal boundary of the City of Glenarden

East— The Capital Beltway (I-95/495)

West— Martin Luther King, Jr., Highway (MD 704)

The uses immediately surrounding the proposed special exception are as follows:

North and West— Across Martin Luther King, Jr. Highway (MD 704) is a gas station, auto-related uses, and warehouses in the Light Industrial (I-1) Zone.

Northeast and East— Undeveloped land, auto-related/contractor businesses, and what appears to be a single-family residence in the C-M Zone.

South— Across Ardwick-Ardmore Road is a gas station in the C-M Zone and two large churches in the C-M and C-O (Commercial Office) Zones.

G. **Specific Special Exception Requirements:** Section 27-348.02 of the Zoning Ordinance provides the following specific requirements for a department or variety store combined with a food and beverage store:

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

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

Comment: The subject site has direct frontage on and proposes direct vehicular access onto Martin Luther King Jr. Highway (MD 704), an arterial roadway, and Ardwick-Ardmore Road, a collector, and no access is being provided to a primary or secondary street. Therefore, as shown, the application conforms to this requirement. The Maryland State Highway Administration (SHA), in their referral dated August 3, 2011, has agreed to a right-in/right-out access to MD 704. It will have to be evaluated by the Planning Board at the time of preliminary plan of subdivision.

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

Comment: The Transportation Planning staff has reviewed this application and found adequacy exists. Their referral is found in its entirety later in this report.

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

Comment: The subject project has been designed with a marked pedestrian walkway within the northwestern side of the parking lot, connecting to the sidewalk within the right-of-way of Ardwick-Ardmore Road. Therefore, the project has demonstrated conformance to this requirement.

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

Comment: The submitted plan appears to indicate two loading spaces being provided at the rear of the building, in the southeastern corner of the site. These, however, were not labeled as such, and should be confirmed as loading spaces prior to approval and labeled as such prior to plan certification. The location of these loading spaces, separated from the customer parking lot, and the provision of a special "Customer Loading Only" parking space 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**

Comment: The site does not adjoin any residentially-zoned land.

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

Comment: It is because the submitted site plan does not conform to this requirement that the applicant has submitted the companion variance, VSE-4695. In the next section of this report, the variance is evaluated for conformance with the requirements of Section 27-230 of the Zoning Ordinance, criteria for granting variances associated with special exceptions.

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

Comment: Please see the section of this report on the *Prince George's County Landscape Manual* 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.**

Comment: The plan has been revised to include special paving, raised planters, bollard light fixtures, bike racks, and two benches in the area around the main building entrance. However, no details were provided for the special paving and the bike racks. Staff would suggest that the applicant be requested to provide details, judged to be acceptable by the Planning Board or its designee, for the special paving and bike racks. If this is done, the project would conform to this requirement.

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

Comment: The submitted plans include a comprehensive exterior lighting plan that demonstrates conformance with this requirement. The submitted comprehensive sign package is complete, with the exception of a chart and labels demonstrating the proposed freestanding and building-mounted signage's conformance with the zoning requirements.

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

Comment: Revised elevation drawings and architectural details of the proposed building have been provided for evaluation. The CVS Pharmacy building is proposed with a flat roof at multiple levels, and faced with a red brick veneer and a tan split-face concrete block. Some tan exterior insulating finishing system (EIFS) will be used around the top of the building and near the main entrance, as a backdrop for the main building-mounted signage. The main entrance, a double aluminum storefront door, is proposed to be located in the northwest corner of the building, facing the intersection of Ardwick-Ardmore Road and MD 704. The entrance is proposed to be articulated by a red awning and a curved architectural detail. The northern and western building elevations, facing the two public streets, are proposed to be finished with a red brick-veneered base, with rectangular inset panels of tan concrete block, half-size storefront aluminum windows near the building entrance, and wall signage near the roof line. The building elevations facing the adjacent properties to the east and south are proposed largely as blank walls finished in red brick veneer, with the exception of secondary doors and the drive-through window, which is proposed to have a large overhang finished with tan EIFS and red brick-veneered columns. The proposed architecture, a modification on the CVS Pharmacy prototype, is satisfactory considering the visibility of the subject property afforded by its location at the intersection of two major roads.

