



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

MCPB 09/18/08

Item # \_\_\_\_\_

**MEMORANDUM**

DATE: September 5, 2008  
TO: Montgomery County Planning Board  
VIA: Rose Krasnow, Chief *RK*  
Robert A. Kronenberg, *RAK*  
Supervisor  
Development Review Division  
FROM: Elza Hisel-McCoy, Assoc. AIA, LEED-AP *EH*  
Planner Coordinator  
Development Review Division  
[Elza.Hisel-McCoy@mncppc-mc.org](mailto:Elza.Hisel-McCoy@mncppc-mc.org)  
(301) 495-2115



REVIEW TYPE: **Site Plan Review**  
CASE #: **820060250**  
PROJECT NAME: **Midtown Silver Spring**  
APPLYING FOR: Approval of 391,125 gross square feet of mixed-use development, including 5,380 square feet of retail and 385,745 square feet of multi-family residential development with a maximum of 314 dwelling units including 40 MPDUs (12.5 percent), on approximately 1.8 gross acres  
  
REVIEW BASIS: Div. 59-D-3 of Montgomery County Zoning Ordinance  
  
ZONE: CBD-2/Ripley District Overlay Zone  
LOCATION: The northwest corner of the intersection of Ripley Street and Dixon Avenue in Silver Spring  
MASTER PLAN: Silver Spring CBD Sector Plan  
APPLICANT: Home Properties Ripley Street, LLC  
FILING DATE: March 7, 2008  
HEARING DATE: September 11, 2008

**STAFF RECOMMENDATION:** Approval of 391,125 gross square feet of mixed-use development, including 5,380 square feet of retail and 385,745 square feet of multi-family residential development with a maximum of 314 dwelling units including 40 MPDUs (12.5 percent), on approximately 1.8 gross acres in the CBD-2 Zone. All site development elements as shown on the site and landscape plans stamped by the M-NCPPC on July 8, 2008, shall be required except as modified by the following conditions:

1. Project Plan Conformance

The proposed development shall comply with the conditions of approval for Project Plan 920040060, as listed in the Planning Board opinion dated September 1, 2004, and as amended by the opinion for Project Plan Amendment 92004006A, dated September 27, 2006;

2. Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan 120060540 as listed in the Planning Board opinion dated January 18, 2008;

3. Site Plan

- a. On the Ripley Street and Dixon Avenue frontages, maintain a consistent architectural articulation of a minimum two-story and/or 30-foot building base;
- b. Provide Silver Spring Streetscape Standard improvements along:
  - i. Both sides of Dixon Avenue between Bonifant Street and Ripley Street;
  - ii. The north side of Ripley Street from the southeast corner of the site to Bonifant Street;
- c. By Certified Site Plan, the Applicant must re-configure the public use space at the west end of the site to allow access to the adjacent retail and expanding the paved gathering area to engage the sidewalk;
- d. At the Rachel Carson public use space, the Applicant must replace the lawn under the chess tables with paving and add chess tables under the proposed metal arbor/shade structures;

4. Transportation

- a. The Applicant must participate with the Applicant for 1050 Ripley Street (Site Plan #820080150), Washington Property Company, for the coordinated construction of Ripley Street as shown in the Ripley Street Shared Cost Exhibit dated May 30, 2008. Prior to Certified Site Plan, the Applicant must submit the executed Participation Agreement to M-NCPPC staff;

5. Lighting

- a. All private on-site down-lighting fixtures must be full cut-off fixtures;
- b. Deflectors must be installed on all up-lighting fixtures causing potential glare or excess illumination;
- c. On-street lighting within the public right-of-way must conform to the Silver Spring Streetscape Standard;

6. Moderately Priced Dwelling Units (MPDUs)

- a. The proposed development must provide a minimum of 40 MPDUs (12.5%) on-site in accordance with Chapter 25A of the Montgomery County Code;
  - b. The Applicant must comply with all conditions of the Department of Housing and Community Affairs' (DHCA) letter dated July 21, 2008;
  - c. The Applicant must execute an Agreement to Build pertaining to the construction and staging of MPDUs from DHCA prior to the issuance of any building permits;
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7. LEED Certification

- a. The Applicant must achieve, at a minimum, a LEED (Leadership in Energy and Environmental Design) "Certified" Rating Certification, as defined by the U.S. Green Building Council (USGBC) under the LEED Standard for New Construction & Major Renovation (LEED-NC), or other standard approved by MCDPS;
- b. By Certified Site Plan, the Applicant must submit a preliminary LEED-NC checklist, providing an initial indication of the strategies the Applicant will use to achieve the required LEED certification;

8. Maintenance Responsibility

The Applicant shall be responsible for maintaining all on-site public use space and associated non-standard elements off-site public amenities, unless this responsibility is transferred to another entity through specific agreement with MCDOT, MCDPS, Silver Spring Regional Services Center, or other entity;

9. Forest Conservation

Compliance with the conditions of approval of the Final Forest Conservation Plan. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s) as appropriate. Conditions include, but are not limited to the following:

- a. Note on the plan that the site's afforestation requirement to be met with off-site mitigation or as a fee-in-lieu payment;
- b. Remove all reference to the use of afforestation from the plan;

10. Noise Attenuation

Meet noise mitigation requirements consistent with Condition #16 of preliminary plan approval (MCPB No. 08-01) as updated below:

- a. Prior to Certified Site Plan, certification from an acoustical engineer that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn;
- b. The builder commits to construct the units in accord with these design specifications, consistent with Option 3 of the Noise Analysis prepared by Hush Acoustics, LLC, dated February 2, 2008, with any changes that may affect acoustical performance approved by the acoustical engineer in advance of installation;
- c. The builder certifies that interior noise levels, after construction is complete, and before home occupancy that the interior noise levels do not exceed 45 dBA Ldn;
- d. For all residential dwelling units constructed within identified noise impact areas, the applicant/developer/builder shall disclose in writing to all prospective purchasers that they are located within an area impacted by current highway and railway noise. Such notification will be accomplished by inclusion of this information in all sales contracts, brochures and promotional documents, including the *Illustrative Site Plans* on display within any sales related offices as well as in Homeowner Association or Condominium documents, and by inclusion on all subdivision and site plans, and within all *Deeds of Conveyance*;

11. Recreation Facilities

All recreation facilities must comply with the M-NCPPC Recreation Guidelines;

12. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval dated October 5, 2005, unless amended and approved by MCDPS;

13. Development Program

The Applicant must construct the proposed development in accordance with a Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- a. Streetscape improvements to the north side of Ripley Street and to the east and west sides of Dixon Avenue between Ripley Street and Parking Lot #5 must be completed as building construction is completed;
- b. The Dixon Avenue extension to Bonifant Street must be completed per the Participation Agreement with the county;
- c. Streetscape improvements and street tree planting, site lighting, seating areas, indoor amenities, and the outdoor terrace, must be completed before issuance of any use and occupancy permits;
- d. All on-site landscaping must be completed within six months of the issuance of any use and occupancy permits;
- e. Specify phasing of pre-construction meetings, dedications, sediment/erosion control, or other features.

14. Clearing and Grading

- a. The Applicant may demolish the existing buildings on the site prior to M-NCPPC approval of the Certified Site Plan, in accordance with all requirements of MCDPS stormwater, erosion and sediment control and forest conservation;
- b. Except for demolition of the existing buildings, the Applicant must ensure that there is no clearing or grading of the subject site prior to M-NCPPC approval of the Certified Site Plan;

15. Certified Site Plan

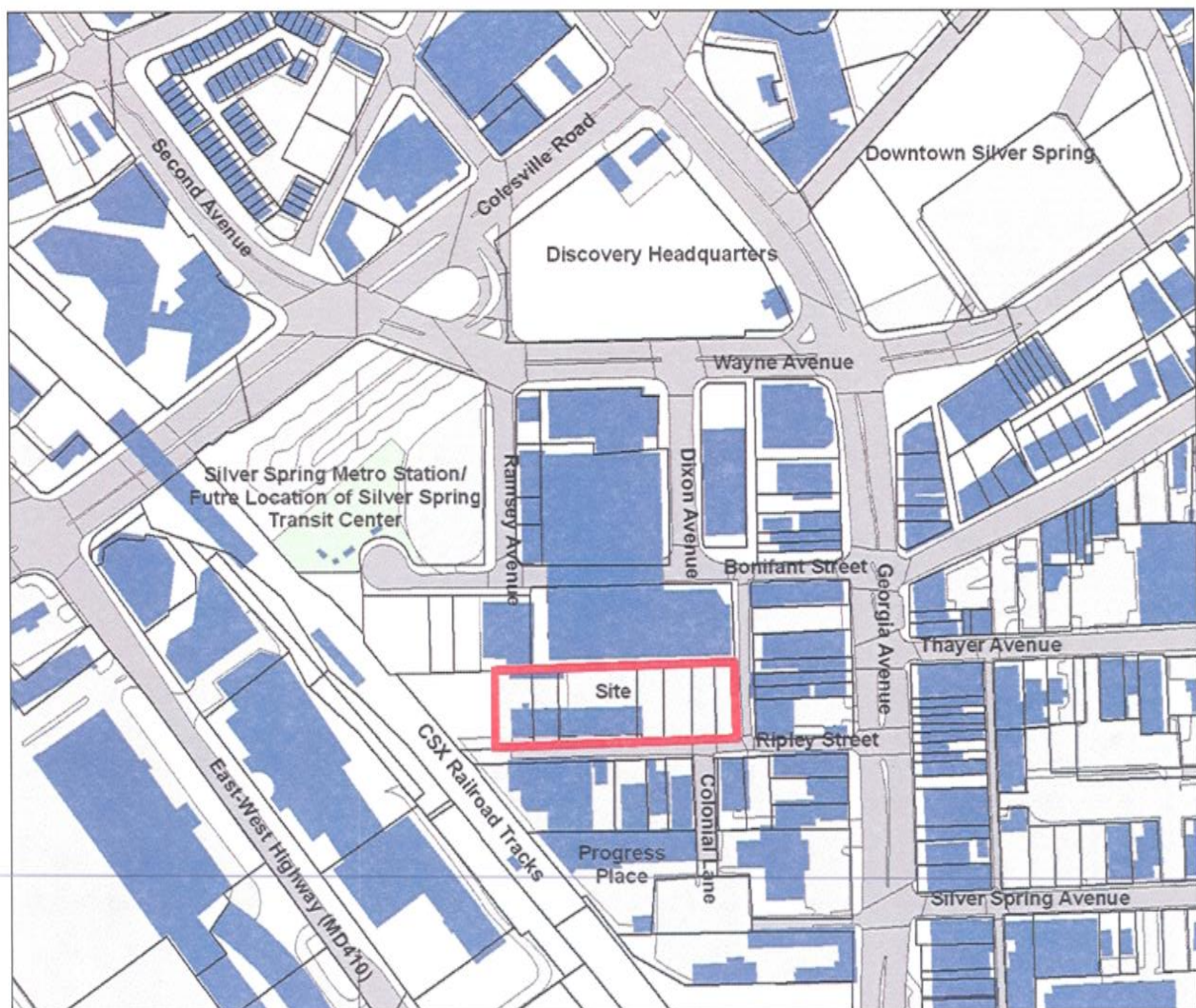
Prior to Certified Site Plan approval the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Minor corrections and clarifications to site details and labeling;
- b. Recreation Facilities Plan, with calculations, demonstrating the indoor recreation facilities' compliance with the M-NCPPC Recreation Guidelines;
- c. A Transportation Improvement Plan, including phasing and responsibility for improvements to Ripley Street and Dixon Avenue;
- d. Development Program, Inspection Schedule, Approved Forest Conservation Plan, and Site Plan Resolution;
- e. A building elevation diagram for the Ripley Street and Dixon Avenue frontages demonstrating the consistent architectural articulation of a minimum two-story and/or 30-foot building base;
- f. All areas within the project Limits of Disturbance, including all off-site improvements.



**PROJECT DESCRIPTION:** Site Vicinity

The proposed development is centrally located within the Ripley District of Silver Spring on the north side of Ripley Street, between Colonial Lane on the east and the railroad tracks on the west. The surrounding area is zoned CBD-2 and is currently occupied by a vacant lot and one- and two-story buildings. The site directly across Ripley Street, 1050 Ripley Street, has approval for a high-rise multi-family mixed-use project for Project Plan (920070040 & 92007004A), Preliminary Plan (120080210), and Site Plan (820080150). To the east along Georgia Avenue are one- and two-story commercial buildings featuring the Pyramid-Atlantic Arts Center and several small retailers, including a used cd store, Dale Music, and a Meineke muffler shop, among others. South of the site is Progress Place, a County-operated community support facility, and a County parking lot. The site is within a five-minute walk to the Silver Spring Metro Station and the proposed Silver Spring Transit Center. The Applicant will be constructing the extension of Dixon Avenue from Bonifant Street through the public parking garage to Ripley Street.

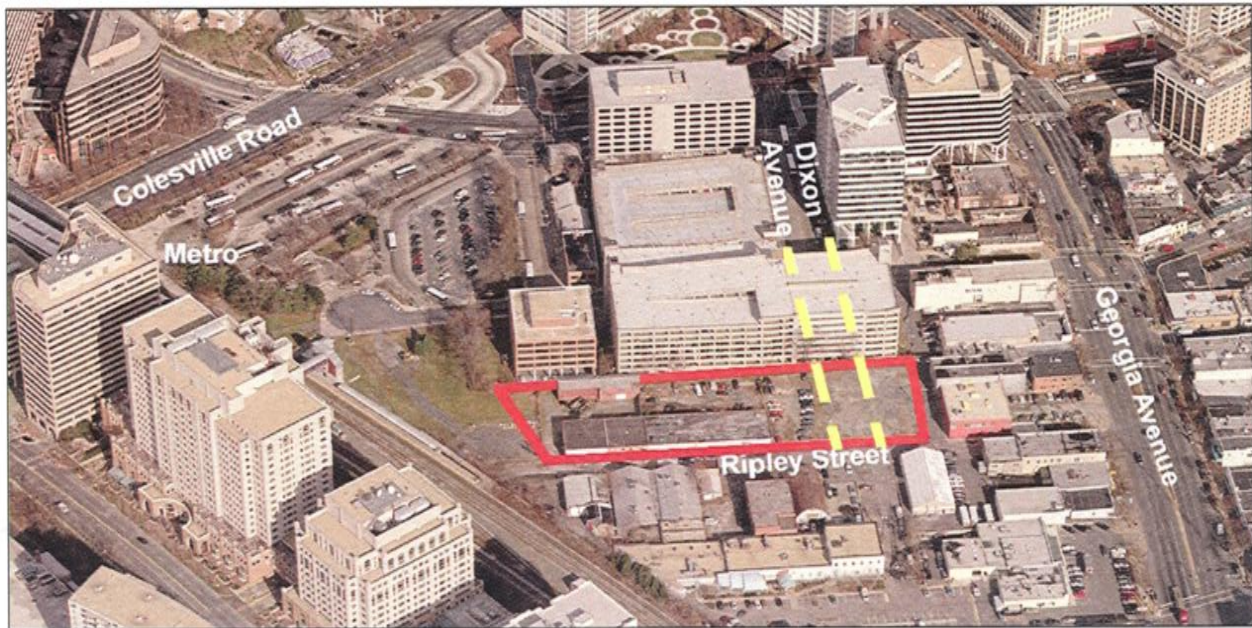


*Vicinity Map*



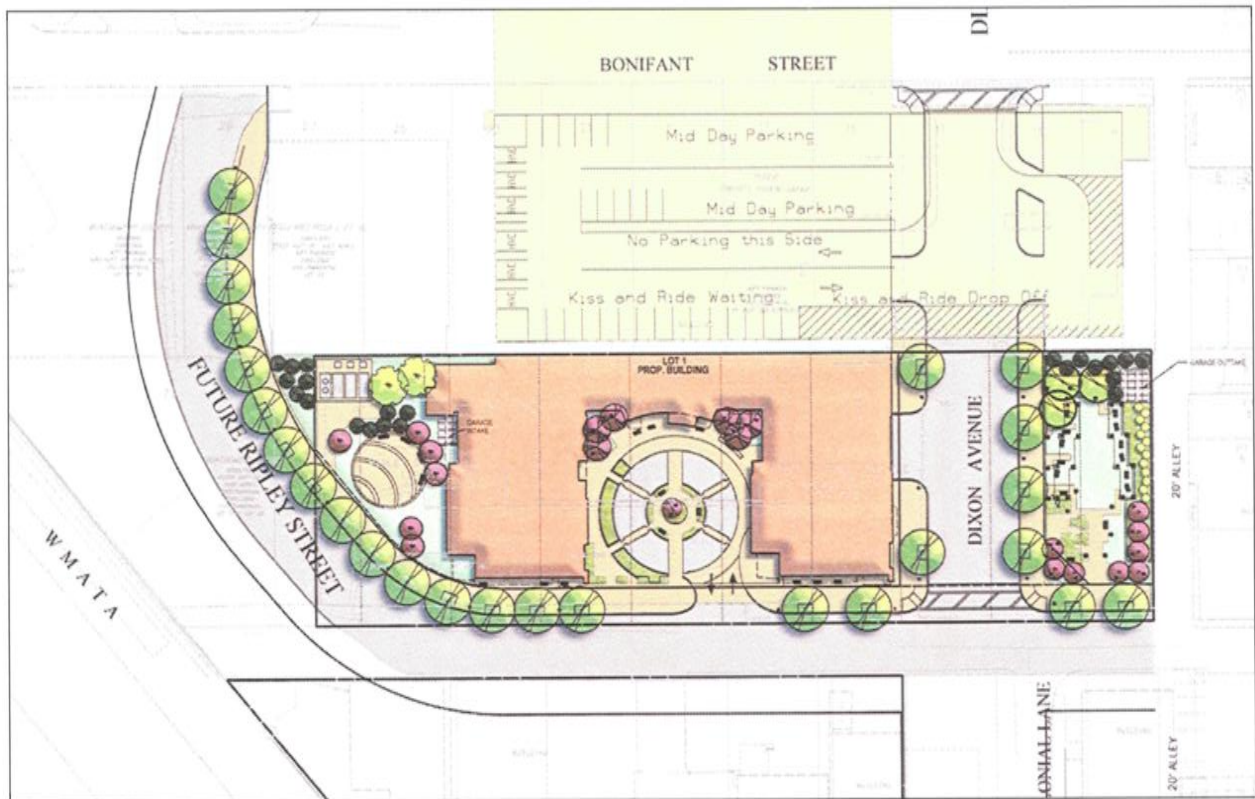
**PROJECT DESCRIPTION:** Site Description

