



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #11
10/25/07

DATE: October 17, 2007
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review *RK*
Ralph Wilson, Acting Zoning Supervisor *WR*
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the Zoning Ordinance to amend the definition of "radio and television broadcasting studio"; to amend height standards in the Ripley/South Silver Spring Overlay zone; and to delete expired credit provisions

TEXT AMENDMENT: No. 07-14
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmembers Ervin, Floreen, Leventhal, and Trachtenburg
INTRODUCED DATE: September 25, 2007
PLANNING BOARD REVIEW: October 25, 2007
PUBLIC HEARING: October 30, 2007; 1:30pm

STAFF RECOMMENDATION: Approval as introduced.

PURPOSE AND BACKGROUND OF THE TEXT AMENDMENT

The text amendment proposes to amend the Zoning Ordinance definition of "radio and television broadcasting studio"; to amend height standards in the Ripley/South Silver Spring Overlay zone; and to delete expired credit provisions.

The first part of the text amendment addresses several plain language modifications to the definition of "radio and television broadcasting studio" and a clarification to allow broadcasting studios to include equipment for receiving a program via satellite.

The second and more substantive part of the amendment would allow a maximum building height of 200 feet on CBD-2 zoned properties (see Attachment 2) within the Ripley/South Silver Spring Overlay Zone. The purpose

of this Overlay Zone is to provide the flexibility needed to encourage revitalization activity. Much of South Silver Spring has redeveloped since the CBD Sector Plan was approved; however, the Ripley District has yet to begin redevelopment despite two optional method approvals. Staff believes that the proposed Zoning Text Amendment will facilitate the assemblage and redevelopment of the remaining properties in the Ripley District and help to achieve the Sector Plan goal of encouraging transit oriented development. Any concerns regarding compatibility with nearby uses can be addressed by the Planning Board through the regulatory process since both project plan and site plan review require the Planning Board to make a compatibility finding.

ANALYSIS

Definitional Change to radio and television broadcasting studio

As stated above, the text amendment addresses several plain language technical modifications to the definition of "radio and television broadcasting studio" and a clarification to allow broadcasting studios to include equipment for receiving programs via satellite. Staff recommends that the proposed modifications be approved.

Expired Density Credit Provisions

The Overlay Zone originally allowed development credits to be established when a building that was to be demolished before August 24, 2002 exceeded the amount of floor area allowed under the standard method of development in the Overlay Zone. A development credit could be retained for purposes of reconstruction on the property generating the development credit, or transferred and used for new construction on any property in the Overlay Zone provided the property to which any development credit was transferred did not confront a one-family zone. This credit has since expired and is proposed to be deleted from the Zoning Ordinance. Staff recommends that the provision be deleted from the Zoning Ordinance.

The pertinent language addition to the Overlay Zone is as follows:

The Planning Board may approve a maximum building height of 200 feet in any CBD-2 zoned optional method of development project that provides ground floor retail. Any structure or device used to collect or radiate electromagnetic waves, including a satellite dish, must not be included in calculating building height under this paragraph.

The normal Zoning Ordinance maximum height in a CBD-2 Zone is 143 feet using the optional method of development provisions. Under certain circumstances, the building height in the CBD-2 Zone may be increased to a maximum of 200 feet by the Planning Board. These circumstances generally

include: additional height necessary for workforce housing; additional height specifically recommended for the property in the applicable sector plan or urban renewal plan; or property within a revitalization area designated in the applicable sector plan and located fully or partially within 800 feet of an entrance to a metro station.

Ripley/South Silver Spring Overlay Zone

The Ripley District and South Silver Spring are designated as revitalization areas in the *Approved and Adopted February 2000 Silver Spring CBD Sector Plan* (see Attachment 3). The information below provides analysis of the impact of the text amendment on these two areas.

Ripley District

This triangular area is bordered by the railroad tracks on the west and Georgia Avenue on the east. Prior to 2000, this area was zoned CBD-R2 which is essentially a high-rise residential zone with a maximum height limit of 200 feet. The entire Ripley District was rezoned to CBD-2 in 2000 to allow a greater mix of commercial and residential uses. This rezoning reduced the maximum height to 143 feet.

The new Silver Spring fire station sits at the southern end of the Ripley District (see Attachment 4). Two high-rise residential projects—Midtown Silver Spring and 1050 Ripley Street—have been approved at the northern end of the Ripley District (see Attachment 4). Both can be constructed up to 200 feet in height due to the existing provision in the Zoning Ordinance that allows buildings on CBD-2 property within 800 feet of a Metro station to be up to 200 feet in height.