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

Comment: The site plan submitted with the subject application demonstrates conformance with this requirement as it indicates a total of 33.6 percent green space provided.

- H. **Variance to the 50-foot setback requirement of Section 27-348.02(a)(5)(B):** Section 27-348.02(a)(5)(B) of the Zoning Ordinance prescribes that all buildings, structures, off-street parking compounds, and loading areas shall be located at least 50 feet from all other adjoining

property and street lines. The site plan shows that this required setback is not being met along three of the four (north, west, and east) property lines. A maximum reduction of 36 feet to the north, 40 feet to the west, and 42 feet to the east is sought. It should be noted that the subject property is not a record lot; its shape and size has been designed wholly by the applicant from portions of various lots and parcels.

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

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

Comment: The applicant contends that the subject property (which they have created) has an irregular shape and size as well as exceptional topographic and environmental issues which preclude them from meeting the 50-foot setback requirements. The applicant points to the fact that a property (Lot 3) and paper street (Hayes Street) to the northeast intrude into their property, giving it an irregular property line. This, in turn, precludes the applicant from meeting the 50-foot setback requirement in that area. Later in their justification, however, the applicant admits that even if Lot 3 did not intrude, the variance would still be necessary along the other two property lines along Martin Luther King Jr. Highway (MD 704) and Ardwick-Ardmore Road.

Staff would contend that irregularities in the size and shape peculiar to the subject property are immaterial to the need for a variance. **Any** similarly-sized, rectangularly-shaped property with a similarly-sited building of that size surrounded by surface parking would fail to meet the setbacks, not just this one. This would be the case even on a larger lot without intrusions, as the applicant admits.

The applicant also points to topographic conditions on the site as justification, stating that the change in topography necessitates filling, grading, and the use of retaining walls. These walls constitute encroachments into the setback. While this is true to the rear of the building, the applicant fails to explain how this affects the other two property lines, which show large areas of surface parking spaces within the setback. There seem to be no topographical peculiarities affecting the proposed parking areas (to be built upon land which is to be cleared, filled, and graded), topography and environmental issues notwithstanding. Staff can understand this reasoning when considering the applicant's variance request for removal of specimen trees which would not survive such extensive fill activity, but cannot apply it to the setback requirement.

It is not sufficient to simply show that there are peculiarities on the site unless you can show that these peculiarities result in an impact being created causing an undue hardship. The evidence staff has reviewed does not persuade us that the subject site is in any way peculiar, unusual, or unique when compared to other properties, other than the fact that the applicant has made it so. But for the fact that the applicant has created a lot that cannot meet the requirements of the Zoning Ordinance, the setback's impact upon the subject property would be no different than the impact upon similarly-sized and shaped properties.

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

Comment: The applicant contends that the undue hardship, which would result in the event that the variance was not approved, is that the drug store could not be built. They state that the combination of the 50-foot setback plus the required parking and landscaping would leave a

building envelope sufficient for a 7,300-square-foot building. According to the applicant, CVS would not build a store of this size on this or any other property in the region. The applicant has not addressed non-conventional design approaches and techniques which might be utilized to reduce the footprint such as basement storage, mezzanine office space, or structured parking.

Creating a building site which knowingly violates zoning requirements and then seeking relief from those requirements on the basis that they preclude you from building what you desire is not an undue hardship, it is a self-created hardship. Variances are not intended to remedy this type of development scenario.

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

Comment: The variance will not substantially impair the intent, purpose, or integrity of the 2009 *Approved Subregion 4 Master Plan and Sectional Map Amendment*, which recommends a commercial land use for the subject property. The use is a use permitted by special exception in the R-55 C-M Zone and is therefore presumed to be compatible with the surrounding area. This criterion is met. However, staff cannot agree with the applicant's further conjecture that the industrial nature of surrounding uses ensures that the grant of the variance would not adversely impact adjoining uses. This conclusion veers too closely to an argument that the setback is unnecessary, which is not at question since it has been deemed necessary by the District Council, for whatever reason. Nor does it recognize the two churches and residence which are also proximate to the site.