The Midtown Silver Spring site is on the north side of Ripley Street and covers approximately 78,225 gross square feet, or 1.8 acres. Approximately 29,194 square feet will be dedicated for roadways, leaving a net tract area of 49,031 square feet. Overhead utility wires exist along the south side of Ripley Street and the west side of the alley on the eastern boundary of the site, carrying Pepco and Verizon cables in front of the property. The nearest intersections of Ripley Street with Colonial Lane and Georgia Avenue are not signalized. The site topography is flat with approximately eight feet of drop from the east side to the west side. There are no significant existing trees or other vegetation on the site, which is almost entirely impervious. Access would be provided from Ripley Street and the extended Dixon Avenue.

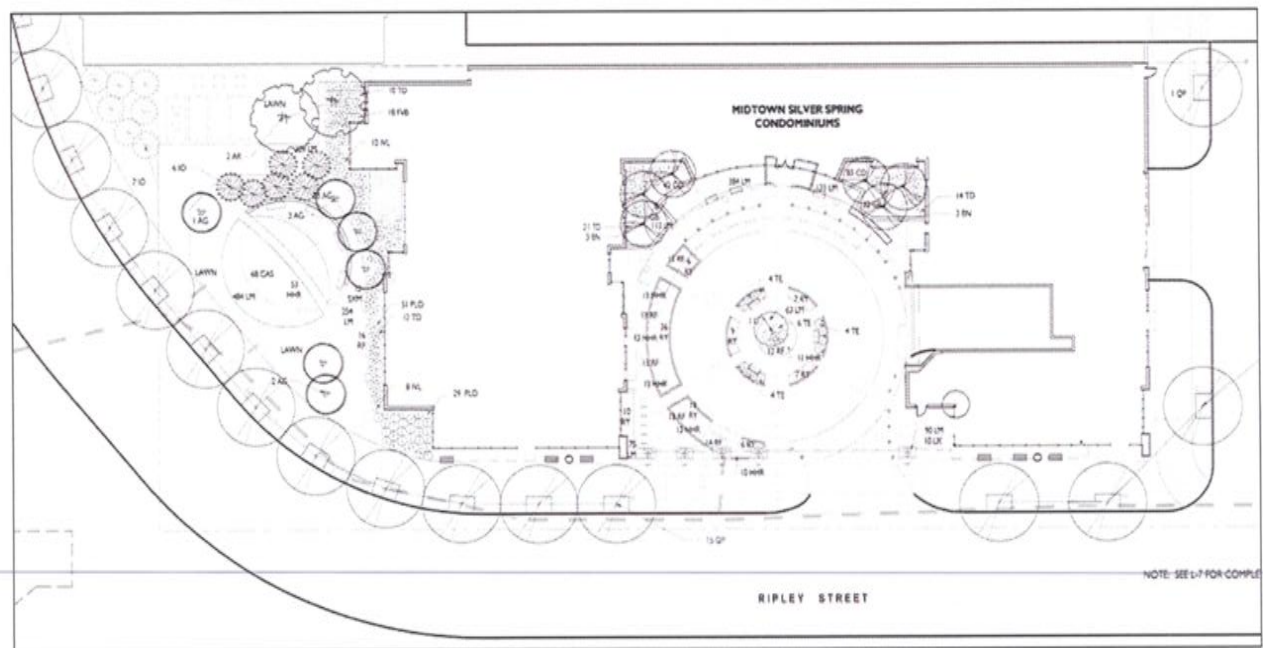


**PROJECT DESCRIPTION:** Proposal

This Site Plan proposes a mixed-use building with two residential towers, one nineteen stories, the other twenty, flanking an entry courtyard and a third, eight-story entry wing. The orientation of the narrow end of the towers on Ripley Street reduce their impact, while consistent ground-floor treatment provides an inviting street-level experience. Vehicular access to the underground parking garage is provided at the edge of the entry court, while service access will be from Dixon Avenue. The underground parking garage extends under the Dixon Avenue right-of-way and the adjacent public open space. As a public amenity, the Applicant is constructing the extension of Dixon Avenue from Bonifant Street through the existing public parking garage to Ripley Street.

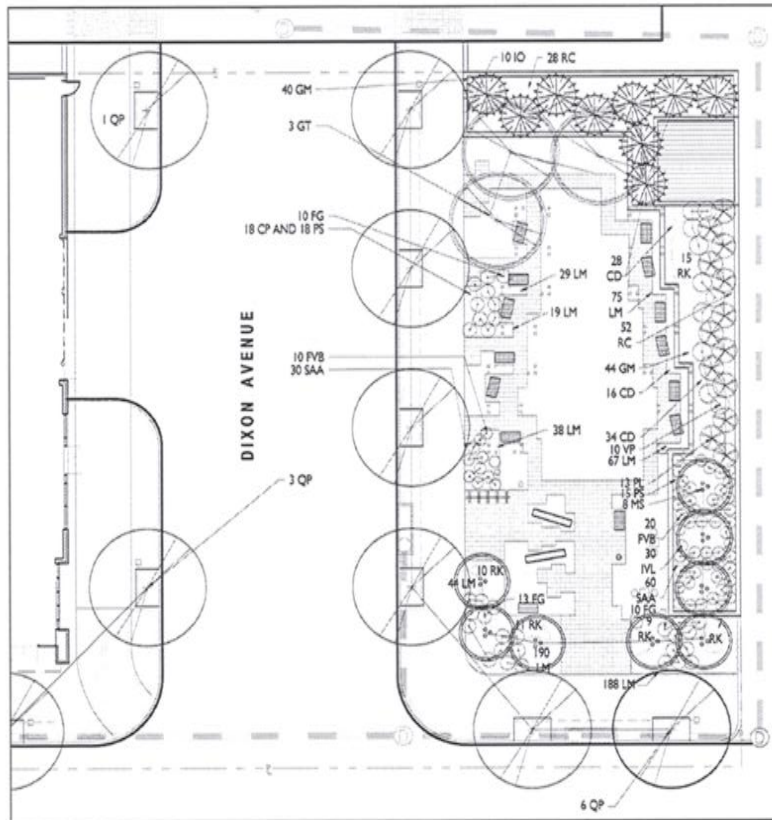


Site Plan

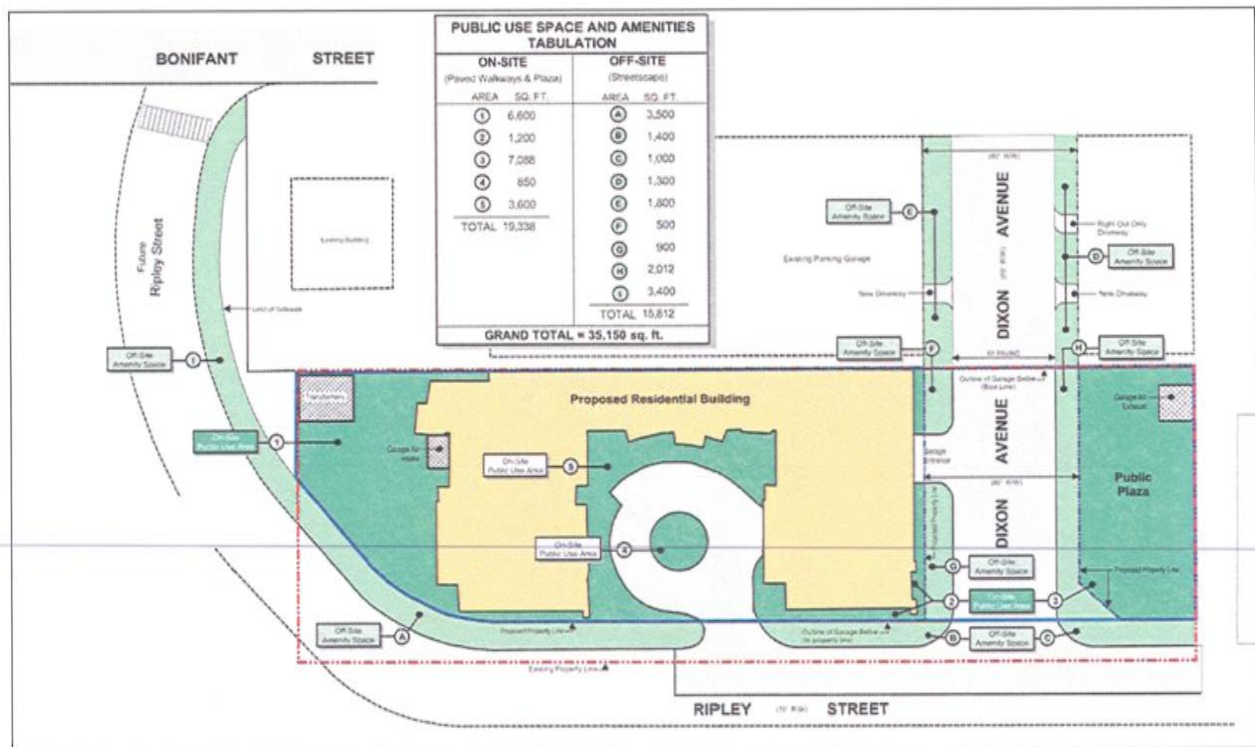


Landscape Plan





*Landscape Park Detail*



*Public Use and Amenity Space Plan*





*Perspective from Southeast*



*Entry Detail*

**PROJECT DESCRIPTION:** Prior ApprovalsProject Plan

On July 29, 2004, the Planning Board approved Project Plan 920040060 for a maximum of 391,125 gross square feet in a maximum building height of 190 feet, including 5,946 square feet of retail uses and a maximum of 336 dwelling units, and 24,695 square feet of public use and amenity space.

On March 30, 2006, the Planning Board approved an amendment, 92004006A, increasing the maximum building height to 200 feet, decreasing the retail area to 5,358, and increasing the total public use and amenity space to 33,500 square feet.

Preliminary Plan

On December 6, 2007, the Planning Board approved Preliminary Plan 120060540, limiting development to a maximum of 317 multi-family dwelling units and 5,946 square feet of retail.

**ANALYSIS:** Conformance to Development Standards

PROJECT DATA TABLE (CBD-2)

Development Standard	Permitted/ Required	Approved per Project Plan 920040060	Approved per Project Plan Amendment 92004006A	Approved per Preliminary Plan 120060540	Proposed for Approval
Gross Lot Area (sf.)	18,000	78,225	78,225	-	78,225
Prior Dedications (sf.)	-	8,475	8,475	-	8,475
Proposed Dedications (sf.)	-	22,319	10,319	-	20,719
Net Lot Area (sf.)	-	47,431	59,341	-	49,031
Max. Total Density (FAR)	5	5	5	-	5
Max. Total Density (sf.)	391,125	391,125	391,125	-	391,125
Max. Non-Residential Density (sf.)	-	5,946	5,358	5,946	5,380
Max. Residential Density (sf.)	-	385,179	385,767	-	385,745
Max. Dwelling Units (du)	-	336	317	317	314
Min. MPDUs (%)	12.5	12.5	12.5	-	12.5
Min. MPDUs (du)	-	42	40	-	40
Max. Building	200	190	200	-	200

Height (ft.)					
Max. Building Height (stories)	-	-	20	-	20
Min. Building Setbacks (ft.)					
Ripley Street	-	-	0	-	0
Dixon Avenue	-	-	0	-	0
Train Tracks	-	-	59	-	59
Garage #5	-	-	0	-	0
Min. On-Site Public Use Space (%)	20	24.3	39.2	-	39.4 <sup>1</sup>
Min. On-Site Public Use Space (sf.)	-	11,524	23,300	-	19,338
Min. Off-Site Public Amenity Space (%)	-	27.8	17.2	-	32.2
Min. Off-Site Public Amenity Space (sf.)	-	13,171	10,200	-	15,812
Min. Public Use & Amenity Space (%)	-	52.1	56.4	-	71.6
Min. Public Use & Amenity Space (sf.)	-	24,695	33,500	-	35,150
Max. Parking Spaces	366	480	369	-	389

<sup>1</sup> Note that because the proposed dedications have increased from 10,319 to 20,719, the net lot area has decreased from 59,341 to 49,031. Thus as a percentage of the net lot area, the amount of on-site public use space has increased, even though the ground area has decreased.



## RECREATION CALCULATIONS

<b>Demand for 314 units</b>	<b>D1 (Tots)</b>	<b>D2 (Children)</b>	<b>D3 (Teens)</b>	<b>D4 (Adults)</b>	<b>D5 (Seniors)</b>
High-Rise	10.99	12.56	12.56	241.78	144.44
<b>Supply</b>					
<i>On-Site</i>					
Picnic/Sitting (5)	5	5	7.5	25	10
Bike System	0.55	1.26	1.88	36.27	14.44
Pedestrian System	1.1	2.51	2.51	108.80	65
Swimming Pool	0.6	2.57	2.57	60.45	21.67
Indoor Community Space	1.1	1.88	3.77	72.53	57.78
Indoor Fitness Facility	0	1.26	1.26	48.36	21.67
<i>On-Site Subtotal</i>	<i>8.35</i>	<i>14.48</i>	<i>19.49</i>	<i>351.4</i>	<i>190.55</i>
<i>Off-Site</i>					
Play Lot (5-14)	0	9	3	4	1
Volleyball	2	2	3	8	1
Tennis	0	2	11	24	1
Soccer – Junior	2	15	15	30	2
Picnic/Sitting (1)	1	1	1.5	5	2
Open Play Area II	3	4	4	10	1
<i>Off-Site Subtotal</i>	<i>8</i>	<i>33</i>	<i>37.5</i>	<i>81</i>	<i>8</i>
<i>Adj. Max. 35%</i>	<i>3.85</i>	<i>4.4</i>	<i>4.4</i>	<i>81 (84.6)</i>	<i>8 (50.6)</i>
<b>Total Demand</b>	<b>10.99</b>	<b>12.56</b>	<b>12.56</b>	<b>241.78</b>	<b>144.44</b>
<b>Total Supply</b>	<b>12.2</b>	<b>18.88</b>	<b>23.89</b>	<b>432.4</b>	<b>198.55</b>

### ANALYSIS:

#### Conformance to Master Plan

The objective for the Ripley District in the Silver Spring CBD Sector Plan is to “encourage mixed-use development near the Transit Center by facilitating market-feasible development and upgrading the physical environment.” As demonstrated in the approved amended Project Plan, this development will provide a significant amount of housing, including 40 MPDUs, within one block of the Silver Spring Transit Center, and help to activate Ripley Street through a combination of ground-floor retail, public art, and landscaping. The development is further providing a significant public benefit by providing the extension of Dixon Avenue from Bonifant Street to Ripley Street, improving access through the street grid and providing additional flexibility and porosity for pedestrians travelling to and from the Transit Center for the residents of both the Ripley District and Fenton Village.