Progress Place and a public parking lot are among the properties located in the middle of the Ripley District. Montgomery County owns both properties. The County has been working with a potential applicant regarding a possible optional method project in this area that would utilize the County-owned property in an assemblage. This public/private partnership would require the relocation of Progress Place to an undetermined location.

Staff believes that the goals of the Sector Plan and the Overlay District would be served by allowing up to 200 feet in building height in the Ripley District, as was the case prior to 2000. This would encourage transit-oriented development in an area located close to the Silver Spring Transit Center. Staff does not believe that the increased height limit would have significant effects on surrounding properties given the District's location between the railroad tracks and a busy State highway and the prior approval of two 200 feet tall buildings at the northern end of the District.

South Silver Spring

The South Silver Spring Revitalization Area is located west of Georgia Avenue, between the railroad tracks and the border with the District of Columbia. The portion of this area located between the railroad tracks and East-West Highway is zoned CBD-2. Most of this area has already been redeveloped or approved for redevelopment. The Silver Spring Innovations Center adjoins the railroad tracks. JBG has completed the Canada Dry project on the north side of East-West Highway and their Silver Spring Gateway Center is well under construction. Construction has begun on the 1200 East-West Highway residential high-rise on the south side of East-West Highway.

The remaining CBD-2 property in this area is occupied by several low scale commercial uses (e.g., Crisfield's, Mayorga Coffee and Silver Spring Tires) that are located between Georgia Avenue and East-West Highway. This area is illustrated on Attachment 2. Although it is bisected by the Arts Alley, these properties could theoretically be assembled into a 63,600 square foot site that could be developed under the Optional Method of Development. If ZTA #07-14 is approved, this area could be eligible for up to 200 feet in building height under the Optional Method *if the Planning Board makes the required finding at project plan and site plan that the proposed height is compatible with the surrounding uses*. The surrounding uses include the Gateway Center at 143 feet and the Gramax building on the south side of East-West Highway in the CBD-1 zone. The Gramax building pre-dates the CBD zones and is approximately 140 feet in height. A 90-foot tall building has been approved on CBD-1 property on the east side of Georgia Avenue as an adaptive reuse of the National Institute of Dyers and Cleaners property which is a Locational Atlas site.

RECOMMENDATION

Based on the analysis as discussed above, staff recommends that ZTA 07-14 be approved as introduced to amend the definition of "radio and television broadcasting studio"; to amend height standards in the Ripley/South Silver Spring Overlay zone; and to delete expired development credit provisions.

GR

Attachments

1. Proposed Text Amendment No. 07-14 (as introduced)
2. Ripley/South Silver Spring Overlay Zoning map
3. Silver spring Revitalization Areas Map
4. Aerial Map of the Ripley/South Silver Spring C-2 Property

ATTACHMENT 1

Zoning Text Amendment No: 07- 14
Concerning: Ripley/South Silver
Spring Overlay Zone – Development
Standards
Draft No. & Date: 4 – 9/17/07
Introduced: September 25, 2007
Public Hearing: October 30, 2007
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Ervin, Floreen, Leventhal, and Trachtenburg

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the definition of “radio and television broadcasting studio”,
- amend height standards in the Ripley/South Silver Spring Overlay zone,
- delete expired credit provisions, and
- generally amend provisions governing the Ripley/South Silver Spring Overlay zone.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-2	“DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1	“Definitions”
DIVISION 59-C-18	“OVERLAY ZONES”
Section 59-C-18.20	“Ripley/South Silver Spring Overlay Zone”
Section 59-C-18.202	“Regulations”
Section 59-C-18.203	“Methods of development”
Section 59-C-18.204	“Density of development”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*

Underlining indicates text that is added to existing laws by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. Division 59-A-2 is amended as follows:

DIVISION 59-C-2. DEFINITIONS AND INTERPRETATION.

59-A-2.1. Definitions.

* * *

Radio and television broadcasting studio: A facility used [for the creation and production of] to create or produce radio, television, [and] or other electronic media programming. [This includes] A broadcasting studio may include studios, stages, editing facilities, post-production facilities, and equipment for program distribution and receipt via satellite, wire, or fiber optic cable. A radio and television broadcasting studio does not include a tower at the same location as the studio.

* * *

Sec. 2. Division 59-C-18 is amended as follows:

DIVISION 59-C-18. OVERLAY ZONES.