Conclusion

The variance being sought by the applicant is not caused by unique circumstances and would, in fact, apply equally to any other rectangular property with that size building and that amount of surface parking. In actuality, it would apply similarly to even a larger lot with that amount of development. Variances are not meant to excuse that sort of situation, particularly when we are discussing a site whose size and shape are created by the person seeking the variance. The resulting hardship is self-created. Because the applicant has not met the first two criteria for variance approval, staff recommends the variance be denied.

- I. **Parking Regulations:** Seventy-two parking spaces are required for this use and have been provided, including three parking spaces for the physically handicapped.

For a building consisting of 13,225 square feet of gross floor area, two loading spaces are required. The site plan submitted by the applicant correctly demonstrates both of the required loading spaces.

- J. **Prince George's County Landscape Manual Requirements:** The application to build a CVS Pharmacy involves new construction and is subject to the requirements of the *Prince George's County Landscape Manual*.

Section 4.2—Requirements for Landscaped Strips along Streets

Comment: The proposal is subject to Section 4.2, Commercial and Industrial Landscaped Strip Requirements, along the frontages of Ardwick-Ardmore Road, to the west, and MD 704 to the north. The submitted site plan provides the appropriate schedules and plant materials to meet these requirements.

Section 4.3—Parking Lot Requirements

Comment: The project is subject to the requirements of Section 4.3, Parking Lot Requirements, because it proposes to construct a new parking lot. The special exception, however, is not subject to the requirements of Section 4.3.c(1), Parking Lot Perimeter Landscape Strip, as the parking lot is not located within 30 feet of an adjacent property line. The landscape schedule for Section 4.3.c(2), Parking Lot Interior Planting Requirements, has been completed correctly and indicates that the site provides the required eight percent interior landscaped area and complies with all other aspects of this section.

Section 4.4—Screening Requirements

Comment: A dumpster enclosure, made from concrete masonry units faced with a brick veneer, has been provided as a screening element. There are also two loading spaces proposed on-site that are required to be screened from public streets. Both loading spaces are located southeast of the building and will be mostly screened from the view of vehicles and pedestrians on Ardwick-Ardmore Road by distance, shade trees, and the proposed dumpster enclosure. However, the Urban Design Section would suggest that three or four evergreen trees be planted to the south and southwest of the spaces to complete the screen.

Section 4.7—Buffering Incompatible Uses

Comment: The area of special exception is subject to the requirements of Section 4.7, Buffering Incompatible Uses. No bufferyard is required along a majority of the perimeter as the adjacent properties are considered compatible when they are vacant and in the same commercial zone. However, the northeastern and southeastern properties have been incorrectly labeled as an auto storage yard in the Section 4.7 schedule, whereas they should be labeled as vacant commercial.

Color elevation drawings, with material and dimension labels, should be provided for the retaining wall and opaque fence located along the eastern property line for a full evaluation in relation to the bufferyard. The length of the bufferyards, as stated in the Section 4.7 schedules, should be corrected to refer to the linear feet along the perimeter of the area of special exception, which would include the property lines of the abandoned right-of-way of Hayes Street.

The single developed adjacent property (Lot 3, Block 9) is labeled as a contractor's office with outside storage, a high impact use; however, investigation of permit records for the property indicates that no use other than a single-family detached house, built prior to 1965, was ever approved. The applicant was unable to provide proof that any commercial-type use had been permitted on the adjacent property. Therefore, a Type "C" bufferyard, which requires a 40-foot building setback and a 30-foot landscaped yard, planted with 120 plant units per 100 linear feet, is required along this property edge. The proposed development on the subject application meets the required building setback; however, this is not clearly labeled or dimensioned on the plan or in the schedule. The site does not appear to meet the required landscaped yard width for the whole length; however, no dimensions were provided on the plan for clarity, nor has the applicant applied for alternative compliance from this requirement.

Therefore, staff must find that the applicant is not in conformance with the requirements of the Landscape Manual, nor could they be without either substantial redesign of the site or the approval of alternative compliance, which, to date, they have not applied for. In addition, Section 27-348.02 (a)(5)(B) of the Zoning Ordinance requires a 50-foot setback to all buildings,

structures, and parking and loading areas. If this requirement were being met on-site, there would be sufficient room for the landscaped yard requirement.