### Local Area Transportation Review

Transportation Planning staff conducted a Local Area Transportation Review at Preliminary Plan and determined that none of the nearby intersections showed a calculated future Critical Lane Volume (CLV) in excess of the adopted Silver Spring CBD threshold.

### Forest Conservation

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD), 42004149, was recertified on January 15, 2006. There is neither forest area nor large and specimen trees on-site.

A revised Final FCP date stamped received on June 16, 2008 by the Environmental Planning was submitted to address how the site's total afforestation requirement will be met. This plan shows 0.24 acres of credits for proposed landscaping utilizing full credit for tree cover. The plan must be revised to reflect the site's afforestation requirement to be met with either off-site mitigation or a fee-in-lieu payment, and the reference to afforestation must be removed from the plan. The use of afforestation for full credit for tree cover is not supported at this location, because the survivability rate of the proposed trees planted around and in relation to high-rise buildings is extremely low, coupled with insufficient sun exposure for the trees to thrive in an urban environment. The two high-rise residential towers are proposed at 200 feet in height.

### Noise

Noise impacts are anticipated from the several adjacent, existing sources of traffic-generated noise: the WMATA and CSX train tracks and Georgia Avenue. These tracks are used for MARC and Metro passenger and CSX freight trains. These trains generate a high degree of noise to be abated through architectural means. In addition, Georgia Avenue is an existing arterial road and given its proximity to the site, traffic-generated noise impacts from it are also anticipated. At issue are proposed noise impacts from both of these sources in relation to the southern and western facades of both high-rise buildings.

Condition #16 of MCPB No. 08-01 reads as follows:

- 16) At site plan review, the Applicant must submit a noise analysis that addresses the following:
  - Specifications from an acoustical engineer for the design of the building shells for all residential dwelling units being constructed within the projected 65 dBA Ldn noise contour to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
  - The builder must provide a signed commitment at site plan to construct the impacted units in accord with the acoustical design specifications. Any changes to the building permit must be approved by an acoustical engineer and M-NCPPC Environmental Planning staff prior to their implementation.

The initial site plan submittal did not include required information to address Condition #16. A Noise Analysis was electronically received on April 30, 2008 by Environmental Planning. Receipt of the analysis addresses the first part of Condition #16. However, as of this writing, no supplemental information has been received regarding the remainder of Condition #16. The analysis was prepared by Hush Acoustics LLC with a cover letter dated February 2, 2008. The cover letter states Mr. Gary Ehrlich, P.E., prepared the analysis dated November 5, 2005, while employed by Wyle Laboratories. The analysis includes recommendations and three options

(Options 1-3) with each option having acoustical treatments to bring the interior noise levels to three separate noise level ranges. Option 3 provides for a margin of error and brings the interior noise levels to the required 45 dBA Ldn. Option 3 meets the requirement and is recommended because it will bring most interior rooms to noise levels closer to 40 dB for the southern and western facades of both residential towers (identified in the analysis as the East and West Towers). The nature of the nearby train/METRO noise is very peaked and episodic. Therefore, staff supports Option 3 as it will better reduce the peak noise specifically associated with the railroad.

**FINDINGS:** For Site Plan Review

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The proposed development is consistent with the approved amended Project Plan (920040060 & 92004006A) in land use, density, and general layout.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the Central Business District 2 (CBD-2) zone as demonstrated in the project Data Table above. The height, density, and setbacks contained in the Zoning and approved Project Plan are largely retained with this Site Plan application.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a. Locations of buildings and structures

The proposed building provides an appropriate higher-density mixed residential use with ground-floor retail on an optimal site for accessibility to mass transit and neighborhood facilities. The design and layout of the building are compatible with the planned development of the Ripley District in terms of massing, detailing, and height. Both the use and the design elements of the architecture provide an adequate, safe, and efficient building on the subject site.

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- b. Open Spaces

The plan proposes over forty percent of the net lot area for public use on-site, including a pair of attractive plazas adjacent to Ripley Street and Dixon Avenue, and almost thirty-two percent of the net lot area for off-site streetscape improvements. Note that because the proposed dedications have increased from 10,319 to 20,719, the net lot area has decreased from 59,341 to 49,031. Thus as a percentage of the net lot area, the amount of on-site public use space has increased, even though the ground area has decreased. The Applicant will also construct the extension of Dixon Avenue between Ripley Street and Bonifant



Street. Each of these features contributes to a significantly improved pedestrian experience that is adequate, safe, and efficient.

c. Landscaping and Lighting

The proposed landscaping on the site consists of foundation plantings along the building frontage on Ripley Street, the entry courtyard, and two landscaped plaza/park areas, as well as streetscape improvements along the east side of the Ripley Street extension. The street trees will be installed per the Silver Spring CBD Streetscape Plan details. These trees and the plantings along the pedestrian and bicycle paths provide an adequate, safe, and efficient environment for residents and passers-by.

The lighting plan consists of Silver Spring streetscape-specified Washington Globe luminaires on Ripley Street and Dixon Avenue. Other on-site lighting will be full cut-off and will provide adequate, safe, and efficient site illumination.

d. Recreation Facilities

The plan is providing ample recreation facilities through a combination of on-site exterior seating areas and a private pool, interior fitness and recreation rooms, and an extensive community pedestrian network. Though the project provides ample recreation for older children, adults, and seniors, to meet the required recreation demand for younger children, the Applicant is taking partial credit, per the M-NCPPC Recreation Guidelines for off-site resources, including nearby Jessup Blair Park. The provided facilities are in conformance with the Guidelines and are adequate, safe, and efficient.

e. Pedestrian and Vehicular Circulation Systems

Sidewalks along Ripley Street and Dixon Avenue will be improved to conform to the Silver Spring CBD Streetscape Guidelines. These sidewalks will further integrate the development into the existing community and provide safe and efficient pedestrian access to the neighborhood circulation system and the Silver Spring Transit Center. The pedestrian environment, as a whole, is adequate, safe, and efficient.

4. *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development.*

The building is compatible with the other constructed, proposed, and planned high-rise mixed-use development in the Ripley District, including the Silver Spring Gateway project across the train tracks (143 feet), the proposed 1050 Ripley Street (200 feet), and the forthcoming Silver Spring Transit Center, in terms of massing, scale, detailing, and layout.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The Plan has an approved Forest Conservation Plan in accordance with Chapter 22A and has an approved Stormwater Management Concept.

## APPENDICES

- A. Planning Board opinion for Project Plan 920040060
- B. Planning Board opinion for Project Plan Amendment 92004006A
- C. Planning Board opinion for Preliminary Plan 120060540
- D. Agency Approvals







## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

## MONTGOMERY COUNTY PLANNING BOARD

## O P I N I O N

**DATE MAILED:** September 1, 2004**PROJECT PLAN REVIEW #:** 9-04006**PROJECT NAME:** Ripley Street

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*Action: Approval subject to conditions. Motion was made by Commissioner Robinson, seconded by Commissioner Wellington with a vote of 4-0, Commissioners Berlage, Robinson, Perdue and Wellington voting for and no Commissioners voting against. Commissioner Bryant was necessarily absent.*

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The date of this written opinion is September 1, 2004 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before October 1, 2004 (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, then this Project Plan shall remain valid until September 1, 2006 (24 months) provided the applicant has submitted a site plan application, within 18 months of the original validity period and with site plan approval received within 6 months, as provided in Section 59-D-2.7.

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On July 29, 2004 Project Plan Review #9-04006 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

*(a) As conditioned, the proposal complies with all of the intents and requirements of the zone.*

# PROJECT DATA TABLE CBD-2 ZONE

Required/Permitted		Provided
Current Site Area – Part of Lot 10, Lots 12, 14, 16, 18, 20, 22, 24, 26, and part of Lot 28		69,750 s.f.
Prior Dedications :		
Ripley Street		6,975 sf
Alley		<u>1,500 sf</u>
Total Prior Dedications		8,475 s.f.
Total Gross Tract Area (for FAR calculations)		78,225 s.f.
FAR	5 FAR	5 FAR
78,225 x 5 =	391,125 s.f.	391,125 s.f.
Proposed Dedications:		
Dixon Avenue		12,000 s.f.
Ripley Street		<u>10,319 s.f.</u>
Total Proposed Dedication		22,310 s.f.
Net Lot Area (total gross minus proposed dedications)		47,431 s.f.
Minimum on-site Public Use Space (20% of Net Lot Area)		
9,486 s.f.		
On Site Public Use/Amenity Space - 24.3%		11,524 s.f.
Off Site Public Public Use/Amenity Space - 27.8%		<u>13,171 s.f.</u>
Total on site and off site Pubic Use/ amenity Space - 52.1 %		24,695 s.f.
Dwelling Units	200/acre= 359 units	187/acre = 336 units
Non-Residential Space	234,675 s.f. maximum	5,946 s.f.
Maximum Building Height	143 ft.* - 200 ft. at Metro	190 ft.*

*12.5% MPDUs to be provided on site in accordance with Chapter 25A.*

\* The Planning Board may approve height over 143 feet to a maximum of 200 feet for an optional method project that is in a designated Revitalization Area and within 800 feet of an entrance to a Metro Station, if the additional height is consistent with the guidelines for the property in the Sector Plan, if the proposed development is compatible with the surrounding

development, and if the proposed development will provide additional public facilities and amenities beyond what would have otherwise been provided if additional height were not approved. The Project meets this criteria for eligibility because it is within 800 feet of the Silver Spring Metro Station and within the Silver Spring CBD Revitalization Area; the height is consistent with the guidelines for the Property to initiate redevelopment of the Ripley District with a mixed-use development near transit that will provide interconnectivity and public open spaces; the Project is compatible with the existing and potential surrounding development; and the Project will provide significant public facilities and amenities, approximately 52 percent of the site area, and on-site MPDUs that would not be economically feasible without the requested height.

### **Parking:**

Residential units – Final Unit Mix to be Determined at Site Plan

16 Studios @ 1.00 SP/DU	16 Spaces
170 One-Bedroom Units @ 1.25 SP/DU	213 Spaces
150 Two-Bedroom Units @ 1.50 SP/DU	225 Spaces
<u>Less MPDU Credit (1/2 spaces x 42 MPDUs - 16 studios/26 one-bedroom)</u>	<u>( 25 Spaces)</u>
Required Residential Unit Parking	429 Spaces

Non-Residential (Retail)

5,946 s.f. Retail @ 5 SP/1000	30 Spaces
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Total Required Parking	459 Spaces
Total Vehicle Spaces Provided	480 Spaces

Motorcycle Spaces Required - 2%, 10 Max.	10
Motorcycle Spaces Provided in Garage	10
Bicycle Spaces Required - 5%, 20 Max.	20
Bicycle Spaces Provided in Garage	20

Further, the CBD-2 purpose clause requires the following:

- A. To encourage development in accordance with an adopted and approved master or sector plan by permitting an increase in density, height and intensity where it is in conformity with the sector plan and the site plan is approved on review by the Planning Board.*

The project is in conformance with the Sector Plan goal to encourage flexibility for commercial, residential high-rise or mixed-use redevelopment that invites revitalization. Further, the new dedicated rights-of-way, the Dixon Avenue improvement, the streetscape treatments, the public open spaces and parks, all address the Sector Plan recommendation to facilitate a new inter-connected street system and to upgrade the physical environment.



- B. To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents.*

The project directly responds to the current market focus to provide high-rise residential development where the infrastructure, facilities and amenities already exist. The project will not only address the housing needs of the County, but it will also create new safe, efficient and attractive pedestrian and vehicular routes to the Silver Spring Metro Station and bus facility and provide amenity areas for the enjoyment of residents, employees and visitors of the Ripley District and Georgia Avenue corridor. The additional housing opportunities created by the project, including the affordable housing component, will compliment the other development occurring in the Silver Spring core and will help ensure that the downtown area will be vibrant beyond the workday.

- C. To encourage designs which produce a desirable relationship between the individual buildings in the CBD, between the buildings and the circulation system, and between the CBD and adjacent areas.*

The proposed design, scale, façade, park and streetscaping of the Project provide a desirable identity for the project and the precedent and beginning of the redeveloped Ripley District connecting the Metro, the CBD core and the other districts comprising downtown Silver Spring. The positioning of the buildings, location of the Urban Park and green spaces and attractive streetscape ensure a desirable relationship of the improvements and its surrounds. The provision of the new Dixon Avenue and the widening, enhancement and extension of Ripley Street with sidewalk improvements create the interconnected street system for improved vehicular and pedestrian circulation.

- D. To promote the effective use of transit facilities in the Central Business District and pedestrian access thereto.*

The project is accessible to the Silver Spring Metro station through the enhanced sidewalk and street system along Dixon Avenue and the extended Ripley Street that will connect in the future to the Silver Spring Transit Center as envisioned in the Sector Plan. The enhanced sidewalk connections will encourage transit use by providing a safer, more efficient, and attractive pedestrian corridor to access the Metro Station. Additionally, the project is near two stops on the route of the "Van Go" loop bus system (Bonifant Street and Georgia Avenue at Ripley Street) that circulates throughout the Silver Spring CBD to connect the Metro station, MARC station, the commercial and retail areas and parking facilities throughout the CBD.

- E. To promote improved pedestrian and vehicular circulation.*

The creation of and improvements to vehicular and sidewalk connections in the Ripley District will improve the interconnected street and circulation system and the improved access to transit. The sidewalk improvements and streetscaping will vastly improve the current pedestrian circulation, and the enhancements such as street trees, lighting and benches will similarly promote the use of the pedestrian systems. Vehicular access to the

underground parking garage on the Property for residents and visitors that do not utilize transit or one of the nearby public parking garages is provided off the new Dixon Avenue. The delivery and loading entrance on Ripley Street is separate from the residents entrance and is located to provide optimal service for the building and to avoid pedestrian and vehicular conflicts.

- F. To assist in the development of adequate residential areas for people with a range of different incomes.*

The moderately priced housing objective of Montgomery County is to provide MPDU units in the CBD's where high-rise developments are located and the transit options are available. The Applicant is committed to providing the MPDUs required by Chapter 25A on the property, provided the maximum residential density and the height proposed is achieved (making on-site MPDUs more economically feasible).

- G. To encourage land assembly and the most desirable use of land in accordance with the Sector Plan.*

The Sector Plan specifically intended to create an environment that invites land assembly and revitalization. Despite the Ripley District's central location and proximity to Metro, the only new development in the Ripley District over the past decade had been limited to a small social service center and new fire station under construction to the south. The Project represents consolidation of lots currently under two separate ownership entities and specifically and dramatically addresses the objective to provide for an inter-connected street system, public spaces, organization and a sense of place. Because of the necessary coordination with the future Transit Center development, the Project has already created the "jump start" for development in the Ripley District.

- H. In the CBD-2 zone it is further the intent to promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable environment.*

The development of the high-rise residential development meets the need for more housing options in the CBD and it will lessen traffic congestion by providing opportunities for people to live near where they work or near transit facilities. Residential development within the CBD will also strengthen the economic status and patronage of the local restaurants, retail and service uses already existing in the area, and will assist in the emergence of the downtown core as a vibrant urban center. The living opportunities provided will enhance the quality of the community environment with the proposed streetscapes, park area, and landscaping that is integral to the project and to the successful redevelopment of the Silver Spring CBD. The Applicant will also explore opportunities to integrate the project into the Arts and Entertainment District theme, perhaps by providing art studios or live/work areas for artists in addition to potentially providing an art component for the public park.

