

814 Thayer Ave, Limited Site Plan Amendment, 82008007A

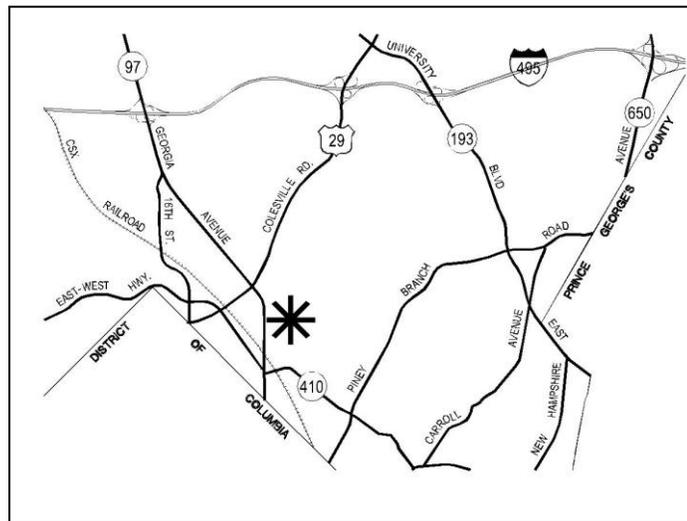
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Completed: 5.18.12

Description

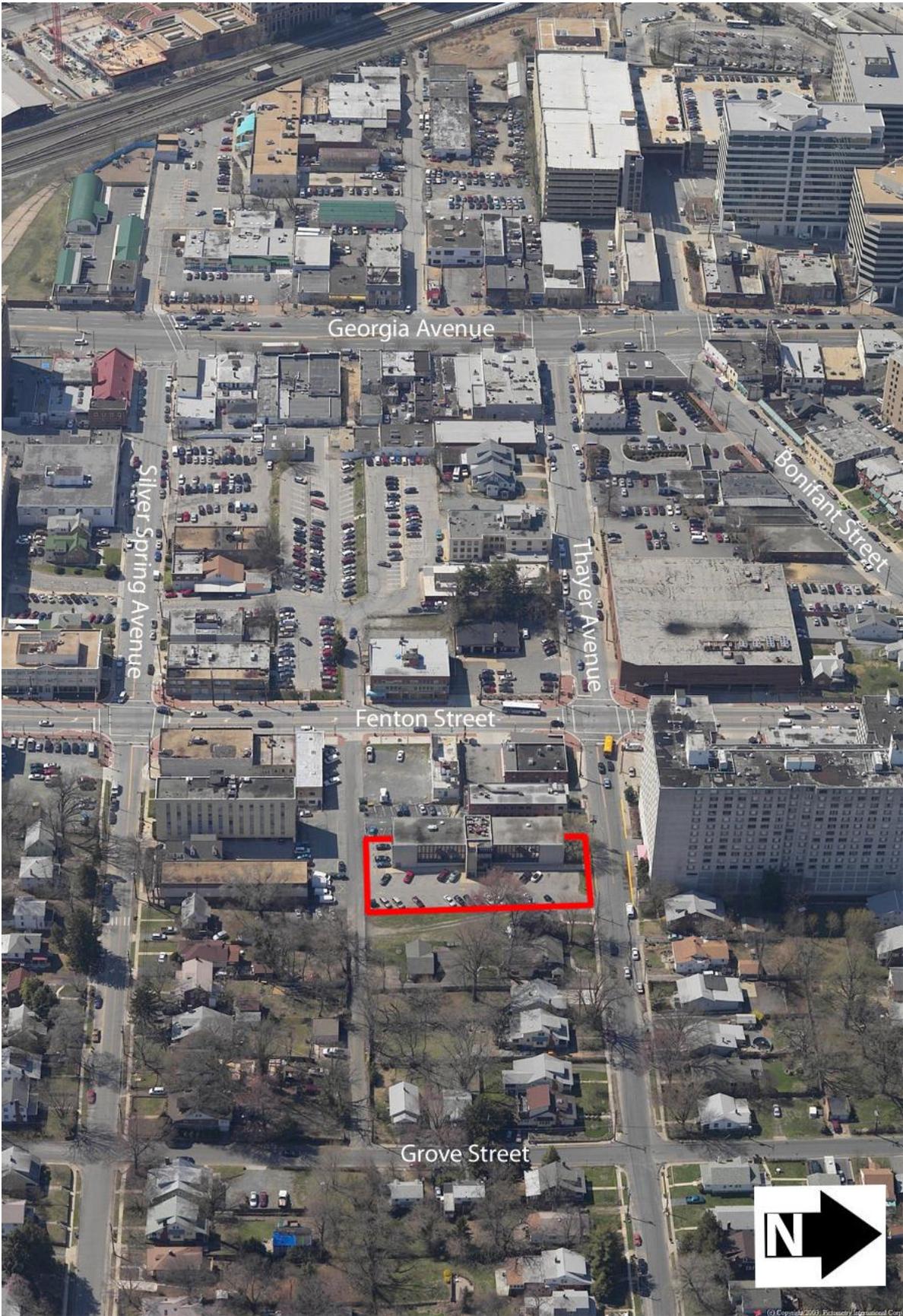
- 814 Thayer Avenue, Silver Spring
- 0.64 acres in the CBD-0.5 zone
- Silver Spring CBD Sector Plan
- Requesting changes to the affordable housing component, building design, and to public use space and public amenities.
- Applicant: Residences at Thayer, LLC
- Application submitted: January 12, 2012