Section 4.9—Sustainable Landscaping Requirements

Comment: The site is subject to the requirements of Section 4.9 and the appropriate schedule has been provided and completed correctly on the landscape plan.

K. **Zone Standards:** The applicant’s proposal meets the requirements and regulations of the C-M Zone.

L. **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;

Comment: The 15 purposes of the Zoning Ordinance, as provided in Section 27-102(a), seek generally to protect and promote the health, safety, and welfare of the present and future inhabitants of the county. The proposed use conforms to the Prince George’s County Code and, with conditions, will ensure the health, safety, and welfare of county inhabitants. The proposed use and accompanying site plan are in harmony with the purposes of this subtitle.

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

Comment: As previously noted, the proposed use is not in compliance with either the Landscape Manual requirements or the specific requirements for this special exception use. A substantial variance from the 50-foot setback is necessary along three of the four property lines to implement the special exception as proposed. Because that variance cannot be supported, this finding cannot be made.

(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 Master Plan, the General Plan;

Comment: This application is subject to the 2009 *Approved Subregion 4 Master Plan and Sectional Map Amendment*, which recommends a commercial land use for the subject property. The subject property is located within the C-M Zone, which allows the use subject to the grant of a special exception. The 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 master plan, or the General Plan.

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

Comment: None of the responses from any referring agencies received by staff indicate that the proposed use will adversely affect the health, safety, or welfare of residents or workers in the area. Transportation Planning staff concluded that the impact of the additional trips generated by the use would have a negligible impact on the adjacent transportation network and, therefore, no safety issues are anticipated.

(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

Comment: The two primary ways that compatibility between uses can be achieved is through the provisions of the Landscape Manual and (in this case) the 50-foot setback prescribed by the Code. The applicant is meeting neither. Until such time as the applicant can meet these requirements, or obtain alternative compliance and/or a variance, staff cannot make a positive finding in this regard.

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

Comment: A Type 2 Tree Conservation Plan (TCP2-015-11) was submitted for review concurrently with the special exception site plan. Minor revisions to the TCP2 are required for conformance with the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance, as described in the Environmental Review section above.

(7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.

Comment: The TCP2 shows no encroachments into the regulated environmental features.

M. **Referrals:** The following comments were received for the special exception application.

1. **Transportation Planning Section**—In a memorandum dated June 23, 2011, the Transportation Planning Section offered the following comments concerning the special exception application.

The Transportation Planning Section has reviewed the special exception application referenced above. The subject property consists of approximately 2.22 acres of land in the C-M Zone. The property is located on the southeast corner of Martin Luther King Jr. (MD 704) and Ardwick-Ardmore Road. The application proposes a department or variety store combined with food and beverage sales of 13,225 square feet. The property contains an existing 3,300-square-foot commercial building on Parcel A that will be razed.

Review Comments

The subject property is located within the Developed Tier, as defined in the *Prince George's County Approved General Plan*. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-service (LOS) E, with signalized intersections operating at a critical lane volume (CLV) of 1,600 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Regulations, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the "Guidelines for the Analysis of the Traffic Impact of Development Proposals."

Unsignalized intersections: *The Highway Capacity Manual* (Transportation Research Board) procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and

install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

It is noted that the site encompasses all or part of a recorded parcel, six recorded lots, and a tiny corner of an unrecorded parcel, plus a portion of a platted but unbuilt public street. From the underlying plat, it appears that the majority of the subject site was recorded in 1907 (Parcel A was recorded in 1970), and it appears that the entire building would be constructed on the lots recorded in 1970. While it initially appears that a new preliminary plan of subdivision would be required, this should be confirmed with the Subdivision Review Section.