*I. In the CBD-2 Zone it is further the purpose:*

- (1) to provide a density and intensity of development which will permit an appropriate transition from the cores of central business districts to the less dense peripheral areas within, and adjacent to the district; and*

The property is located in the center of the CBD, approximately 800 feet from the Silver Spring Metro Station and future Transit Center and away from the periphery of the CBD boundary. This location demands that the full mixed-use CBD-2 optional method density be achieved as proposed with the project. The successful redevelopment of the Ripley District is an integral part of the success of the Silver Spring core, and the project will provide the impetus for other surrounding properties to redevelop and contribute to the success of the downtown.

- (2) to provide an incentive for the development to residential uses to meet the needs of those employed with the central business districts and those who will be able to use the district transit facilities to travel and from places of employment.*

The primarily residential nature of the project, with 336 units including 42 MPDUs, provides a convenient housing option for the employees of the CBD and for those utilizing the adjacent Metro, Marc, or bus transit facilities.

(b) *As conditioned, the proposal conforms to the approved and adopted Master or Sector Plan or Urban Renewal Plan approved under Chapter 56.*

Section 59-C-18.20 of the Zoning Ordinance states the purposes that the Ripley/South Silver Spring Overlay Zone is designed to accomplish. The following statements analyze how the proposed Project Plan conforms to these purposes:

- (1) *to facilitate the implementation of an organized and cohesive development pattern that is appropriate for an urban environment;*

The Project will address the objectives of the Sector Plan and the Overlay Zone to provide the planned interconnected streets, the circulation, organization and sense of place for this urban environment in the center of the CBD and adjacent to the future Transit Center.

- (2) *to encourage attractive design and ensure compatibility with existing buildings and uses within and adjacent to the overlay zone;*

The Project will provide significant park areas and new, widened and enhanced right-of-ways that create attractive and meaningful amenity space to be enjoyed by the public and the residents of the building. The enhanced right-of-way's also provide significant light and air within the Ripley District. The proposed building design creates an urban street edge, but is minimal in actual street frontage and it avoids creating a potential "canyon" appearance. The openness of the Dixon Avenue right-of-way and the Urban Park counterbalance building height and configuration. The integration of the Dixon Avenue right-of way into the adjacent parking garage creates a functional compatibility to be made attractive by the integration of art work.

- (3) *to provide flexibility of development standards to encourage innovative design solutions;*

The applicant is utilizing the flexibility of the development standards for the project, including the recently approved increased building heights for mixed use buildings next to Metro station entrances and F.A.R. incentives for mixed use projects.

- (4) *to allow for the transfer of the public use space requirement to other properties within the Overlay District; and*

The project is providing more than the required public use space on the Property therefore no transfer is necessary.

- (5) *to allow new uses.*

The project consists of uses permitted by right in the CBD-2 zone- residential and non-residential (commercial/retail) uses. The applicant intends to explore the concept (in conjunction with Site Plan reviews) and feasibility of live/work units

in an effort to promote new uses of the ground level space that can integrate with the remaining residential and non-residential uses of the Project.

- (c) *As conditioned, because of its location, size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood.*

All of the attributes of the proposed project are compatible with and beneficial to existing and proposed development. These include its location adjacent to the Silver Spring Metro Station and the underdeveloped Ripley Street, its height that creates full use of new zoning initiatives, the design of the building and the surrounding public spaces that create a new block face within an undefined area, and the operational characteristics that allow for service and residential uses to coincide without conflict and that create a new pedestrian and vehicular interconnection within the neighborhood

- (d) *As conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.*

#### Local Area Transportation Review

A traffic study was submitted to determine the impact of the proposed development on the local area transportation network. Five intersections were evaluated in the study area. The trips generated from the site were added to existing and background traffic (trips from approved but unbuilt developments in the area) to estimate the total future traffic. The total future traffic was assigned to the local roadway network and the affected intersections were analyzed for their level of performance. All five intersections in the area were determined to operate within the congestion standard of 1800 Critical Lane Volume (CLV) for the Silver Spring CBD.

The following table shows the results of the CLV analysis for intersections in the area.

INTERSECTIONS	Existing		Background		Total Future	
	AM	PM	AM	PM	AM	PM
Colesville Road and Wayne Ave/2 <sup>nd</sup> Ave.	976	835	986	854	995	858
Georgia Avenue and Wayne Avenue	1,172	1,159	1,180	1,281	1,214	1,304
Georgia Ave. and Bonifant St./Thayer Ave.	966	1,022	981	1,055	994	1,069
Georgia Ave. and Ripley Street	724	768	738	799	859	855
Georgia Avenue and Sligo Avenue	828	1,022	859	1,138	866	1,151



### Site Access and Circulation

The site will have one access to the underground garage from Dixon Avenue. The access will provide for safe and efficient movement of vehicular traffic. The single access point to the site minimizes the potential conflict between pedestrians and vehicular traffic. Due to the expected low traffic volume on Dixon Avenue, there is also minimum conflict between traffic entering and exiting the site and the traffic movement on Dixon Avenue.

The applicant has agreed to fund and construct the extension of Dixon Avenue from Ripley Street to Bonifant Street, including the Sector Plan retrofit of the County's Bonifant Street parking garage. This will create a business district street that was envisioned in the Sector Plan. The entire length of Dixon Lane will be provided with a 15-foot sidewalk on the east side and a 25-foot combined sidewalk/bikeway on the west side to accommodate pedestrian and vehicle traffic to and from the site. These improvements will provide a vital connection from the Ripley District to the Silver Spring CBD core.

### Pedestrian Impact Analysis

The traffic study evaluated the pedestrian activities in the area. Construction of wide sidewalks along Ripley Street and Dixon Avenue will enhance pedestrian safety and movements. There will be sidewalks to the Metro station. A well-designed pedestrian and bikeway system in the vicinity of the site connects to existing facilities throughout the CBD.

### Policy Area Review/Staging Ceiling Analysis

The site is located within the Silver Spring CBD Policy Area, which has a remaining capacity of 2,860 jobs, and 4,448 housing units as of June 30, 2004.

- (e) *The proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development.*

The utilization of the full 5 FAR density permitted for mixed-use optional method projects creates opportunities for a project that will provide a full allocation of Moderately Priced Dwelling Units, on a site that is within the CBD and adjacent to mass transit and employment opportunities. The development maximizes the density and also allows this applicant to implement the Dixon Avenue connection from Ripley Street to Bonifant Street that provides a community-wide benefit and effects a Sector Plan recommended circulation pattern. Also the 52.1% public on and off site open space improvements will create pedestrian spaces that will transform this block from an overlooked industrial area within of Silver Spring to a fully contributing portion of the new Silver Spring CBD.

- (f) *The proposal will include moderately priced dwelling units in accordance with Chapter 25A of this Code, if the requirements of that chapter apply.*

As mentioned above, the project will provide the full number of MPDUs as required and they will all be provided on site.

- (g) *When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from on lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings:*

- (1) The project will preserve an historic site, building, structure or area as shown on the Locational Atlas and Index of Historic Sites or the Master Plan for Historic Preservation; and/or*
- (2) The project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or*
- (3) The project will result in an overall land use configuration that is significantly superior to that which could otherwise be achieved.*

This section does not apply.

- (h) *As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A.*

This project will satisfy the applicable forest conservation requirements and they will be reviewed in conjunction with the Preliminary and Site Plan reviews.

- (i) *As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.*

This project will include the applicable water quality resources protection requirements and they will be reviewed in conjunction with the Preliminary and Site Plan reviews.

Therefore, the Montgomery County Planning Board **APPROVES** Project Plan # 9-04006, which proposes 336 dwelling units and 5,946 non-residential square feet on a net lot area of 47,431 square feet (78,225 gross lot), inclusive of 42 on-site MPDUs (final number to be determined at site plan) with the following conditions:

**1. PUBLIC ON AND OFF SITE AMENITY AND FACILITY AREAS**

The applicant will provide the following amenities that will be integrated in the Preliminary and Site Plan approvals:

**On-Site Amenities**

- **Silver Spring Streetscape** along all street frontages adjacent to the street level open space, to include paved walkways and plaza area with details to be developed with Site Plan
- **Urban Park** (approximately ¼ acre) to include artwork (as reviewed by the Montgomery County Arts Panel prior to site plan review), benches, plant material, special paving, lights, trash receptacles, etc.

**Off-Site Amenities**

- **Silver Spring Streetscape** (Type "B") along frontage of property adjacent to Ripley Street and both sides of Dixon Avenue inclusive of pavers, tree planters, light fixtures, benches and trash receptacles.
- **Continuation of streetscape along Ripley Street** right-of-way (absent road construction) to the walk that links to Bonifant, west of the property.
  - **Interim Pedestrian amenities**, west of the property that create a pedestrian link from the Ripley Street right-of-way to Bonifant Street
  - **Garage Façade Improvements on Dixon Avenue frontage**, to create an attractive façade as viewed from the Urban Park and Ripley Street District (subject to DPWT review).

Although not considered a public use space because it is a vehicular improvement, the applicant will provide:

- Dixon Avenue pedestrian and vehicular connection through the Parking Garage #5 from Ripley Street to link to Bonifant Street. The connection will include full improvements required to make the cut through the existing parking garage, reconfiguration of the parking garage and the development of a public street link through the garage to Bonifant Street. All details of construction subject to MCDPWT review and approval.

## 2. TRANSPORTATION IMPROVEMENTS

Preliminary Plan review to include the following:

- a. Limit development to 345 high-rise dwelling units and 6,000 square feet of retail use.
- b. Dedicate additional street right-of-way as required to create an 70 feet of right-of-way for Ripley Street as recommended in the Silver Spring Central Business District (CBD) Sector Plan. Construct the street improvements on the north side of Ripley Street equal to 35 feet measured from the centerline of the street at the time of Preliminary Plan review. Construct a 15-foot sidewalk on the north side of Ripley Street.
- c. Applicant to maintain coordination with the progress of the design of the Silver Spring Transit Center and Dixon Avenue connection through Parking Garage #5 to assure adequate street grades for the function of each property.
- d. Dedicate 80-foot right-of-way for Dixon Avenue per Silver Spring Central Business District (CBD) Sector Plan. Construct Dixon Avenue with a 40-foot roadway with a 15-foot sidewalk on the east side and a 25-foot combined sidewalk and bike path on the west side between Ripley Street and Bonifant Street (including the section through the parking garage), in coordination with the Department of Public Works and Transportation (DPWT).
- e. Construct Dixon Avenue from Bonifant Street to Ripley Street including the retrofit of Parking Garage #5 on Bonifant Street as envisioned in the Sector Plan. Refer to DPWT July 7, 2004 letter for detail. Phasing to provide for the completion the subterranean parking garage (under Dixon Avenue for the use of this project) prior to occupancy of the Ripley Street project and the completion of Dixon Avenue improvements prior to full occupancy of the project. Future Preliminary Plan grading studies to coordinate with the Bonifant street grades and the Ripley Street project as presented conceptually, to date, by the applicant.
- f. Coordinate with the Montgomery County Department of Public Works and Transportation (DPWT) during the Phase I Facility Planning for the Ripley District regarding the street and bikeway design for Ripley Street and Dixon Avenue. Construct the retrofit of the County's Bonifant Street parking garage as envisioned in the master plan when constructing the extension of Dixon Avenue through the county garage. (Refer to DPWT July 7, 2004 letter for detail.)
- g. Applicant to apply for a waiver of the truncation requirements per Chapter 50-26 (e) (3) of the lot line at the intersection of Dixon and Ripley Streets for approval with the Preliminary Plan review. This will allow the building to fully occupy the corner of the lot.

**3. MAINTENANCE**

- a. Enter into an agreement with the Silver Spring Urban District for maintenance of all or some of the streetscape improvements.

**4. FUTURE SITE PLAN ISSUES**

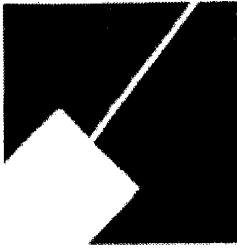
Prior to site plan submittal, the applicant shall include the consideration of the following issues:

- a. Applicant to prepare an exhibit that will illustrate the agreed upon responsibility of each party in the street improvements of Ripley Street and Dixon Avenue, the Transit Center and the Bi-County Transit Way project. This exhibit shall be used as a point of reference for the ongoing coordination of all the projects as each project moves forward with their development schemes.
- b. The art component for the public open spaces shall be a fully resolved concept reviewed by the Montgomery County Art Panel.
- c. The Applicant shall develop, per MCDPWT approvals, façade improvements and lighting plan for the façade and rooftop of the adjacent Parking Garage #5, so to minimize off site impact on this proposed project.

GAPP OPINION 9-04006.doc





Date of Mailing: SEP 27 2006**MONTGOMERY COUNTY PLANNING BOARD  
OPINION**

Project Plan No.: 92004006A  
Project: Midtown Silver Spring  
Date of Hearing: March 30, 2006

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**Action: APPROVAL SUBJECT TO CONDITIONS.** *(Motion to approve was made by Commissioner Bryant; duly seconded by Commissioner Robinson; with a vote of 5-0, Commissioners Berlage, Perdue, Bryant, Wellington, and Robinson voting in favor.)*

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The date of this written opinion is SEP 27 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

Consistent with Montgomery County Code § 59-D-2.7, Project Plan No. 9-04007 will remain valid for 24 months from the Initiation Date (30 days after the mailing of the written opinion or at the conclusion of an administrative appeal, including the running of any further applicable appeal periods) provided that a complete site plan application is filed within 18 months of the Initiation Date.

**I. INTRODUCTION**

On November 8, 2005, Ripley Street, LLC c/o KSI ("Applicant") submitted an application for the approval of an amendment to Project Plan No. 9-04006, Ripley Street ("Amendment" or "Application"). The Amendment proposed 391,125 gross square feet of development under the optional method of development on one (1) lot consisting of 1.8 gross acres of CBD-2-zoned land located in the Silver Spring Central Business District. The Amendment was designated Plan No. 92004006A, Midtown Silver Spring. On March 30, 2006, the Amendment was brought before the Montgomery County Planning Board ("Planning Board" or "Board") for a public hearing ("Hearing"). At the Hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

## A. BACKGROUND

Project Plan No. 9-04006 was approved September 1, 2004. The proposed development is zoned CBD-2 (Central Business District-2). The Property is currently identified as part of Lots 10, 12, 14, 16, 18, 20, 24, 26 and Part of 28 as shown on tax map JN33 in the Silver Spring Central Business District, Plat Book 3, Plat 220, recorded August 31, 1921.

## B. THE SUBJECT PROPERTY

The subject property is located directly on Ripley Street, approximately 500 feet west of the intersection with Georgia Avenue ("Property" or "Subject Property"). The rectangular site abuts Montgomery County Public Parking Garage #5, a 7-story parking garage, to the north and is bordered by automotive repair shops on the south side of Ripley Street. The Metro Station is located approximately 800 feet to the northwest with connections to Colesville Road and Wayne Avenue.

Georgia Avenue is a 6-lane major divided highway that provides access to the District of Columbia to the south and regional highways in Montgomery County to the north. Just to the north of the site on Wayne Avenue is the Discovery building, to the west on East-West Highway is the National Oceanographic and Atmospheric Administration and directly to the east is Pyramid Atlantic.

The Property is currently identified as part of Lots 10, 12, 14, 16, 18, 20, 24, 26 and Part of 28 as shown on tax map JN33 in the Silver Spring Central Business District and is zoned CBD-2. The lots are improved with automobile repair buildings and asphalt surface parking lots. The northeast portion of the site is approximately 12 feet higher than the southwest corner (over a distance of approximately 500 feet).

The Property is located north of existing Ripley Street, west of a public alley connecting Bonifant Street and Ripley Street (one block west of Georgia Avenue), east of the Silver Spring Metro Station and south of a Montgomery County Public Parking Garage on Bonifant Street and a 2-story office building on 1110 Bonifant Street. The WMATA and MARC train tracks and the future BCT and Metropolitan Branch Trail are located to the southwest of the Property immediately adjacent to the proposed extension of Ripley Street and the proposed Transit Center (per the Sector Plan). The Sector Plan recommends that Dixon Avenue bifurcate the Property, connecting Bonifant Street to Ripley Street (a knock-out panel designed into the garage allows access through the parking garage) and beyond to Silver Spring Avenue.