Staff Recommendation: Approval with conditions



Summary

Staff recommends **Approval with conditions** for this limited site plan amendment. Since the previous plan approvals, the property has come under new ownership. The new applicant is working with Montgomery County Department of Housing and Community Affairs (DHCA) to make the majority of the 52 multi-family dwelling units affordable, with 42 income-restricted Low-Income Housing Tax Credit units (equivalent to MPDUs under County Executive Regulation 13-05) instead of the minimum required 7 MPDUs. In order to do this, the applicant has revisited the site and building design, including the public use space and public art, and is showing a reduced obligation to provide streetscape improvements along Thayer Avenue. The revised proposals depart from the typical requirements for streetscape improvements. Staff has worked with the applicant, DHCA, and the adjacent community to produce an attractive alternative design.



Site Vicinity

SITE DESCRIPTION

Vicinity

The subject property is located on the eastern edge of the Central Business District (CBD) and currently contains office uses. While the subject property is within the Fenton Village Revitalization Area of the Silver Spring Central Business District Sector Plan (Sector Plan), it is outside the portion of Fenton Village that is subject to the Fenton Village Overlay Zone.

The subject property is zoned Central Business District – 0.5 (CBD-0.5) and acts as a transition between the single-family East Silver Spring neighborhood and the existing and approved commercial and mixed-use development along Fenton Street and beyond to Georgia Avenue.

Along Thayer Avenue, the property is bordered to the east by single family homes and to the west by a three story office building and a one-story drycleaner. Across Thayer Avenue is a sixteen-story multi-family residential building (Silver Spring Towers) and a gas station. The subject property backs to a 20 to 22-foot-wide public alley that runs parallel to Thayer Avenue and connects Fenton and Grove Streets.

Across Fenton Street to the west are low-rise buildings with a Safeway supermarket, restaurants, services, and office space. There are a number of public parking lots and above-ground garages with two blocks. The site is within walking distance of the Silver Spring Metro station, the future Purple Line, and numerous bus lines.

The block across Fenton Street includes two unbuilt mid-rise mixed-use development projects. The Adele, located at the southwest corner of the intersection, has an approved site plan. Studio Plaza, located on County Parking Lot 3 and a number of adjacent properties, has received Project Plan approval.

Site Analysis

The subject property is located on the south side of Thayer Avenue, approximately 160 feet east of Fenton Street, and is comprised of Lots 4 and 5, Block G, Easley's Subdivision. The gross tract area of the site is 28,000 square feet (0.643 acres). Prior road dedications totaling 6,000 square feet have been made, and the current application is dedicating an additional 1,000 square feet for a Net Tract Area of 21,000 square feet (0.48 acres).