The *Trip Generation Manual, 8th Edition* (Institute of Transportation Engineers) is the source for the estimates of trip generation for the use. The table below provides information regarding site trip generation. A retail/commercial center is used as a basis for comparison because the C-M Zone allows for a wide range of sales and service uses by right. The potential use and yield is based upon a floor-to-area ratio (FAR) of 0.25 in accordance with the guidelines; the trips are also determined using the guidelines with an appropriate 60 percent pass-by factor. For the pharmacy use, the applicant assumes a 45 percent pass-by rate; this rate is lower than the rate for general retail, and is reasonable. The trip rates for the commercial center in the C-M Zone and the proposed use under the special exception are shown in the following table as a means of comparison.

| TRIP GENERATION RESULTS SUMMARY — SE-4695 | | | | | | |
|--|------------------|-------------------|---------------------|------------------|-------------------|---------------------|
| | AM In | AM Out | AM Total | PM In | PM Out | PM Total |
| Potential Uses of 2.22 acre site 24,175 square feet retail (considering a 60 percent pass-by rate) | 16 | 11 | 27 | 58 | 58 | 116 |
| Proposed Use 13,225 pharmacy (i.e., variety store with food and beverage sales) | 14 | 9 | 23 | 31 | 31 | 62 |
| NET NEW TRIPS | -2 | -2 | -4 | -27 | -27 | -54 |

The use change is very similar in impact to the underlying commercial use, and is actually a little lower due to an actual FAR that is less than assumed in general for retail space.

Access is proposed from the site onto MD 704, a master plan arterial facility, and Ardwick Ardmore Road, a master plan collector facility. No access is shown to any primary or secondary streets. Hayes Street, a platted but unbuilt public street, is adjacent to the site, but no access is shown to that street. Even if the street were to be placed into usage, it would function as a commercial roadway given that all adjacent properties have C-M zoning. Driveway access to an arterial is an issue that would routinely be reviewed through the subdivision process. The Transportation Planning Section concedes that the use is proposed to receive direct access from an existing arterial roadway, as required by Section 27-348.02 of the Zoning Ordinance. Nonetheless, driveway access from the site onto MD 704 should be reviewed on its merits as a variation from Section 24-121(a)(3) of the Subdivision Regulations if it is determined that a preliminary plan is necessary.

Section 27-348.02 requires that the “applicant shall demonstrate that local streets surrounding the site are adequate to accommodate the anticipated increase in traffic.” Toward that end, the application is supported by a traffic study dated December 2010 provided by the applicant. The following critical intersections, when analyzed with existing traffic using counts taken in 2010 and existing lane configurations, operate as follow:

| EXISTING TRAFFIC CONDITIONS | | | | |
|---|---|--------|--|----|
| Intersection | Critical Lane Volume (AM & PM) | | Level of Service (LOS, AM & PM) | |
| | MD 704 and Ardwick Ardmore Road | 1,204 | 1,173 | C |
| Ardwick Ardmore Road and Preston Road | 810 | 865 | A | A |
| Ardwick Ardmore Road and Brightseat Road | 52.9* | 111.6* | -- | -- |
| MD 704 and Reed Street | 282.8* | 427.5* | -- | -- |
| *In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy. | | | | |

None of the critical intersections identified above are programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George’s County Capital Improvement Program. Background traffic has been developed for the study area using the approved but unbuilt development in the immediate area and 1.0 percent annual growth rate in through traffic along the study area roadways over a three-year period. The critical intersections, when analyzed with background traffic and existing lane configurations, operate as follow:

| BACKGROUND TRAFFIC CONDITIONS | | | | |
|---|---|--------|--|----|
| Intersection | Critical Lane Volume (AM & PM) | | Level of Service (LOS, AM & PM) | |
| | MD 704 and Ardwick Ardmore Road | 1,310 | 1,255 | D |
| Ardwick Ardmore Road and Preston Road | 945 | 1,001 | A | B |
| Ardwick Ardmore Road and Brightseat Road | 74.0* | 164.8* | -- | -- |
| MD 704 and Reed Street | 435.8* | 562.2* | -- | -- |
| *In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy. | | | | |