Ripley Street is unimproved to current MCDPWT cross-section standards and new development will improve their respective frontages to current standards utilizing the Silver Spring Streetscape

Technical Manual. Development along Ripley Street includes auto body shops, shoe repair facilities and other similar industrial type uses. The Subject Property is an undeveloped lot with a few old buildings to the western edge.

### C. PROPOSED DEVELOPMENT

The proposed optional method Project will consist of an approximately 391,125 square foot, 20-story, 200 foot, "U" shaped residential building with two towers containing 317 dwelling units, approximately 5,380 square feet of ground floor retail or other street-animating uses, 369 parking spaces (in an underground parking structure) and extensive public facilities and amenities, including an urban park and street-oriented open spaces.

The exact nature of the ownership and unit mix of the dwelling units will be determined at site plan, and, pursuant to Chapter 25A of the Montgomery County Code, the Applicant will provide Moderately Priced Dwelling Units ("MPDUs") amounting to 12.5% of the number of proposed and constructed units. The proposal will utilize the additional building height allowed by Zoning Text Amendment 04-1, which allows buildings within 800 feet of Metro station entrances to increase building height to 200 feet.

The amenities and facilities proposed for the site's Public Use Space include:

#### On-Site Public Use Space

- Silver Spring Streetscape (Type "B") along the street level open space, to include paved walkways and plaza area with details to be developed with Site Plan
- Urban Park (approximately ¼ acre) to include artwork (as reviewed by the Montgomery County Arts Panel prior to site plan review), benches, plant material, special paving, lights, trash receptacles, etc.

#### Off-Site Amenities

- Silver Spring Streetscape (Type B) along all street frontages of property adjacent to Ripley Street and both sides of Dixon Avenue inclusive of pavers, tree planters, light fixtures, benches and trash receptacles.

Although not considered a public use space because it is a vehicular improvement, the applicant will provide:

- Dixon Avenue pedestrian and vehicular connection through the Parking Garage #5 from Ripley Street to link to Bonifant Street. The connection will include full improvements required to make the cut through the existing parking garage,

reconfiguration of the parking garage and the development of a public street link through the garage to Bonifant Street. All details of construction subject to MCDPWT review and approval.

The Application is approved for 391,125 gross square feet of development, including 5,380 gross square feet of retail or other street-animating use space on the ground floor, 369 parking spaces in an underground parking structure and public facilities and amenities including an urban park and open spaces. The Application is in the CBD-2 Zone and proposes to take advantage of the full development potential available for the optional method of development.

#### Building Design

The proposed building directly abuts the Montgomery County Public Parking Garage #5 to the north and is approximately 260 feet wide by 126.25 feet deep. The Midtown Silver Spring high-rise residential development is comprised of two distinct tower elements linked by an eight-story single loaded component, which masks the garage to the north. The structure is proposed for a maximum height of 200 feet as measured from the intersection of the northeast property line and the western curb line on Dixon Avenue as per the Building Height and Setback Establishment Plan. The front of the building facing Ripley Street will contain ground floor retail (or other street animating uses) and a lobby. The building contains 3 levels of parking, all below grade. There will be one common parking garage entrance to the development located on the east side of the main entry drive. The building was placed as far from Ripley Street as possible in order to avoid creating an urban valley and to also provide visibility and accessibility to the ground floor street animating use space.

#### Public Use Space and Amenities

The Applicant is providing a total of 23,300 square feet of on-site public use space and 10,200 square feet of off-site public use space for a total of 56.4% of the site devoted to public use. The total public use space provided is based on the net lot area of the site. The on-site public use space consists of two separate areas located on the eastern and western sides of the proposed building. Area 1 is an at-grade urban pocket park located on the eastern end of the property bordering Dixon Avenue. The park is comprised of specialty paving, accent planting and lighting, seating and the public art component. The public art will incorporate a glass sculptural element located toward the southern end of the urban park as a focal point for residents, pedestrians and nearby tenants. Area 2 is located on the western side of the property and is comprised of specialty paving, seating, lawn area and plantings.

Off-site improvements include streetscape improvements along the Ripley Street frontage and improvements along Dixon Avenue interior to the Public Parking Garage #5. Off-site



improvements are comprised of pavers, streetlights and street trees in conformance with the Silver Spring Streetscape Standards. The total off-site improvements equate to 10,200 square feet or 17.2 percent of the net lot area.

#### Pedestrian and vehicular access

The main entryway from Ripley Street provides vehicle ingress and egress to the 3-level, below grade parking garage for residents and non-resident visitors of the retail space. The garage accommodates a total of 369 parking spaces for the residents and non-residential customers, in accordance with the Montgomery County Zoning Ordinance for parking. The residential space is being parked at a rate varying from 1 space per unit to 1.5 spaces per unit depending on the type of unit. The retail or other street-animating use requirement is being parked at a rate of 5 spaces per 1,000 gross square feet of retail space. The Applicant is taking advantage of a 15 percent parking credit offered for retail development in proximity to the Metro Station. Loading dock access is provided on the east side of the property directly off of Dixon Avenue.

Pedestrian access is improved along the frontage of the property with the Silver Spring streetscape and expansion of the pedestrian experience in front of the ground floor street animating use space. A 15-foot-wide pedestrian walkway under the canopy of the proposed building connects the public use space on the eastern edge of the property, adjacent to Dixon Avenue to Bonifant Street and the Metro Station beyond. The existing masonry wall will be removed by the Applicant to ensure pedestrian access to the parking garage and for a north and south connection along Dixon Avenue (extended)

## **II. SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD**

During the public hearing, the Planning Board's expert technical staff ("Staff") recommended approval of the Amendment in accordance with the analysis and recommendation set forth in its revised staff report to the Planning Board, which is dated March 17, 2006 but was submitted to the Board at the Hearing ("Revised Staff Report") and contains redlined edits to the original staff report. Using GIS maps, powerpoint, aerial photographs, and oblique angle aerial photography, along with rendered analytical plans, Staff described the Amendment, including a review of development data and zoning conformance, prior approvals, existing site conditions, surrounding development and road alignments. Staff testified that the proposed site plan is consistent with the findings in the staff report and the prior project plan. Staff explained that the original staff report contained errors, which were noticed after the report was posted on the Commission website and described those revisions, contained in the Revised Staff Report, to the Planning Board.

The Applicant appeared at the Hearing represented by counsel and generally testified that it supported the Staff recommendation. The Applicant did, however, submit into

the record a handout containing requested revisions to the recommended conditions of approval, which revisions the Applicant described to the Board, among other things.

### III. FINDINGS

Section 59-D-2.42 of the Zoning Ordinance sets forth the findings that the Planning Board must make in its review of a project plan application. Having given full consideration to the recommendations and findings of its Staff (including those contained in the Revised Staff Report, which the Board hereby adopts and incorporates by reference, the testimony and evidence presented and contained in the record of the application, the Montgomery County Planning Board makes the following findings, having considered, among other things, those factors listed in Code § 59-D-2.43:

**(a) *As conditioned, the proposal complies with all of the intents and requirements of the zone.***

A. Intents of the Zones

a. CBD-2 Zone

Section 59-C-6.212 of the Montgomery County Zoning Ordinance states the purposes that the CBD zones are designed to accomplish. The following discussion demonstrates how the proposed Project Plan conforms to these purposes and provides the basis for the Board's finding that, as conditioned, the proposal complies with all of the intents and requirements of the zone:

- (1) *"to encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal project plan is approved on review by the Planning Board."*

The project is in conformance with the Sector Plan goal to encourage flexibility for commercial, residential high-rise or mixed-use redevelopment that invites revitalization. Further, the new dedicated rights-of-way, the Dixon Avenue improvement, the streetscape treatments, the public open spaces and parks, all address the Sector Plan recommendation to facilitate a new inter-connected street system and to upgrade the physical environment.

The Project Plan proposes to use the optional method of development and is in conformance with the Silver Spring Central Business District and Vicinity Sector

Plan. The proposed development is a high-rise multi-family development with ground floor retail. High-density residential and retail uses are permitted in the CBD-2 Zone.

The building will be a maximum of 200 feet in height (20 floors), which is in conformance with the Montgomery County Zoning Ordinance under the Optional Method of development. The project is proposing 391,125 square feet of development, including 5,380 square feet of ground floor retail. The proposal reflects the maximum residential floor area ratio (FAR) of 5.0.

The Project Plan will accomplish important Sector Plan objectives by upgrading the physical environment and providing a pedestrian environment with local retail opportunities. The proposal improves the area by replacing an underutilized surface parking lot with a modern mixed-use residential high-rise building.

- (2) *"permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents."*

The project is in conformance with the Sector Plan goal to encourage flexibility for commercial, residential high-rise or mixed-use redevelopment that invites revitalization. Further, the new dedicated rights-of-way, the Dixon Avenue improvement, the streetscape treatments, the public open spaces and parks, all address the Sector Plan recommendation to facilitate a new inter-connected street system and to upgrade the physical environment.

The Application responds to the need for employment opportunities and retail services in Silver Spring and addresses the need for smart growth policies where infrastructure, community facilities and elements of an urban district already exist. The Sector Plan encourages commercial development and retail as an important component to the revitalization efforts in Silver Spring.

Under the optional method, this project encourages the development of active urban streets by providing public spaces along street edges and improves the quality of the pedestrian environment within the improved streetscapes. The improved streetscape, along with the amenities, addresses the need for public interaction and enhances the downtown Silver Spring area. The project supports the economic base in downtown Silver Spring and adds an economic infrastructure for commercial and retail businesses near the core area.

- (3) *"To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas."*

The proposed design, scale, façade, park and streetscaping of the Project provide a desirable identity for the project and the precedent and beginning of the redeveloped Ripley District connecting the Metro, the CBD core and the other districts comprising downtown Silver Spring. The positioning of the buildings, location of the Urban Park and green spaces and attractive streetscape ensure a desirable relationship of the improvements and its surrounds. The provision of the new Dixon Avenue and the widening, enhancement and extension of Ripley Street with sidewalk improvements create the interconnected street system for improved vehicular and pedestrian circulation.

The design creates an effective relationship with adjacent uses and amenities and allows for a more interactive pedestrian and vehicular pattern.

- (4) *"To promote the effective use of transit facilities in the central business district and pedestrian access thereto."*

The project is accessible to the Silver Spring Metro station through the enhanced sidewalk and street system along the extended Dixon Avenue and the extended Ripley Street that will connect in the future to the Silver Spring Transit Center as envisioned in the Sector Plan. The enhanced sidewalk connections will encourage transit use by providing a safer, more efficient, and attractive pedestrian corridor to access the Metro Station. Additionally, the project is near two stops on the route of the "Van Go" loop bus system (Bonifant Street and Georgia Avenue at Ripley Street) that circulates throughout the Silver Spring CBD to connect the Metro station, MARC station, the commercial and retail areas and parking facilities throughout the CBD.

The proposed development is located within approximately 800 feet of the Silver Spring Metro Station. The proximity to transit facilities, as well as the downtown employment core, will reduce the dependency on vehicles for the retail and office patrons. The streetscape improvements along Ripley Street and Dixon Street facilitate the desire for pedestrian connectivity to the metro station and the areas of development within Silver Spring, and provide the vital connections to Georgia Avenue and Colesville Road.

The Applicant will also enter into a traffic mitigation agreement (TMA) with the Planning Board to help Montgomery County achieve the non-driver commuting

goal for development in the Silver Spring CBD. A draft agreement has been submitted for review by our transportation planning staff and will be finalized during the record plat phase.

(5) *"To improve pedestrian and vehicular circulation."*

The improvements to vehicular and sidewalk connections in the Ripley District will improve the interconnected street and circulation system and access to transit. The sidewalk improvements and streetscaping will vastly enhance the current pedestrian circulation, and the enhancements such as street trees, lighting and benches will similarly promote the use of the pedestrian systems. Vehicular access to the underground parking garage on the Property for residents and visitors who do not utilize transit or one of the nearby public parking garages is provided off the new Dixon Avenue. The delivery and loading entrance on Ripley Street is separate from the resident's entrance and is located to provide optimal service for the building and to avoid pedestrian and vehicular conflicts.

This project plan encourages the development of active urban streets and improves the quality of the pedestrian environment by providing the enhancement to the streetscape as prescribed in the Silver Spring Streetscape Plan (April 1992) Technical Manual, as amended.

Vehicular circulation is enhanced with improved right-of-way along the north side of Ripley Street, directly along the frontage of the subject property and the 80-foot Public Use Easement dedication along Dixon Avenue extended. The half-width dedication achieves a total right-of-way of 70 feet on Ripley Street and will ensure complete accommodation of the optional method streetscape treatment on the applicant's side of each street.

The entrance to the site is located off Ripley Street in the middle of the site. The driveway is 24-feet-wide to accommodate two-way vehicular circulation to the main entry and the structured parking facility. The driveway also provides ingress and egress to the 3-level, below grade parking structure for tenants and visitors of the retail space. The garage accommodates the total amount of required parking spaces for the housing and retail, in accordance with the Montgomery County Zoning Ordinance for parking. Signs indicating traffic circulation in and out of the garage will be provided to promote safety for pedestrian activity in the public use space.

The streetscape improvements along Ripley Street and Dixon Avenue (extended) facilitate the desire for pedestrian connectivity to the nearby businesses, the adjacent parking garage and metro station to the southwest.



The streetscape improvements are being expanded along the north side of Ripley Street and both sides of Dixon Avenue from Ripley Street to Bonifant Street.

- (6) *"To assist in the development of adequate residential areas for people with a range of different incomes."*

The moderately priced housing objective of Montgomery County is to provide MPDU units in the CBDs where high-rise developments are located and the transit options are available. As conditioned, the Applicant is required to provide the 12.5% MPDUs required by Chapter 25A, provided the maximum residential density and the height proposed is achieved.

- (7) *"To encourage land assembly and most desirable use of land in accordance with a sector plan."*

The Sector Plan specifically intended to create an environment that invites land assembly and revitalization. Despite the Ripley District's central location and proximity to Metro, the only new development in the Ripley District over the past decade had been limited to a small social service center and new fire station under construction to the south. The Project represents consolidation of lots currently under two separate ownership entities and specifically and dramatically addresses the objective to provide for an inter-connected street system, public spaces, organization and a sense of place. Because of the necessary coordination with the future Transit Center development, the Project has already created the "jump start" for development in the Ripley District.

The project plan, in conjunction with the preliminary plan will consolidate nine small lots into one lot for a combined high-rise development to achieve full density potential in the CBD.

The project plan responds to the balance for employment and retail activities in downtown Silver Spring and addresses the need for smart growth policies where infrastructure, community facilities and elements of an urban district already exist. The Sector Plan encourages employment as an important component to the revitalization efforts for downtown Silver Spring and recommends a zone where retail uses are permitted.

- (8) *"In the CBD-2 zone it is further the intent to promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable environment."*

The development of the high-rise residential development meets the need for more housing options in the CBD and it will lessen traffic congestion by providing opportunities for people to live near where they work or near transit facilities. Residential development within the CBD will also strengthen the economic status and patronage of the local restaurants, retail and service uses already existing in the area, and will assist in the emergence of the downtown core as a vibrant urban center. The living opportunities provided will enhance the quality of the community environment with the proposed streetscapes, park area, and landscaping that is integral to the project and to the successful redevelopment of the Silver Spring CBD. The Applicant will also explore opportunities to integrate the project into the Arts and Entertainment District theme, perhaps by providing art studios or live/work areas for artists in addition to potentially providing an art component for the public park.

*(9) In the CBD-2 Zone it is further the purpose:*

- a. to provide a density and intensity of development which will permit an appropriate transition from the cores of central business districts to the less dense peripheral areas within and adjacent to the districts;*

The Property is located in the center of the CBD, approximately 800 feet from the Silver Spring Metro Station and future Transit Center and away from the periphery of the CBD boundary. This location demands that the full mixed-use CBD-2 optional method density be achieved as proposed with the project. The successful redevelopment of the Ripley District is an integral part of the success of the Silver Spring core, and the project will provide the impetus for other surrounding properties to redevelop and contribute to the success of the downtown.