* * *

59-C-18.20. Ripley/South Silver Spring Overlay Zone.

* * *

59-C-18.202. Regulations.

* * *

(b) Development standards. The development standards are the same as those in the underlying zones, except:

- (1) Building height in the [Overlay Zone] overlay zone along Newell Street and Eastern Avenue that confronts a residential zone in the District of Columbia must not exceed a height of 45 feet. However, this building height may be increased to:
[~~(i)~~](A) a maximum of 90 feet for any building or portion of a building that is set back at least 60 feet from the street[,

or as allowed in 59-C-18.204(b), Transfer of
Development Credits]; or

[(ii)] (B) a maximum of 125 feet for residential development
that is set back at least 100 feet from Eastern Avenue and
Newell Street[,] and [that] includes a public parking
garage constructed under a General Development
Agreement with [Montgomery] the County[, Maryland].

(2) The Planning Board may approve a maximum building height
of 200 feet in any CBD-2 zoned optional method of
development project that provides ground floor retail. Any
structure or device used to collect or radiate electromagnetic
waves, including a satellite dish, must not be included in
calculating building height under this paragraph.

[(2)] (3) Parking must not be allowed in the front yard of [properties]
any property fronting on Georgia Avenue [is prohibited].

[(3)] (4) The transfer of public use space to other properties [within]
in the [Overlay Zone] overlay zone is allowed, and must be
shown on an approved project plan or site plan for both the
property transferring the public use space and the property
receiving the public use space in accordance with Division 59-
D-2 and 59-D-3. The public use space may only be transferred
between property owners [in accordance with] under an
agreement [as] approved by the [Montgomery County]
Planning Board.

[(4)] (5) Costs associated with meeting the public use space offsite
may be shared by multiple property owners.

[(5) Transfer of development credits may occur between properties within the overlay zone for Ripley/South Silver Spring.]

59-C-18.203. Methods of [Development] development.

(a) Standard method of development may be approved [in accordance with] under the standards of the underlying zone [provisions].

[(1)] The public use space requirement may be transferred to other properties [within] in this overlay zone if approved [by] in a site plan [in accordance with] under Division 59-D-3.

[(2)] The transfer of development credits to other properties within the overlay zone may be allowed with approval of a site plan in accordance with Division 59-D-3.]

(b) Optional method of development may be approved [in accordance with] under the standards of the underlying zone [Zone provisions] except as modified by this overlay zone.

59-C-18.204. Density of development.

Development in the overlay zone may proceed under one of the following options:

(a) Underlying zone standards. Except as [regulated] modified by this overlay zone, development may proceed under the standards of the underlying CBD Zone, in accordance with [the provisions of Sec.] Section 59-C-6.23.

[(b)] Development credits. A development credit, in square feet of gross floor area, may be established with the demolition of a building before August 24, 2002 that exceeds the amount of floor area allowed under the standard method of development in this Overlay Zone. A development credit may be retained for purposes of reconstruction on the property generating the development credit, or transferred and

used for new construction on any property in this Overlay Zone provided the property to which any development credit is transferred does not confront a one-family zone. Use of a development credit either on property generating the development credit or on another property using the development credit must be submitted before August 24, 2007 and must be shown on either:

- (1) a site plan approved under Division 59-D-3 for standard method development of a property receiving a development credit. The development credit must not exceed 50% of the FAR allowed for the receiving property under the standard method of development; or
- (2) a project plan approved under Division 59-D-2. A project plan may exceed the allowable maximum FAR of the underlying zone.

(c) 100% of a development credit may be retained by the property generating the development credit and may be utilized by the generating property and other property shown with the generating property on a project plan approved under Division 59-D.2.

(d) A development credit to be transferred must be established and attached to a property only by means of documents, including an easement and appropriate releases, in a recordable form approved by the Planning Board. Any easement must:

- (1) limit future construction of the property that transfers the development credit to the amount of gross square feet of the demolished building minus all development credits transferred;
- (2) indicate the amount of development credit, in gross square feet to be transferred;

- (3) indicate the maximum gross square feet of future development for the property that transfers the development credit, but no less than the amount that could be constructed on the property under the standard method of development; and
- (4) be recorded in the land records of Montgomery County.]

[(e)] (b) Any building constructed [pursuant to] that satisfies a project plan or site plan approved under this Section is a conforming structure and may be repaired or reconstructed [in accordance with] under the conditions of the approved project plan or site plan.