The subject property slopes approximately 10 percent from the northwest corner of the site to the southeast corner and approximately 6 percent across its frontage along Thayer Avenue. The sidewalk along Thayer Avenue is nondescript, with overhead wires and no streetscape treatment. There is no vegetation on the site, except for a small island of grass located between the building and the sidewalk along Thayer Avenue.

The property is currently developed with a three-story office building with an associated parking lot. The site has access to both Thayer Avenue and the public alley that runs parallel to Thayer at the rear of the subject property. The subject property is located within the Silver Spring Parking Lot District.



Aerial Photo



Revised Illustrative Plan

The approved site plan includes a total of 3,376 sf. of off-site streetscape improvements on Thayer Avenue. As illustrated above, this included the south side of the street, from the existing streetscape at Fenton Street through the site frontage, as well as the north side of the street in front of the Silver Spring Towers apartment building. The streetscape improvements included standard paving, lighting, trees, and the undergrounding of utilities. The applicant now proposes to provide sidewalk improvements only along the site frontage. The revised improvements would include trees, lighting, and a modified sidewalk treatment (discussed in greater detail below), but only limited undergrounding of utilities.

As part of a public amenity package, development proposals in the CBDs typically include, at a minimum, the undergrounding of utility lines along the property frontage, and sometimes beyond. The site disruption caused by construction typically necessitates the replacement of adjacent sidewalks. Piggy-backing sidewalk improvements with the other construction activity on the site minimizes the overall disruption of the pedestrian space and provides incremental expansion of the streetscape network.

Given the repurposing of the project, staff at the outset supported more limited streetscape improvements in line with the applicant’s proposal but maintained that the pole in front of the property should be removed. The pole at 814 Thayer contains three electrical transformers that will need to be replaced in order to accommodate the new development.



Site view across Thayer Avenue, with existing utility pole and mounted transformers (814 Thayer is on the left)

The 814 pole is connected to two other poles. To the west is a pole that supplies power to the dry cleaner.



Utility pole adjacent to the dry cleaner

To the east is a pole that provides electricity to the houses down the street.



Utility pole adjacent to single-family housing

Staff worked with the applicant, DHCA, and PEPCO to look at alternatives that would enable the applicant to remove the pole in front of the subject property. PEPCO ultimately outlined two alternatives, one in which the pole is removed and one in which it remains.

In order to remove the pole at 814 Thayer, the following would be required:

- Because the pole in front of the house at 812 Thayer is structurally supported by the 814 pole, it would need to be supported by a guide wire attached to the ground in the middle of the residential driveway, rendering the residential driveway unusable.
- PEPCO would remove both the pole in front of 814 and the pole at the dry cleaner, and install two replacement transformers on the 814 Thayer site.
- PEPCO would install a manhole in the right of way beside the dry cleaner, and the applicant would underground the electrical feed to the building. The applicant would have to secure permission from the property owner to perform the work, which will include engineering work to locate the lines and involve upgrades inside the building. PEPCO estimates the dry cleaner would be without power for at least a week.
- PEPCO would underground utility lines between the dry cleaner and 814, potentially interrupting service to the adjacent 816 Thayer office building
- The applicant would perform all work on private property and would be responsible for all associated reviews, approvals, easements, engineering, etc. The applicant and PEPCO estimate the cost to be greater than \$300,000.

If the 814 Thayer pole is allowed to remain:

- All poles remain in place
- PEPCO will provide underground power to 814 from the utility pole
- PEPCO will remove the three pole-mounted transformers and replace them on 814 Thayer with two pad-mounted transformers
- PEPCO will reroute the power supply for the dry cleaner and 816 Thayer through the new pad-mounted transformers.

Staff's current position, echoed by DHCA, is that while the preference is certainly for the undergrounding of all utilities along the property frontage, the burden on the project in this instance would be too great. Staff supports allowing the 814 pole to remain, with the following conditions:

- replacement of the existing utility pole-mounted "cobra" streetlight with two Washington Globe streetlights;
- undergrounding of the telephone, cable, and other low-voltage lines running between the utility poles located in the northwest corner of the site and the adjacent residential property to the east; and
- relocation and replacement of the existing utility pole-mounted transformers to the public use space in front of the building.