- b. to provide an incentive for the development of residential uses to meet the needs of those employed with the central business districts and those who will be able to use the district transit facilities to travel and from places of employment.*

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The primarily residential nature of the project, with 317 units including 40 MPDUs, provides a convenient housing option for the employees of the CBD and for those utilizing the adjacent Metro, Marc, or bus transit facilities.

b. Ripley/South Silver Spring Overlay Zone

Section 59-C-18.201 of the Montgomery County Zoning Ordinance lists the purposes that the Ripley/South Silver Spring Overlay Zone is designed to accomplish. The following discussion demonstrates how the proposed Project Plan

conforms to these purposes and provides the basis for the Board's finding that, as conditioned, the proposal complies with all of the intents and requirements of the overlay zone:

1. *to facilitate the implementation of an organized and cohesive development pattern that is appropriate for an urban environment;*

The Project will address the objectives of the Sector Plan and the Overlay Zone to provide the planned interconnected streets, the circulation, organization and sense of place for this urban environment in the center of the CBD and adjacent to the future Transit Center.

2. *to encourage attractive design and ensure compatibility with existing buildings and uses within and adjacent to the overlay zone;*

The Project will provide significant park areas and new, widened and enhanced right-of-ways that create attractive and meaningful amenity space to be enjoyed by the public and the residents of the building. The enhanced right-of-ways also provide significant light and air within the Ripley District. The proposed building design creates an urban street edge which is minimal in actual street frontage and avoids creating a potential "canyon" appearance. The openness of the Dixon Avenue right-of-way and the Urban Park counterbalance building height and configuration. The integration of the Dixon Avenue right-of-way into the adjacent parking garage creates a functional compatibility to be made attractive by the integration of art work.

3. *to provide flexibility of development standards to encourage innovative design solutions;*

The Applicant is utilizing the flexibility of the development standards for the project, including the recently approved increased building heights for mixed use buildings next to Metro station entrances and F.A.R. incentives for mixed use projects.

4. *to allow for the transfer of the public use space requirement to other properties within the Overlay District;*

The project is providing more than the required public use space on the Property therefore, no transfer is necessary.

- (5) *to allow new uses.*

The project consists of uses permitted by right in the CBD-2 Zone (residential and non-residential (commercial/retail) uses.

**B. Requirements of the CBD-2 Zone**

In the Revised Staff Report, Staff presented a data table, which listed the Zoning Ordinance development standards requirements, the standards approved by the underlying Project Plan approval, the standards proposed for approval, and the resultant difference in the standards. The Board finds, based on the aforementioned data table, and other uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-2 Zone. The following table sets forth the development standards approved by the Board.

**APPROVED DEVELOPMENT STANDARDS**  
**(CBD-2 Zone - Optional Method Of Development)**

		<b>Development Standards previously approved by the Planning Board (through the July 29, 2004 Approved Project Plan 920040060)</b>	<b>Development Standards Approved by the Planning Board (in the instant Amendment) and Binding on the Applicant</b>	
<b>Gross Tract Area (For Density Purposes):</b>				
Lot Area (SF)		69,750	69,750	
Add Prior Dedication (Ripley St. + Alley)		8,475	8,475	
Gross Tract Area=		78,225	78,225	
<b>Net Lot Area (SF):</b>				
Gross Tract Area (SF)		78,225	78,225	
Less Prior Dedications (Ripley St. + Alley)		8,475	8,475	
Less New Street Dedication (Ripley St.)		10,319	10,319	
Less New Street Dedication (Dixon Ave.)		12,000	0	
Net Lot Area (SF)=		47,431	59,431	
<b>Maximum Density Calculation:</b>				
Floor Area Ratio (FAR)=		5.0	5.0	

		Development Standards previously approved by the Planning Board (through the July 29, 2004 Approved Project Plan 920040060)	Development Standards Approved by the Planning Board (in the instant Amendment) and Binding on the Applicant	
<b>Gross Floor Area (GFA):</b>				
Residential GFA (FAR)		385,179 SF (4.92 FAR)	385,767 SF (4.93 FAR)	
Non-Residential GFA (FAR)		5,946 SF (0.08 FAR)	5,358 SF (0.07 FAR)	
Total Development GFA=		391,125 SF (5.0 FAR)	391,125 SF (5.0 FAR)	
<b>Number of Dwelling Units (DU):</b>				
Market Rate DU		294	277	
Moderately Priced (MPDU) (12.5%)		42	40*	
Total Number of Dwelling Units=		336	317	
<b>Maximum Building Height (FT):</b>		190	200**	
<b>Number of Floors:</b>		Not Specified	20	
<b>Minimum Building Setbacks (FT):</b>				
Front South (Ripley St.)		Not Specified	0	
East Side (Dixon Ave.)		Not Specified	0	
West Side (Metro Rail/Ripley St.)		Not Specified	59	
Rear North (Garage #5)		Not Specified	0	
<b>Parking:</b>				
<b>Residential Uses:</b>				
Studio Units		16 @1.0 Space/Unit=16	22 @1.0 Space/Unit=22	
One Bedroom Units		170 @1.25 Spaces/Unit=213	127 @1.25 Spaces/Unit=159	
Two Bedroom Units		150 @1.50 Spaces/Unit=225	168 @1.50 Spaces/Unit=252	
Sub-Total Residential Spaces		454	433	

		<b>Development Standards previously approved by the Planning Board (through the July 29, 2004 Approved Project Plan 920040060)</b>	<b>Development Standards Approved by the Planning Board (in the instant Amendment) and Binding on the Applicant</b>	
Non-Residential Spaces:				
Retail		5,946 @5 Spaces/1,000 GSF	5,358 @5 Space/1,000 GSF	
Sub-Total Non-Residential Spaces		30	27	
Sub-Total Required Parking Spaces:		484	460	
Less MPRU Credit		27	27	
Less CBD/Metro Credit (Commercial)		Not Specified	64	
Total Parking Spaces		457	369*	
<b>Public Use Space:</b>				
Minimum On-Site (% of Net Lot Area)		24.3%	39.2%	
Area (SF)		11,524	23,300	
Off-Site Public Use Space		27.8%	17.2%	
Area (SF)		13,171	10,200	
<b>Total On &amp; Off-Site Public Use Space:</b>				
Percent of Net Lot Area		52.1%	56.4%	
Area (SF)		24,695	33,500	

\* Exact number to be determined at Site Plan.

\*\* Measuring point located on the western side of Dixon Avenue at the intersection of curb line with north property line, as shown on the plans stamped by MNCPPC staff on February 23, 2006.

The Board finds that the implementation of the below-listed amenities and facilities will serve to accomplish, among other goals, the express purpose of the CBD-2 Zone to foster and promote the orderly development of the Central Business Districts:

## **Amenities and Facilities Summary**

### **On-Site Improvements**

#### Dixon Avenue

- Install streetscape improvements along both sides of Dixon Avenue to include specialty brick pavers, Class 1 bike path, lighting and street trees from Ripley Street to existing parking garage conforming to Type B streetscape treatments as specified in Silver Spring Streetscape Plan Technical Manual (1992).
- Install specialty brick pavers and Class 1 bike path through existing parking garage to Bonifant Street conforming to Type B streetscape treatments as specified in Silver Spring Streetscape Plan Technical Manual (1992).

#### Public Plaza

- Public plaza along east side of the site to incorporate paving and landscaping to complement streetscape improvements.
- Provide public access to the public plaza from Dixon Avenue and Ripley Street.
- Public Art element to highlight public's interest of the revitalization efforts of downtown Silver Spring.
- Specialty lighting in the plaza to emphasize the art elements, accentuate and visually activate the park at night, and provide security for patrons of the space.
- Landscape beds and planters with irrigation and plant material to correspond to overall theme.

#### Public Use Space

- Public use space located along west side of the site to incorporate specialty paving and landscaping to complement streetscape improvements.
- Specialty lighting to accentuate and visually activate the Public Use Space at night and provide security for patrons of the space.

Existing overhead utilities shall be installed underground consistent with the Silver Spring Master Plan.



Make available a space for public outdoor interaction and activities in all public use areas.

Make available a space for entertainment, as needed in conjunction with the Silver Spring Urban District (SSUD), and accommodations for outdoor entertainment in public use area.

### **Off-Site Improvements**

#### **Ripley Street Right-of-Way**

- Install streetscape (Type B) on the north side of Ripley Street along the entire property frontage to be expanded to include street trees, brick pavers and Street Lights (Washington Globe) consistent with Silver Spring Streetscape Plan Technical Manual.
- Granite sets within the tree pits as specified in the Silver Spring Streetscape Plan Technical Manual.
- Brick driveway aprons to be flush with pedestrian circulation.
- Existing overhead utilities and street level meters to be installed underground consistent with the Silver Spring Master Plan.

- (b) **As conditioned, the proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.**

The Silver Spring Central Business District and Vicinity Sector Plan, approved by the County Council on February 1, 2000, outlines six themes which articulate the shared goals and vision for a revitalized Silver Spring. Four of these themes (i.e. a residential downtown; a green downtown; a transit-oriented downtown; and a pedestrian-friendly downtown) apply to this proposed project. The Sector Plan does not specifically identify the proposed project site as a potential housing site. However, the Sector Plan does encourage housing and retail as an important component of the revitalization efforts.

~~The proposed project is being developed under the optional method of development and proposes a new public open space. The project encourages the development of active urban streets by providing street-facing building entrances and easily accessible and highly visible public spaces as activity generators. This proposal will improve the quality of the pedestrian environment by providing the Silver Spring streetscape treatment required for optional method projects. The proposed development is located within 800 feet of the Silver Spring Metro Station. The proximity to transit facilities and to the downtown employment core will reduce the dependency on the automobile for the residents of the development.~~

- A. Sector Plan Bikeways: The Sector Plan recommends a Class 1 bikeway (off-road) for Dixon Avenue. Staff recommends that at the time of Preliminary Plan review, the applicant provide a Class 1 bikeway on the West side of Dixon Avenue from Ripley Street through Public Garage #5 to Bonifant Street.
- B. Sector Plan Street Rights-of-Way: The Sector Plan recommends the street right-of-way for Ripley Street as 70 feet. As a part of Preliminary Plan approval for the proposed development, Applicant shall dedicate additional street right-of-way and construct the street improvements on the north side of Ripley Street equal to 35 feet measured from the centerline of the existing street. The Sector Plan also illustrates a conceptual alignment of Ripley Street connecting to Bonifant Street through a portion of the future Transit Center project. The Ripley Street to Bonifant Street connection will provide additional street connectivity from the CBD core to the Ripley District.

The Sector Plan recommends an 80-foot street right-of-way for Dixon Avenue from Wayne Avenue to Silver Spring Avenue. Dixon Avenue will provide additional street connectivity from the CBD core into the Ripley District. The public parking (Garage #5) located to the north of the proposed development is designed to allow for the extension of Dixon Avenue. As a part of Preliminary Plan approval for the proposed development, Applicant shall provide an 80-foot right-of-way easement for public use along Dixon Avenue, as per the Silver Spring CBD Sector Plan. Applicant shall also construct certain street improvements for Dixon Avenue, as conditioned below.

- C. Streetscape: The Applicant proposes to improve Ripley Street and Dixon Avenue using the Plan B treatment recommended in the *Silver Spring Streetscape* (April 1992) technical manual. The staff recommends that the applicant enter into an agreement with the Silver Spring Urban District for maintenance of all or some of the streetscape improvements.
- (c) **As conditioned, because of its location size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood.**

The Project Plan proposes to use the Optional Method of Development and is in conformance with the Silver Spring Central Business District, Sector Plan and Ripley/South Silver Spring Overlay Plans.

The building will be a maximum of 200 feet in height (20 stories), which is in conformance with the Montgomery County Zoning Ordinance under the Optional Method of Development. The project is approved for 391,125 gross square feet of development, including 5,380 square feet of ground-level retail (or other street-animating) space. The proposed development is compatible with the existing development in downtown Silver Spring and encourages redevelopment of the underutilized and vacant properties in the CBD. The building configuration, placement and architecture are in keeping with an urban environment where structures abut each other to maximize the development potential on the site.

All of the attributes of the proposed project are compatible with and beneficial to existing and proposed development. These include its location adjacent to the Silver Spring Metro Station and the underdeveloped Ripley Street, its height that makes full use of new zoning initiatives, the design of the building and the surrounding public spaces that create a new block face within an undefined area, and the operational characteristics that allow for service and residential uses to coincide without conflict and that create a new pedestrian and vehicular interconnection within the neighborhood.

- (d) As conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.**

The project proposes high-density multi-family and ground floor retail space within the Silver Spring area. Parking for the proposed residential and retail space will occur on-site within a 3-level, below grade parking structure. The parking requirements for the proposed uses totals 369 spaces, including 342 for the residents and 27 for the retail patrons. (As conditioned, the exact number of parking spaces will be determined at site plan review. The project is receiving a 15 parking percent credit for its proximity to the Silver Spring Metro Station.

#### Local Area Transportation Review

A traffic study was submitted to determine the impact of the proposed development on the local area transportation network. Five intersections were evaluated in the study area. The trips generated from the site were added to existing and background traffic (trips from approved but unbuilt developments in the area) to estimate the total future traffic. The total future traffic was assigned to the local roadway network and the affected intersections were analyzed for their level of

performance. All five intersections in the area were determined to operate within the congestion standard of 1800 Critical Lane Volume (CLV) for the Silver Spring CBD.

In addition, the improvements that are being made to the streetscape facilitate and encourage pedestrian accessibility to the metro and encourage the future residents and retail patrons to take advantage of existing vehicular traffic conditions.

Staff advised the Board that, in addition to the parking requirements, an Adequate Public Facilities Ordinance (APFO) analysis is under review with the associated preliminary plan of subdivision (#120060540). The proposed development also submitted a traffic study to evaluate the effect of this development on the area transportation system as part of their required Local Area Transportation Review. A total of five intersections were included in the study area. The site-generated trips were added to the existing and background traffic to form the total future traffic. All traffic was assigned to three intersections and the results (which were included in a table on page 27 of the Revised Staff Report) demonstrate that they are operating within the congestion standard of 1,800 Critical Lane Volume (CLV) for the Silver Spring Central Business District (CBD) Policy Area. Based on that traffic study, and Staff's review and recommendation, the Board finds that the proposed development will pass the LATR test.

The Applicant will enter into a Traffic Mitigation Agreement (TMA) with the Planning Board to help the Project achieve the non-driver commuting goal for development in the Silver Spring CBD.

#### Site Access and Circulation

The site will have one access to the underground garage from Ripley Street. The access will provide for safe and efficient movement of vehicular traffic. The single access point to the site minimizes the potential conflict between pedestrians and vehicular traffic. Due to the expected low traffic volume on Dixon Avenue, there is also minimal conflict between traffic entering and exiting the site and the traffic movement on Dixon Avenue.

The Applicant has agreed to fund and construct the extension of Dixon Avenue from Ripley Street to Bonifant Street, including the Sector Plan retrofit of the County's Bonifant Street parking garage. This will create a business district street that was envisioned in the Sector Plan. The entire length of Dixon Lane will be provided with a 15-foot sidewalk on the east side and a 25-foot combined sidewalk/bikeway on the west side to accommodate pedestrian and vehicle traffic to and from the site. These improvements will provide a vital connection from the Ripley District to the Silver Spring CBD core.

### Pedestrian Impact Analysis

The traffic study evaluated the pedestrian activities in the area. Construction of wide sidewalks along Ripley Street and Dixon Avenue will enhance pedestrian safety and movements. There will be sidewalks to the Metro station. A well-designed pedestrian and bikeway system in the vicinity of the site connects to existing facilities throughout the CBD.

### Policy Area Review

The site is located within the Silver Spring CBD Policy Area, which has a remaining capacity of 2,860 jobs, and 4,448 housing units as of June 30, 2004.

- (e) The proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development.**

The utilization of the full 5 FAR density permitted for mixed-use optional method projects creates opportunities for a project that will provide a full allocation of Moderately Priced Dwelling Units, on a site that is within the CBD and adjacent to mass transit and employment opportunities. The development maximizes the density and also allows this applicant to implement the Dixon Avenue connection from Ripley Street to Bonifant Street that provides a community-wide benefit and effects a Sector Plan recommended circulation pattern.

The Optional Method of Development permits a more efficient and desirable product than using the standard method of development. The Project Plan proposes to use the optional method of development and is in conformance with the goals and objectives of the Silver Spring Sector Plan. The proposed development maximizes its gross floor area of 391,125 square feet and a Floor Area Ratio (FAR) of 5.0. The permitted gross floor area for a standard method project is 114,555 square feet or an FAR of 3.0. The site takes full advantage of the development potential for a currently underutilized site.