[(f)] (c) Any building for which a valid building permit was issued before February 1, 2000 [approval of the Ripley/South Silver Spring Overlay Zone Sectional Map Amendment,] is a conforming building and may be altered, repaired, or reconstructed under the standards of the zone in effect [at the time] when the building was constructed, except:

- (1) If the building exceeds the standards of the underlying zone, any alteration, repair, or reconstruction of the building must not increase the gross floor area or the height of the building above that which existed [as of the date of application of the Ripley/South Silver Spring Overlay Zone] on February 1, 2000; or
- (2) If the building does not exceed the standards of the underlying zone, any alteration, repair, or reconstruction of the building must conform to the standards of the underlying zone, except as may be further [regulated] modified by the Ripley/South Silver Spring Overlay Zone.

Sec. 3. Effective date. This ordinance takes effect 20 days after the date of Council adoption.

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136 This is a correct copy of Council action.

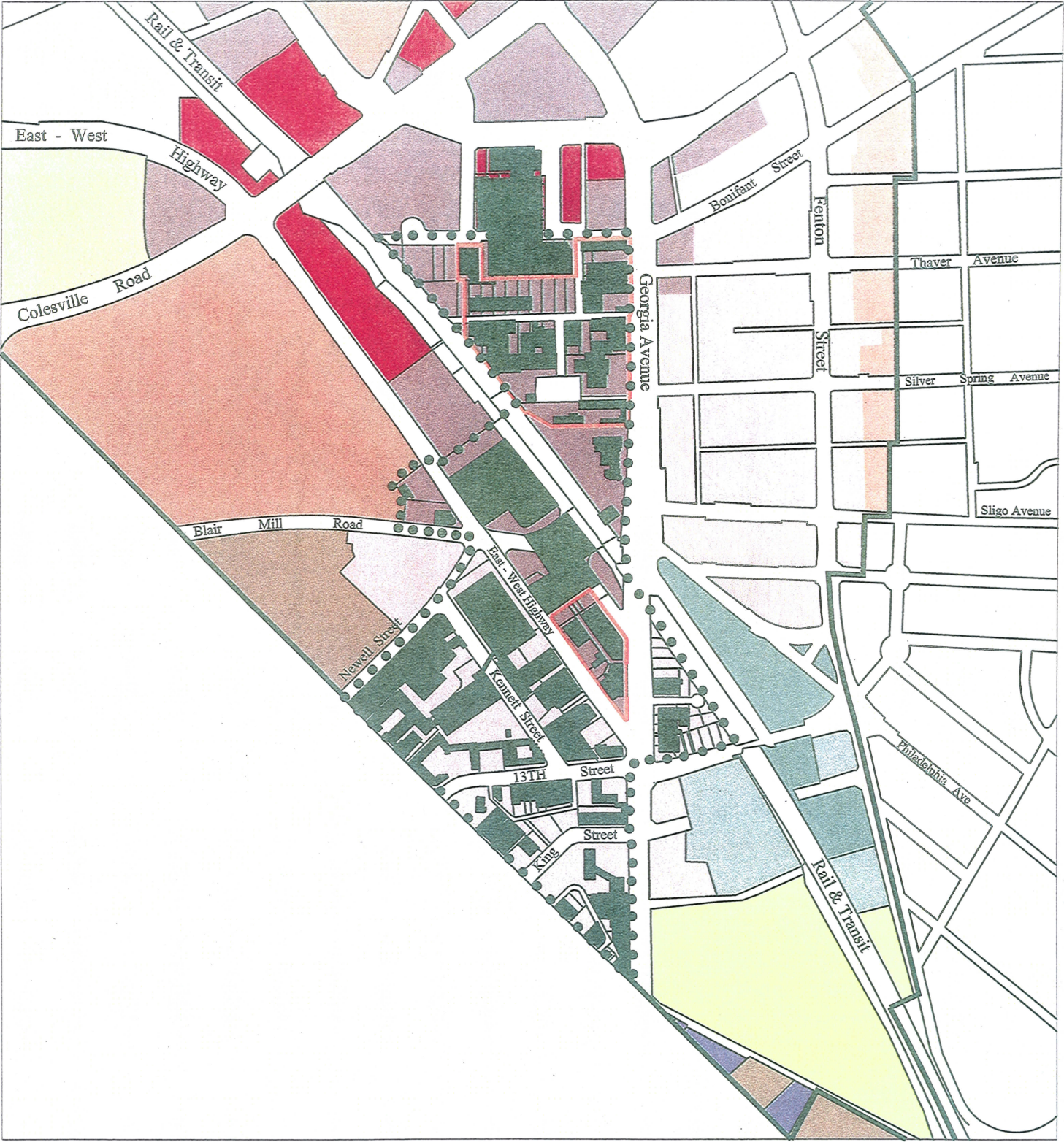
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139 Linda M. Lauer, Clerk of the Council