The following critical intersections, interchanges, and links identified above, when analyzed with the programmed improvements and total future traffic as developed using the guidelines, including the site trip generation as described above and the distribution as described in the traffic study, operate as follow:

| TOTAL TRAFFIC CONDITIONS | | | | |
|---|---|--------|--|----|
| Intersection | Critical Lane Volume (AM & PM) | | Level of Service (LOS, AM & PM) | |
| | MD 704 and Ardwick Ardmore Road | 1,314 | 1,272 | D |
| Ardwick Ardmore Road and Preston Road | 948 | 1,008 | A | B |
| Ardwick Ardmore Road and Brightseat Road | 75.0* | 173.9* | -- | -- |
| MD 704 and Reed Street | 443.3* | 588.4* | -- | -- |
| Ardwick Ardmore Road and site access | 11.6* | 15.1* | -- | -- |
| MD 704 and site access | 12.2* | 12.9* | -- | -- |
| *In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy. | | | | |

The following is determined from the analysis:

- Both signalized intersections within the vicinity of the site are adequate to accommodate the increase in traffic. These intersections operate acceptably under existing, background, and total traffic.
- Both site access points are adequate to accommodate the use.
- Both existing unsignalized intersections in the area operate poorly under existing, background, and total traffic. The traffic study proposes no means of addressing these observed inadequacies. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study at each intersection, and install the signals if deemed warranted by the appropriate operating agency. The warrant studies are, in themselves, more detailed studies of the adequacy of the existing unsignalized intersections.

It is noted that the traffic count sheets and the intersection analysis sheets were not included with the traffic study. If a preliminary plan is required, and if traffic issues are given a more detailed review at that stage, it is advised that the study be revised and resubmitted with all count and analysis sheets.

As noted earlier, MD 704 is a master plan arterial facility and Ardwick-Ardmore Road is a master plan collector facility. Adequate dedication in accordance with master plan recommendations was either dedicated or dedeed in the past, and no further dedication is required.

It should be noted that the C-M zoning for the site was approved as a part of the *Approved Master Plan and Sectional Map Amendment for Planning Area 72*. That approval included a condition requiring detailed site plan approval. Among other things, the detailed site plan review is to address issues of unified access and circulation. While the use of the stub driveway from the site to the northeast is a desirable first step in that discussion, it is not clear that the driveways to the site would further the goal of unified access. This should be addressed further at the time of detailed site plan.

Conclusion

The Transportation Planning Section finds that the proposal for a department or variety store combined with food and beverage sales on the site, in consideration that the net trip generation is consistent with typical uses in the C-M Zone, would not pose unanticipated safety issues on adjacent roadways. Furthermore, it is determined that the application meets the requirements of Section 27-348.02(a)(1) and (2) of the Zoning Ordinance, along with other requirements of Subtitle 27 for the approval of a special exception from the standpoint of vehicular circulation and transportation, if the application is approved with conditions as outlined.

2. **Special Projects Section**—In a memorandum dated May 2, 2011, the Special Projects Section stated that they have reviewed the submitted special exception application and have no comments to offer.
3. **Subdivision Review Section**—In a memorandum dated May 20, 2011, the Subdivision Review Section stated that the applicant will need a preliminary plan of subdivision since they are reconfiguring lots and adding more than 5,000 square feet of development.
4. **Maryland State Highway Administration (SHA)**—In a memorandum dated August 3, 2011, SHA stated that they will allow access to the site from Martin Luther King Jr. Highway (MD 704).
5. **Trails**—In a memorandum dated August 22, 2011, the Transportation Planning Section provided the following trails comments concerning the special exception application.

The *Approved Countywide Master Plan of Transportation (MPOT)* and the *Approved Subregion 4 Master Plan and Adopted Sectional Map Amendment* include two master plan trail/bikeway recommendations that impact the subject site:

MD 704 Shared-Use Side Path: A side path or wide sidewalk construction designated bike lanes is recommended along Martin Luther King Jr. Highway (MD 704), District of Columbia to the Capital Beltway (I-95/495). It may be appropriate to use excess capacity along MD 704 to accommodate improved bicycle and pedestrian facilities. Martin Luther King Jr. Highway (MD 704) connects to the existing Washington, Baltimore and Annapolis Trail (WB&A) outside I-95/495. Trail construction along MD 704 will provide an extension of the existing WB&A Trail to provide a continuous east/west trail connection through central Prince George's County (MPOT, page 28).