The project will include two significant new public use spaces and an art amenity on the site. The primary public use space will be an interactive pedestrian plaza in the eastern perimeter of the site and adjacent to the driveway to garage #5. The project is providing over 56% of new on and off-site public use space, which would not have been possible through the standard method of development. Additionally, the streetscape improvements associated with this proposal greatly enhance the pedestrian connections along Ripley Street and complete a section of Dixon Avenue from the intersection of Bonifant Street to Ripley Street.

- (f) ***The proposal will include moderately priced dwelling units in accordance with Chapter 25A of this Code, if the requirements of that chapter apply.***

As conditioned, the Applicant shall provide 12.5% MPDUs, consistent with the requirements of Chapter 25A of the Montgomery County Code. The final number of dwelling units and MPDUs shall be determined at Site Plan review stage.

- (g) **As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A.**

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420041490) was approved on December 21, 2005. This project will satisfy the applicable forest conservation requirements to be reviewed in conjunction with the Preliminary and Site Plan reviews.

- (h) **As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.**

A stormwater management concept plan has been submitted to the Montgomery County Department of Permitting Services (DPS) for conditional approval. Approval of the Stormwater Management concept is required prior to submittal of the Site Plan application.

#### **IV. PLANNING BOARD ACTION AND CONDITIONS**

The Montgomery County Planning Board APPROVES Project Plan 92004006A for 391,125 gross square feet of development, including a maximum of 317 multi-family units with 12.5% MPDUs provided pursuant to Chapter 25A of the Montgomery County Code and 5,380 square feet of ground floor retail or other street-animating space on 1.80 gross acres in the CBD-2 Zone, subject to the following conditions. All site development elements shown on Midtown Silver Spring project plans stamped by the M-NCPPC on February 23, 2006 shall be required, except as modified by the following conditions:

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1. **Development Ceiling**

The proposed development shall be limited to a maximum of 391,125 gross square feet of development, including a maximum of 317 multi-family units with 12.5% MPDUs provided pursuant to Chapter 25A of the Montgomery County Code and 5,380 square feet of ground floor retail or other street-animating space.

2. Building Height/Mass

The maximum height of the proposed building shall not exceed a height of 200 feet or 20 stories, as measured from Dixon Avenue and as shown on the Building Height and Setback Establishment Plan.

3. Transportation Improvements

- a. Dedicate additional street right-of-way from centerline (35 feet) as required to create a 70-foot right-of-way for Ripley Street as recommended in the Silver Spring Central Business District (CBD) Sector Plan. Construct the half section of the street improvements on the north side of Ripley Street as approved by MDPW&T. Construct a 15-foot sidewalk on the north side of Ripley Street along the property frontage.
- b. Provide an 80-foot right-of-way easement for public use along Dixon Avenue as per the Silver Spring CBD Sector Plan. Construct Dixon Avenue as a 40-foot roadway. Additionally, construct a 15-foot sidewalk on the east side from Ripley Street to Bonifant Street and a 25-foot combined sidewalk and bike path on the west side from Ripley Street to Bonifant Street (including the section through the parking garage) as approved by MCDPW&T.
- c. Applicant to maintain coordination with the progress of the design of the Silver Spring Transit Center and Dixon Avenue connection through Parking Garage #5 to assure adequate street grades for the function of each property.
- d. Construct Dixon Avenue from Bonifant Street to Ripley Street including the retrofit of Parking Garage #5 on Bonifant Street as envisioned in the Sector Plan. Refer to MCDPW&T letter dated July 7, 2004 and subsequent MCDPW&T correspondence for details. Phasing to provide for the completion of the underground parking garage under Dixon Avenue prior to occupancy of the Midtown Silver Spring project. The Dixon Avenue improvements through Garage #5 shall be completed prior to full occupancy of the project.
- e. Coordinate with the Montgomery County DPW&T during the Phase 1 Facility Planning for the Ripley District regarding the street and bikeway design for Ripley Street and Dixon Avenue.
- f. Applicant to apply for a waiver of the truncation requirements per Chapter 50-26(e)(3) of the lot line at the intersection of Dixon Avenue and Ripley Street for approval with the Preliminary Plan review.
- g. Enter into a Traffic Mitigation Agreement to participate in the Silver Spring Transportation Management District. The agreement shall be signed and executed prior to issuance of the 1<sup>st</sup> building permit.
- h. The Applicant shall obtain the necessary approvals from the Montgomery County Department of Public Works and Transportation-Parking Operations



Section to permit pedestrian movement from the on-site amenity plaza through parking garage # 5.

- i. The applicant shall provide standard Silver Spring streetscape along the property boundary on the north side of Ripley Street and on the east and west side of Dixon Avenue. Provide modified Silver Spring streetscape standard on the east/west side of Dixon Avenue extended through Parking Garage 5 to include pavers and lighting.
- j. Applicant to provide interim road improvements to taper northern section of Ripley Street grade to connect with existing grade along the south side of Ripley Street, subject to MCDPW&T approval.
- k. Applicant to submit DPW&T Stopping Sight Distance Forms to complete submittal application package.
- l. Applicant to submit official correspondence from Mr. Ed Papazian (DPW&T) documenting the changed points of access to/from the site as a result of relocation of the main entrance to Ripley Street and changes to the traffic access patterns and CLV calculations as presented in the traffic study.

4. Moderately Priced Dwelling Units (MPDUs)

The Applicant shall provide 12.5% MPDUs, consistent with the requirements of Chapter 25A of the Montgomery County Code. The final number of dwelling units and MPDUs shall be determined at Site Plan review stage.

5. Public Use Space

- a. The Applicant shall provide a minimum of 39.2 percent (23,300 square feet) of on-site public use space and a minimum of 17.2 percent (10,200 square feet) of off-site amenity space.
- b. The proposed public use space shall be easily and readily accessible to the general public and used for public enjoyment. All improvements shall be in accordance with the *Silver Spring Streetscape Plan (April 1992)* Technical Manual or as amended. The public use space elements are proposed to consist of metal arbors, stone pavers, concrete unit pavers, benches, seat walls, lighting, open lawn areas and plantings.

6. Streetscape

- a. The Applicant shall provide the full streetscape improvements along the Ripley Street frontage using the *Silver Spring Streetscape Plan (April 1992)* Technical Manual, or as amended. The following elements are proposed: concrete unit paving, granite block, brick pavers, street trees, lighting, and any other details that are necessary, including the undergrounding of utilities along the frontage of the property, to fulfill the Silver Spring streetscape standards.

- b. Off-site improvements shall be provided along the full width of Dixon Avenue through parking garage #5.
- c. Provide full width brick paving across all vehicular access aprons including the courtyard and loading access. All aprons should be flush with sidewalk therefore eliminating curb ramps.

7. Public Art

A public art program shall be developed to include opportunities within the public use area.

8. Staging of Amenity Features

- a. The proposed project shall be developed in one phase.
- b. Landscaping to be installed no later than the next growing season after completion of the proposed building and public plaza.
- c. Streetscape improvements to be installed concurrent with the construction of the building.
- d. Off-site amenity streetscape improvements and public art to be installed prior to 70% occupancy of the building. Dixon Avenue Streetscape improvements through Garage #5 shall be completed or bonded and approved by MCDPW&T prior to full occupancy of the project.

9. Maintenance and Management Organization

Initially, the Applicant, and subsequently, within ninety days of formation, the Condominium Association shall become a member and enter into an agreement with the Silver Spring Urban Partnership for the purpose of maintaining off-site public open spaces.

10. Coordination for Additional Approvals Required Prior to Site Plan

The applicant shall secure the following additional approvals related to Site Plan Review:

- a. Present the detailed public art components to the Art Review Panel in conjunction with scheduling the Planning Board hearing for the site plan application;
- b. The applicant shall request a waiver for any non-standard element and non-standard streetscape improvement as well as a maintenance and liability agreement with MCDPWT.
- c. In the event that applicant desires to have the on-site streetscape improvements and/or amenity area maintained by the Silver Spring Urban District, the applicant shall enter into a maintenance agreement with the Silver Spring Urban District.
- d. The Applicant shall secure the following additional approvals related to Preliminary and Site Plan Review, as applicable:

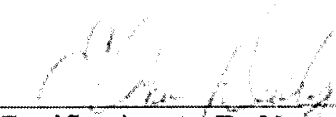
1. Applicant to supply official correspondence from DPW&T Parking Operations, Montgomery County Attorney's Office, MTA and all affected parties confirming the agreement reached regarding the following issues:
  - a. The provision of a "volumetric easement" for Dixon Avenue public right-of-way between Public Garage #5 and Ripley Street extended across the property.
  - b. The agreement to coordinate the grade and alignment of Ripley Street extended with the Silver Spring Transit Center development.
  - c. Final alignment of Ripley Street to be approved as part of Preliminary Plan.
  - d. The agreement with MTA to provide adequate right-of-way for future possible BCT alignment adjacent to CSX railroad tracks.
  - e. Applicant to provide interim road improvements to taper northern section of Ripley Street grade to connect with existing grade along the south side of Ripley Street.
  - f. The agreement to extend Dixon Avenue through Parking Garage #5 to connect with Bonifant Street.

APPROVED AS TO LEGAL SUFFICIENCY  
\_\_\_\_\_  
M-NCPPC LEGAL DEPARTMENT  
DATE 1/1/06

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

**CERTIFICATION OF BOARD ADOPTION OF OPINION**

At its regular meeting, held on **Thursday, September 7, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, **ADOPTED** the above opinion, on motion of Commissioner Perdue, seconded by Commissioner Wellington, with Commissioners Bryant, Perdue, Robinson, and Wellington voting in favor, and with Chairman Hanson abstaining. This Opinion constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Project Plan No. 92004006A, Midtown Silver Spring.**

  
\_\_\_\_\_  
Certification As To Vote of Adoption  
E. Ann Daly, Technical Writer





**MONTGOMERY COUNTY PLANNING BOARD**  
THE MONTGOMERY COUNTY CAPITAL PARK AND PLANNING COMMISSION

JAN 18 2008

MCPB No. 08-01  
Preliminary Plan No. 120060540  
Midtown Silver Spring  
Date of Hearing: December 6, 2007

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION<sup>1</sup>**

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on November 8, 2005, Ripley Street, L.L.C. ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 1.8 acres of land located on the north side of Ripley Street, approximately 500 feet west of Georgia Avenue (MD 97) ("Property" or "Subject Property"), in the Silver Spring Central Business District and Vicinity Sector Plan ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120060540, Midtown Silver Spring ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated November 21, 2007, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on December 6, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC LEGAL DEPARTMENT

<sup>1</sup> This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, on December 6, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Lynch, seconded by Commissioner Robinson; with a vote of 4 to 1, Commissioners Bryant, Hanson, Lynch, and Robinson voting in favor and Commissioner Cryor voting in opposition to the motion.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120060540 to create one lot on 1.8 acres of land located on the north side of Ripley Street, approximately 500 feet west of Georgia Avenue (MD 97) ("Property" or "Subject Property"), in the Silver Spring Central Business District and Vicinity Sector Plan ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to a maximum of 317 high-rise, multi-family residential units, including a minimum of 12.5% moderately priced dwelling units (MPDUs), and 5,946 square feet of retail.
- 2) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- 3) Applicant must comply with the conditions of approval of the Montgomery County Department of Public Works and Transportation (MCDPWT) letter dated March 17, 2007, unless otherwise amended.
- 4) Applicant must comply with the MCDPS stormwater management approval letter dated October 5, 2005 and amended December 21, 2005.
- 5) The Applicant must dedicate all road rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan unless otherwise designated on the Preliminary Plan.
- 6) Applicant must construct all roads shown on the approved Preliminary Plan to the road standards dictated by the Montgomery County Department of Public Works and Transportation or as otherwise specified in this report.
- 7) Record plat to show the following road dedications:
  - 80 feet of right of way for future Dixon Avenue as shown on the Preliminary Plan. The right-of-way for future Dixon Avenue will be dedicated by deed instrument prior to recordation of the record plat (which deed instrument shall reserve from the dedication the area beneath the road structure that will be occupied for the private garage). The subsequent record plat must reference the dedication by liber/folio reference to the recorded deed instrument. This dedication shall include a 25 foot truncation for the northeast corner of the future Dixon Avenue/Ripley Street intersection on the public use parcel, with the reservation for the underground private garage.



- Additional 20 feet of right-of-way along the frontage of the site equal to 35 feet as measured from the centerline on Ripley Street.
- 8) The Applicant must construct Dixon Avenue between Public Garage No. #55 and Ripley Street in accordance with MCDPWT approval letter dated March 17, 2007 to include the following (from west side of R.O.W. to east side):
- Two foot wide brick pavement
  - Twelve foot wide scored concrete off-street bike path
  - Six foot wide brick sidewalk with tree boxes (with amended soil panels and underground watering system for tree boxes)
  - 50 foot pavement width with concrete curbs and gutters
  - Six foot wide brick sidewalk with tree boxes (with amended soil panels and underground watering system for tree boxes)
  - Eight foot wide brick sidewalk (four feet of which will be located in Public Improvements Easement)

These improvements must be complete and open to traffic prior to issuance of the initial occupancy permit for the residential component.

- 9) The Applicant must construct Ripley Street along Property frontage in accordance with MCDPWT approval letter dated March 17, 2007 to include a twenty-foot wide paved section and interim access to the businesses on the south side of Ripley Street. This improvement must be complete and open to traffic prior to issuance of the initial occupancy permit for the residential component.
- 10) The Applicant must construct the typical section of Dixon Avenue within the Public Garage #55 as the continuation of the cross section described in condition #9 above with the exception of the eastern brick sidewalk pavement which must be four-feet wide with no tree boxes or amended soil panels. This improvement must be complete and open to traffic prior to issuance of the initial occupancy permit for the residential component, unless DPWT requests delay in construction of the project for permitting and bonding as a future MCDPWT project.
- 11) The Applicant must construct a retrofit of the DPWT parking garage as envisioned in the Silver Spring CBD Sector Plan to allow for continued use of the structure while Dixon Avenue is extended through to Ripley Street; details and agreements for this retrofit were addressed through the Mandatory Referral process. Implementation of an agreement between the Applicant and DPWT for completion of this project must be finalized before issuance of a building permit.
- 12) The Planning Board grant of a conditional waiver of dedication for the 25 foot truncation at the northwest corner of Dixon Avenue and Ripley Street is

subject to final DPWT approval prior to submission of a Site Plan for the project.

- 13) No clearing, grading or recording of plats prior to certified site plan approval.
- 14) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 15) Final number of MPDU's as per condition #1 above to be determined at the time of site plan.
- 16) At site plan review, the Applicant must submit a noise analysis that addresses the following:
  - Specifications from an acoustical engineer for the design of the building shells for all residential dwelling units being constructed within the projected 65 dBA Ldn noise contour to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
  - The builder must provide a signed commitment at site plan to construct the impacted units in accord with the acoustical design specifications. Any changes to the building shell construction that may affect acoustical performance after issuance of building permit must be approved by an acoustical engineer and M-NCPPC Environmental Planning staff prior to their implementation.
- 17) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 18) The record plat must show necessary easements.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, except as modified herein, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

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The Property is located in the Silver Spring Central Business District and Vicinity Sector Plan on the north side of Ripley Street between the CSX railway and the intersection with Colonial Lane. The Sector Plan, which was approved by County Council action on February 1, 2000, outlines six themes which articulate the shared goals and visions for a revitalized Silver Spring. Four of the six themes apply to the Subject Property including: a residential downtown, a green downtown, a transit oriented downtown and a pedestrian friendly downtown. The Master Plan does not

specifically identify the Property for proposed housing but does encourage housing as an important component of the revitalization.

The project is being developed under the optional method and proposes new public open space including two open space areas. The project proposes to activate the pedestrian experience by making the open spaces highly visible and by locating street-front retail at the sidewalk level. The project is also within a five minute walk to the Silver Spring Metro Station. Its location to the Metro station and the downtown employment core make this an optimal site for pedestrian and transit friendly use.