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RIPLEY / SOUTH SILVER SPRING OVERLAY ZONING



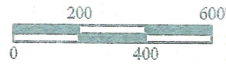
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- ● ● ● Ripley/South Silver Spring Overlay Zone
- CBD Planning Area Boundary
- CBD - 0.5
- CBD - 1
- CBD - 2
- CBD - 3
- CBD - R1

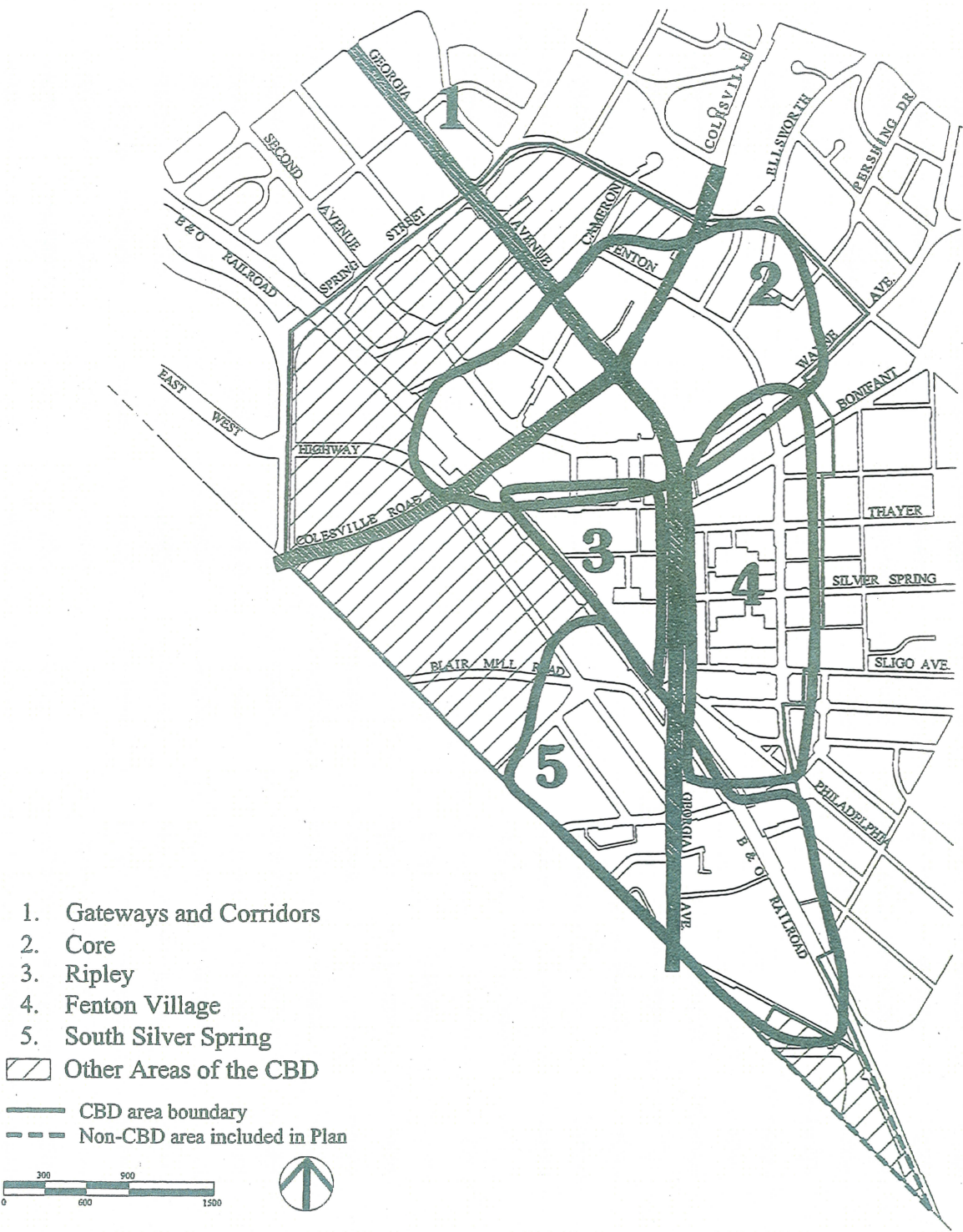
- CBD - R2
- C - 2
- R - 10
- R - 20
- R - 60
- I - 1
- I - 4