Ardwick-Ardmore Road Sidewalks and On-Road Bicycle Facilities: Continuous accommodations for bicycles and pedestrians are needed. Sidewalks are currently fragmented. This will improve access to the New Carrollton Transit District and Metro station (MPOT, page 30).

There is an existing sidewalk along the subject site's entire frontage of Ardwick-Ardmore Road. Currently there are no frontage improvements (sidewalk or side path) along the subject site's frontage of MD 704. The curb along Ardwick-Ardmore Road ends at the intersection and MD 704 includes a paved shoulder along the frontage of the subject site.

The construction of an eight-foot-wide asphalt side path or eight-foot-wide concrete sidewalk is recommended along the subject site's frontage of MD 704, unless modified by SHA. The provision of one "Share the Road with a Bike" sign is recommended along Ardwick-Ardmore Road, unless modified by the Prince George's County Department of Public Works and Transportation (DPW&T). Provision of designated bike lanes or striped outside curb lanes should be considered by DPW&T at the time of road resurfacing or improvement. Striped crosswalks are also recommended at the site's ingress/egress points along both MD 704 and Ardwick-Ardmore Road, unless modified by the appropriate road agency.

6. **Environmental Planning Section**—In a memorandum dated September 21, 2011, the Environmental Planning Section made the following analysis:

This 3.31-acre site is in the C-M Zone and is located in the eastern quadrant of the intersection of Martin Luther King Jr. Highway (MD 704) and Ardwick-Ardmore Road. According to PGAtlas.com, there are no wetlands, streams, or 100-year floodplain on the site. The site is partially developed with an existing building and associated parking on the western portion of the site. The site eventually drains into Lower Beaverdam Creek in the Anacostia River basin. No designated scenic or historic roads are affected by this proposal. John Hanson Highway (US 50) is an adjacent source of traffic-generated noise. The proposed use is not expected to be a noise generator. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. According to the *Prince George's County Soil Survey*, the principal soils on this site are in the Christiana, Russett, and Udorthent series. According to available information, Marlboro clay is not found to occur in the vicinity of this property. This property is located in the Developed Tier as reflected in the General Plan.

ENVIRONMENTAL REVIEW

As revisions are made to the plans submitted, the revision boxes on each plan sheet shall be used to describe the revisions made, when, and by whom.

- a. A signed Natural Resources Inventory, NRI-032-10, was submitted with the review package. The NRI indicates that there are no regulated environmental features on-site. The forest stand delineation (FSD) identifies two stands of woodland totaling 2.73 acres and includes six specimen trees.

Comment: No additional information is required with respect to the NRI.

- b. This property is subject to the provisions of the Woodland and Wildlife Habitat Conservation Ordinance because the site is greater than 40,000 square feet and contains more than 10,000 square feet of woodland. A Type 2 Tree Conservation Plan (TCP2-015-11) has been submitted.

The project site has a woodland conservation requirement of 1.20 acres. The TCP2 proposes to meet the requirement with 1.20 acres of off-site woodland

conservation. The worksheet shows a total of 0.99 acre of woodland to be preserved but not counted as woodland preservation; however, the TCP2 does not identify these areas. Revise the TCP2 plan and legend to identify the areas of woodland to be preserved but not counted as woodland preservation.

Other technical revisions are required. The plan shows an area of off-site clearing that does not appear to be reflected in the TCP2 worksheet. This area is located within the right-of-way of Martin Luther King Jr. Highway (MD 704). The woodland proposed to be cleared within this area must be counted as off-site clearing on the worksheet. Revise the worksheet to include the proposed clearing in the right-of-way of Martin Luther King Jr. Highway as cleared.

The TCP2 identifies the areas of steep slopes as 15 percent and greater. The symbol for these areas should not be shown on the plan because it makes the plan less readable. Revise the TCP2 to remove the symbol for all slopes 15 percent or greater. The legend shows a symbol for a proposed tree line. This symbol should not be shown on the TCP2 because it gets confused with the limits of disturbance. Revise the plan to remove the proposed tree line from the legend.