The Planning Board finds that the project substantially conforms to the vision of the Silver Spring Central Business District and Vicinity Sector Plan.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

#### Roads and Public Transportation Facilities

The development is subject to the LATR guidelines because it will generate 99 vehicle trips during a typical weekday peak hour. Five nearby intersections were studied to determine the likely impact to local transportation infrastructure resulting from this development. None of the studied intersections showed a calculated future Critical Lane Volume (CLV) in excess of the adopted Silver Spring CBD threshold of 1800 vehicles; therefore, no local intersection improvements are required of this project.

The Applicant will be required to reconstruct Dixon Avenue through the Property to provide access to Bonifant Avenue from Ripley Street. This will require improvement to, and through, Parking Garage #55. The proposed Silver Spring Transit Center will serve as the western terminus of Ripley Street. Access to the Property for tenants will be from Ripley Street. Service vehicle access will be located on the extension of Dixon Avenue near the entrance to the public parking garage. Vehicular access to the site will be safe and adequate.

The Applicant proposes to construct sidewalks and a shared use path on Dixon Avenue in accordance with the Silver Spring CBD Sector Plan. Pedestrian access to and across the site will allow for movements between the new Silver Spring Transit Center and the Georgia Avenue business district. In addition, the proposed design includes provision for access to the public parking garage on Bonifant Street as well as for improved access to the future Georgetown Branch Trail along the CSX railroad. Pedestrian access to the site will be safe and adequate.

All parking for the development will be provided from the structured underground parking garage. According to the current design, a section of the parking garage will be located beneath the Dixon Avenue right-of-way. The Applicant and DPWT are negotiating the terms of this arrangement with written confirmation to be provided at the time of site plan. Parking for both vehicles and bikes is deemed to be adequate based on the staff review of the facilities.

Other public facilities and services

The Planning Board finds that other private and public facilities and services are available and will be adequate to serve the proposed units. The Property is served by public water and sewer service and has been approved by the Washington Suburban Sanitary Commission. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within acceptable county standards and will be adequate to serve the Property. Electrical and telecommunications services are also available to serve the Property.

3. *The size, width, shape, and orientation of the proposed lot is appropriate for the location of the subdivision.*

The Planning Board finds that size, width, shape and orientation of the proposed lot is appropriate for the location of the subdivision. The proposed lot will have frontage on a public street that the Planning Board finds will provide adequate access and circulation. The lot was reviewed for compliance with the dimensional requirements specified in the Zoning Ordinance for the CBD-2 zone. The lot as proposed will meet all applicable dimensional requirements for area, frontage, width, and setbacks in that zone.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Application is subject to the Montgomery County Forest Conservation law. The approved preliminary forest conservation plan shows a requirement to reforest or afforest 0.24 acres. The Applicant may meet this through credits using the proposed landscaping and/or off-site planting to be determined at the time of site plan as part of the review for the final forest conservation plan. The Planning Board finds that the Preliminary Plan is in conformance with Chapter 22A of the County Code, the Forest Conservation Law.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is*

*based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The Stormwater Management approval dated October 5, 2005 and as amended December 21, 2005, anticipates using StormFilters to treat water quality. On site channel protection is waived because this is redevelopment of an existing impervious site.

*6. Waiver Request for Truncation Sec. 50-26(E)(3)*

The Preliminary Plan does not show the required dedication for truncation at the corners of Dixon Avenue and Ripley Street. Pursuant to Section 50-26(E)(3) of the Subdivision Regulations, a 25 foot truncation at the corners must be shown as part of the dedication for right-of-ways to accommodate safe sight distance and, if necessary, traffic channelization. For this Application there is no traffic channelization shown other than a standard curbed corner with appropriate radii. Therefore, this corner truncation is to accommodate safe sight distance, in addition to any uses for traffic control boxes that the Montgomery County Department of Public Works and Transportation (MCDPWT) may require. By letter dated November 30, 2007, the Applicant requested a waiver of Sec. 50-26(E)(3) of the Montgomery County Subdivision Regulations for the required truncation at the northwest corner of the intersection of Dixon Avenue and Ripley Street pursuant to Sec. 50-38 (waivers). The letter cites practical difficulties and unusual circumstances that prevent them from fully complying with the truncation requirement.

The Planning Board understood that MCDPWT had not yet fully evaluated the Applicant's request for waiver of the truncation at the northwest corner of Ripley Street and Dixon Avenue. The Board was, however, satisfied that adequate sight distance could be provided without the 25 foot truncation and that locating the building front closer to the curb line did tend to allow the project to conform to the master plan goals of activated street fronts and pedestrian friendliness. The Board suggested it would revisit the details of the retail frontage with respect to the truncation issue at the time of Site Plan review.

The Planning Board found that practical difficulties and unusual circumstances would be experienced if the Applicant were to truncate the corner. In recognition that MCDPWT had not completed their review of the waiver and did, in fact, request additional information of the Applicant, the Board granted a conditional waiver of the truncation at the northwest corner of Dixon Avenue and Ripley Street. The Applicant must gain MCDPWT support of the waiver request prior to submission of the site plan application for the project.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

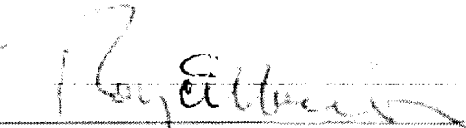
~~BE IT FURTHER RESOLVED,~~ that the date of this Resolution is JAN 18 2008 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

#### CERTIFICATION

At its regular meeting, held on Thursday, January 10, 2008, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Vice Chair Robinson, seconded by Commissioner Cryor, with Chairman Hanson, Vice Chair Robinson and Commissioners Cryor and Bryant present and voting in favor, and with Commissioner Lynch absent. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No. 120060540, Midtown Silver Spring.

  
\_\_\_\_\_  
Royce Hanson, Chairman  
Montgomery County Planning Board





COMMUNITY-BASED PLANNING DIVISION FINAL REFERRAL

Project Name: Midtown Silver Spring Plan Type and Number(s): Site Plan 820060250

CBP Recommended Due Date 8/04/2008 Planning Board Date: 9/18/08

Date on the Plan Being Reviewed: 6-26-08 Site Location: Ripley District

Zone/Overlay Zone: CBD-2 Ripley Overlay District Master/Sector Plan Area: 2000 Silver Spring CBD Sector Plan

Name/Date of Review by CBP Staff: John Marcolin, Planner Coordinator/9-05-08

Community Outreach by Applicant:

1. Applicant met with Silver Spring Urban District Board
2. The Economic Development Committee of the Silver Spring Citizens Association Advisory Board.
3. The Rachel Carson Society

Community Concerns:

1. None indicated in material submitted by applicant.

The plan is mostly consistent with the vision of the Master Plan (*The Themes*, page 14) as described below:

1. *Transit Oriented Downtown*, Page 16 - The project is adjacent to the future multi-modal Transit site and will provide excellent walking access to a variety of mass transit options to future residents.
2. *Commercial Downtown*, Page 18 - The project provides space for ground level retail (5,380 s.f.) on Dixon and Ripley Streets.
3. *Residential Downtown*, Page 19 - The project is primarily residential with 314 units.
4. *Green Downtown*, Page 22 – The plan provides tree lined streets and two green “pocket parks” as on site public use spaces.
5. *Pedestrian Friendly Downtown*, Page 24 – *Partially consistent with this theme* - The applicant will install the Silver Spring Streetscape Standard on Ripley Streets and Dixon Streets. The standards include brick paving, street furnishings and street trees. The sidewalk will connect to the new multi-level transit center.

However, the plan is not entirely consistent with the theme of *Pedestrian Friendly Downtown*, Page 24, as indicated below:

1. The proposed on-site public use spaces do not completely fulfill the intent the theme. One of the elements of the theme, Urban Plazas, is neglected by this plan. The element is described as:

“...breaks in the street pattern to attract groups of people - commuters streaming off Metrorail, employees on an outdoor lunch break – ideal spots for people watching”  
page 24.

The proposed public use spaces are not conducive to these activities – the western space has no physical connection to the adjacent retail – access into it is on a narrow path and the seating area is separated from the sidewalk by 30’ of lawn and planting. As designed, its value will be as a visual amenity to look at; it is not likely to be a space that will be publicly used. .

At the Rachel Carson public use space at the corner of Dixon and Ripley Streets the design proposes placing two sets of free standing chess tables and stools in a lawn panel. This is impractical from a use point of view: 1. who is going to lift these pieces every time the grass is cut? 2. Intense use will wear down the grass and result in mud patches.

Recommendation: APPROVAL WITH THE FOLLOWING CONDITIONS:

1. Staff recommends re-configuring the public use space at the west end of the site to allow access to the adjacent retail and expanding the paved gathering area to engage the sidewalk. Also, consider adding a water feature to draw people into space.
2. At the Rachel Carson public use space, Staff recommends replacing the lawn under the chess tables with paving and adding chess tables under the proposed metal arbor/shade structures- a logical place to play chess on a hot summer afternoon.



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett  
County Executive

Richard Y. Nelson, Jr.  
Director

July 21, 2008

Mr. Elza Hisel-McCoy  
M-NCPPC - Development Review Division  
8787 Georgia Ave.  
Silver Spring, MD 20910

**Re: Midtown Silver Spring – Site Plan #820060250**

Dear Mr. Hisel-McCoy:

I understand that the above project is scheduled to be heard by the Planning Board within the next several weeks. The developer of the project has provided the Department of Housing and Community Affairs (DHCA) with revised plans in response to comments of the Development Review Committee (DRC).

I note that the second floor of the building contains 60 percent MPDUs (12 MPDUs and 8 market units). DHCA prefers that MPDUs comprise no more than 50 percent of the units on any given floor. Therefore, if possible, we would prefer that the MPDUs be redistributed to meet this guideline.

The proposed bedroom mix of the Moderately Priced Dwelling Units (MPDUs) is in compliance with Chapter 25A of the Montgomery County Code (Moderately Priced Housing Law).

DHCA has no other comments on the plans. If you need further information, please contact me at 240-777-3786.

Sincerely,

Lisa S. Schwartz  
Senior Planning Specialist

cc: Donald R. Hague, Home Properties, Inc.  
Anne C. Martin, Linowes and Blocher LLP  
Joseph T. Giloley, DHCA  
Christopher J. Anderson, DHCA

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Division of Housing and Code Enforcement

Code Enforcement  
FAX 240-777-3701

Moderately Priced  
Dwelling Unit  
FAX 240-777-3709

Housing Development  
and Loan Programs  
FAX 240-777-3691

Landlord-Tenant Affairs  
FAX 240-777-3691



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

MEMORANDUM

TO: Elza Hisel-McCoy, Planner Coordinator, Development Review Division

VIA: Stephen D. Federline, Supervisor, Environmental Planning

FROM: Lori Shirley, Planner Coordinator, Environmental Planning

DATE: July 17, 2008

SUBJECT: Site Plan 82006025 – Midtown Silver Spring

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**RECOMMENDATION**

Environmental Planning staff recommends **approval** of the Site Plan 82006025, subject to the following conditions:

1. Compliance with the conditions of approval of the Final Forest Conservation Plan. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s) as appropriate. Conditions include, but are not limited to the following:
    - a. Note on the plan that the site's afforestation requirement to be met with off-site mitigation or as a fee-in-lieu payment.
    - b. Remove all reference to the use of afforestation from the plan
  2. Meet noise mitigation requirements consistent with Condition #16 of preliminary plan approval (MCPB No. 08-01) as updated below:
    - a. Prior to signature set, certification from an acoustical engineer that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
    - b. The builder commits to construct the units in accord with these design specifications, consistent with Option 3 of the Noise Analysis prepared by Hush Acoustics, LLC, dated February 2, 2008, with any changes that may affect acoustical performance approved by the acoustical engineer in advance of installation.
- 
- c. The builder certifies that interior noise levels, after construction is complete, and before home occupancy that the interior noise levels do not exceed 45 dBA Ldn.
  - d. For all residential dwelling units constructed within identified noise impact areas, the applicant/developer/builder shall disclose in writing to all prospective purchasers that they are located within an area impacted by current highway and railway noise. Such notification will be accomplished by inclusion of this information in all sales contracts, brochures and promotional documents, including the *Illustrative Site Plans* on display within any sales related offices as well as in Homeowner Association documents, and by inclusion on all subdivision and site plans, and within all *Deeds of Conveyance*.

## **BACKGROUND**

The 1.60-acre site is located on the north side of Ripley Street, the south side of Bonifant Street in downtown Silver Spring. Georgia Avenue is in close proximity to the south. The site is zoned CDB-2 and existing commercial properties are to the north, east and south. To the west are the existing WMATA train tracks approximately 200 feet from the site. The property consists of one existing building and paved asphalt parking lot. There are no streams, wetlands, 100-year floodplain and no existing forest on-site. The proposal is for two high-rise residential buildings at a maximum height of 200 feet and a separate parking garage structure.

A Preliminary Forest Conservation Plan (PFCP), 12006054, was approved by the Planning Board on December 6, 2007. The Board's conditions of approval are found in MCPB No. 08-01.

## **Forest Conservation**

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD), 42004149, was recertified on January 15, 2006. There is no forest area, or large and specimen trees on-site.

A revised Final FCP date stamped as received on June 16, 2008 by the Environmental Planning was submitted to address how the site's total afforestation requirement to be met. This plan shows 0.24 acres of credits for proposed landscaping utilizing full credit for tree cover. The plan must be revised to reflect the site's afforestation requirement to be met with either off-site mitigation or a fee-in-lieu payment, and the reference to afforestation must be removed from the plan. The use of afforestation for full credit for tree cover is not supported at this location, because the survivability rate of the proposed trees planted around and in relation to high-rise buildings is extremely low, coupled with insufficient sun exposure for the trees to thrive in an urban environment. The two high-rise residential buildings are proposed at 200 feet in height.

One site-plan related aspect found in a comparison review of said plan with the FFCP and each plans' proposed limits of disturbance (LOD) relates to required road improvements. Each plan showed different LOD in this respect. Both plans must show the same proposed LOD for the site's scope of work and for purposes of consistency.

## **Environmental Guidelines**

The site is located in the Rock Creek watershed, which is classified as a Use I Category. There are no natural resources such as streams, wetlands or 100-year floodplain and, there are no environmental buffers on-site. The site is not located inside a Special Protection Area.

## **Noise**

Noise impacts are anticipated from the several adjacent, existing sources of traffic-generated noise: the WMATA and CSX train tracks and Georgia Avenue. These tracks are used for MARC and Metro passenger and CSX freight trains. These trains generate a high degree of noise to be abated through architectural means. In addition, Georgia Avenue is an existing arterial road and given its proximity to the site, traffic-generated noise impacts from it are also anticipated. At issue are proposed noise impacts from both of these sources in relation to the southern and western facades of both high-rise buildings.

Condition #16 of MCPB No. 08-01 reads as follows:

- 16) At site plan review, the Applicant must submit a noise analysis that addresses the following:
  - Specifications from an acoustical engineer for the design of the building shells for all residential dwelling units being constructed within the projected 65 dBA Ldn noise contour to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
  - The builder must provide a signed commitment at site plan to construct the impacted units in accord with the acoustical design specifications. Any changes to the building permit must be approved by an acoustical engineer and M-NCPPC Environmental Planning staff prior to their implementation.

The initial site plan submittal did not include required information to address Condition #16. A Noise Analysis was electronically received on April 30, 2008 by Environmental Planning. Receipt of the analysis addresses the first part of Condition #16. However, as of this writing, no supplemental information has been received regarding the remainder of Condition #16. The analysis was prepared by Hush Acoustics LLC with a cover letter dated February 2, 2008. The cover letter states Mr. Gary Ehrlich, P.E., prepared the analysis dated November 5, 2005, while employed by Wyle Laboratories. The analysis includes recommendations and three options (Options 1-3) with each option having acoustical treatments to bring the interior noise levels to three separate noise level ranges. Option 3 provides for a margin of error and brings the interior noise levels to the required 45 dBA Ldn. Option 3 meets the requirement and is recommended because it will bring most interior rooms to noise levels closer to 40 dB for the southern and western facades of both residential towers (identified in the analysis as the East and West Towers). The nature of the nearby train/METRO noise is very peaked and episodic. Therefore, staff supports Option 3 as it will better reduce the peak noise specifically associated with the railroad.

If you have any questions regarding these comments, please contact me at 301-495-4551 or electronically at [lori.shirley@mncppc-mc.org](mailto:lori.shirley@mncppc-mc.org).

SDF:LS