Potential Optional Method Development

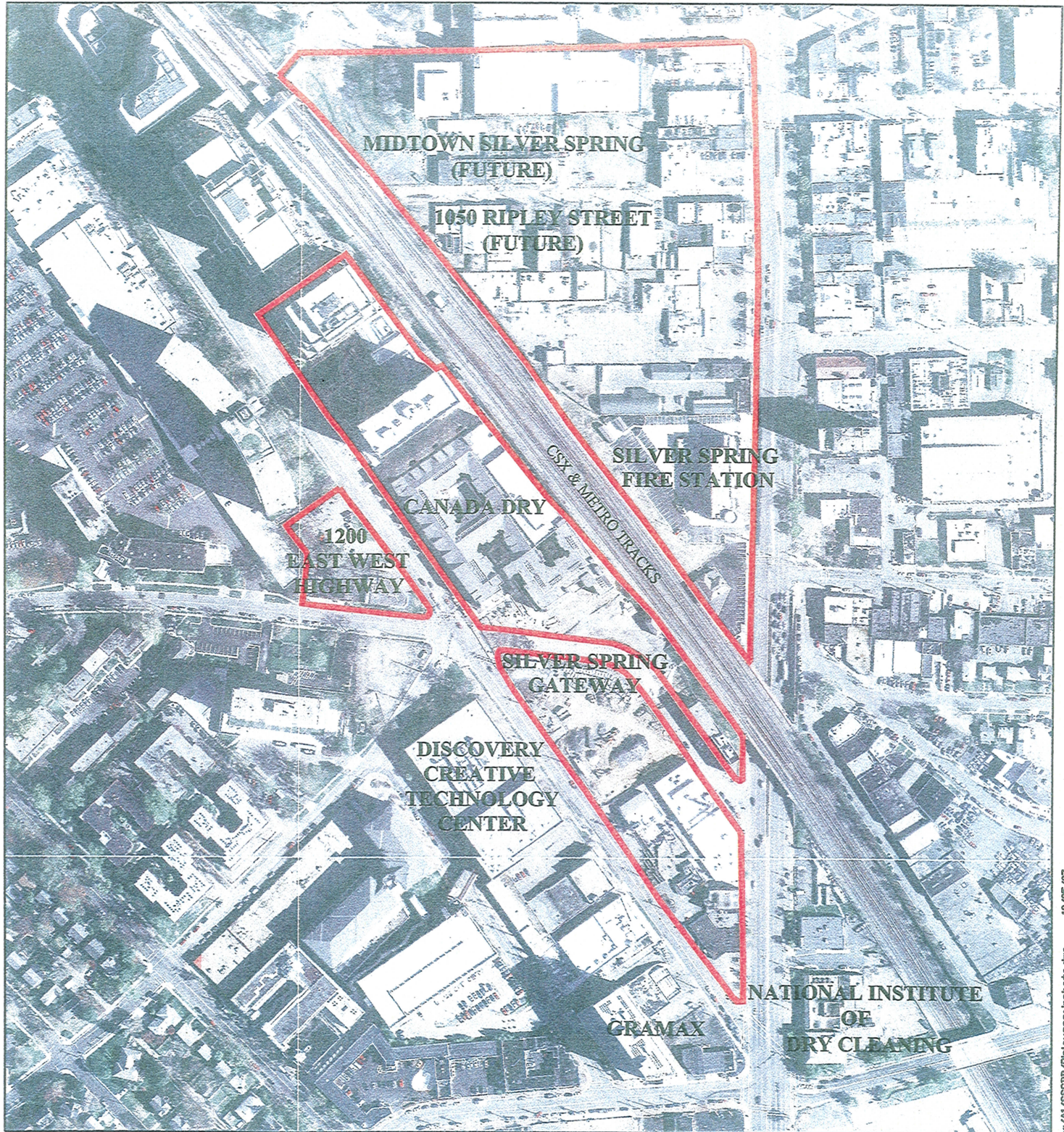
ATTACHMENT 2



Map 7 Revitalization Areas



RIPLEY / SOUTH SILVER SPRING CBD 2 PROPERTY



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CBD - 2

ATTACHMENT 4

Not To Scale