- c. Section 25-122(b)(1)(G) of the Woodland and Wildlife Habitat Conservation Ordinance requires that “Specimen trees, champion trees, and trees that are part of a historic site or are associated with a historic structure shall be preserved and the design shall either preserve the critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical root zone in keeping with the tree’s condition and the species’ ability to survive construction as provided in the Technical Manual.”

A variance request to Section 25-122(b)(1)(G) was received for the removal of six specimen trees located on the subject property.

Section 25-119(d) contains six required findings [text in bold below] to be made before a variance from the Woodland and Wildlife Habitat Conservation Ordinance can be granted. An evaluation of this variance request with respect to the required findings is provided below.

(A) Special conditions peculiar to the property have caused the unwarranted hardship;

The perimeter of the project site contains areas of steep slopes where the difference in grade between the perimeter and central portion of the site is more than 15 feet in some areas. The area of the special exception project and the specimen trees proposed to be removed are located in a low lying area in the central portion of the site. In order to bring the site to a developable grade, fill will need to be placed in those areas. According to the variance, up to ten feet of fill in some areas will be needed to develop the site, in addition to a retaining wall. The amount and location of fill would make it impossible for the trees to survive because the fill would block oxygen and other nutrients from reaching the roots of the specimen trees. The unusual topography of the site would be problematic in creating a safe access onto and adequate circulation through the site. If the trees are preserved, the site could not be brought to a suitable grade to be developed.

(B) Enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;

If other properties encounter protected trees in similar locations on a site where the topography is very complex, the same considerations would be provided during the review of the required variance application.

(C) Granting the variance will not confer on the applicant a special privilege that would be denied to other applicants;

If other properties encounter protected trees in similar conditions and in similar locations on a site, the same considerations would be provided during the review of the required variance application.

(D) The request is not based on conditions or circumstances which are the result of actions by the applicant;

A majority of the site is currently undeveloped with the exception of an existing building and parking on the west side of the site. The request is not based on conditions or circumstances which are the result of actions by the applicant.

(E) The request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and

The request to remove the trees does not arise from any condition on a neighboring property.

(F) Granting of the variance will not adversely affect water quality.

Granting the variance to remove the specimen trees will not directly affect water quality. Stormwater management facilities are being provided on-site.

Conclusion: The required findings of Section 25-119(d) have been adequately addressed for the removal of Specimen Trees 1 through 6.

- d. The Tree Canopy Coverage Ordinance requires a minimum percentage of tree canopy coverage (TCC) on properties that disturb more than 5,000 square feet. Properties zoned C-M are required to provide a minimum of ten percent of the gross tract area in tree canopy.

The subject site is 3.31 acres and, as such, has a minimum TCC requirement of 0.33 acres. The landscape plan shows a TCC schedule that demonstrates how the requirement will be met; however, it only accounts for the special exception area and not the legal boundaries of the site. The TCC must reflect the requirement based on the gross tract area of the legal boundaries of all lots and parcels associated with the special exception area (3.31 acres) per Section 25-128(b) of the Tree Canopy Coverage Ordinance. It appears that the requirement can be met with the woodland that is proposed to be preserved, but not counted as preservation.

- e. According to the *Prince George's County Soil Survey*, the principal soils on the overall site are in the Christiana, Russett, and Udorthent series.

Discussion: This information is provided for the applicant's benefit. No further action is needed as it relates to this special exception review. A soils report may be required by the Prince George's County Department of Environmental Resources (DER) during the permit process review.

- f. A copy of a stormwater management concept plan was submitted; however, it is not an approved plan. A copy of the approved concept plan and approval letter needs to be submitted.

CONCLUSION

Unless the applicant obtains a substantial variance to the required setback and alternative compliance to the requirements of the *Prince George's County Landscape Manual*, the proposed special exception cannot be approved. We cannot support the variance and the applicant has not applied for alternative compliance.

Based on the preceding analysis and findings, staff recommends that Special Exception Application No. SE-4695 be DENIED.

Staff further recommends that Variance Request No. VSE-4695 for a reduction of the 50-foot setback be DENIED.