Modifications to the building footprint and façade

While the total number of units (52 du), building height (60'), parking, loading, and service remain unchanged, the applicant has hired a new architect to redesign the building. The Thayer Avenue building elevation, under the approved design, featured asymmetrical building floors alternating in a "scissor" fashion. The revised Thayer Avenue elevation simplifies the design with a single diagonal slanting back into the site from the northeast corner of the site.



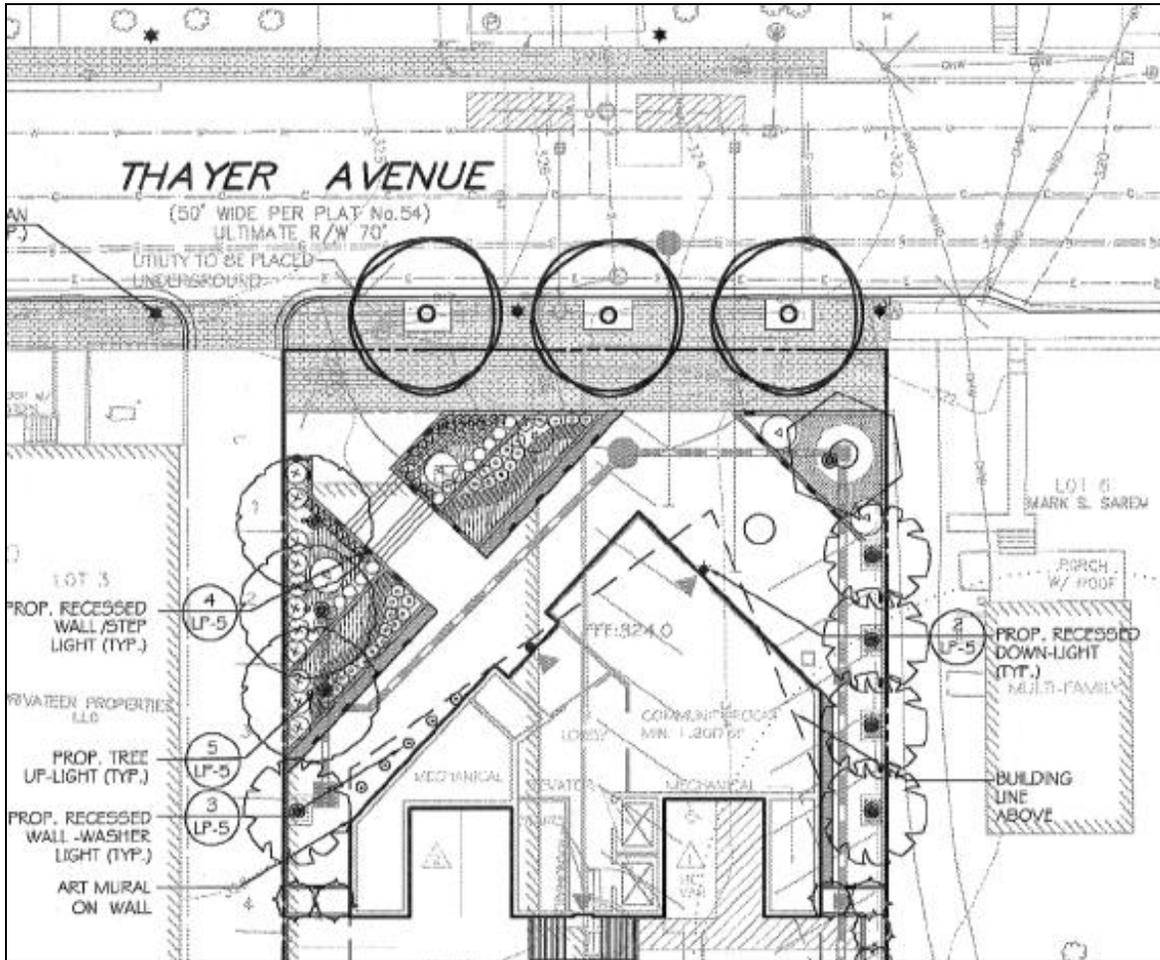
Thayer Avenue Elevation of Approved Plan



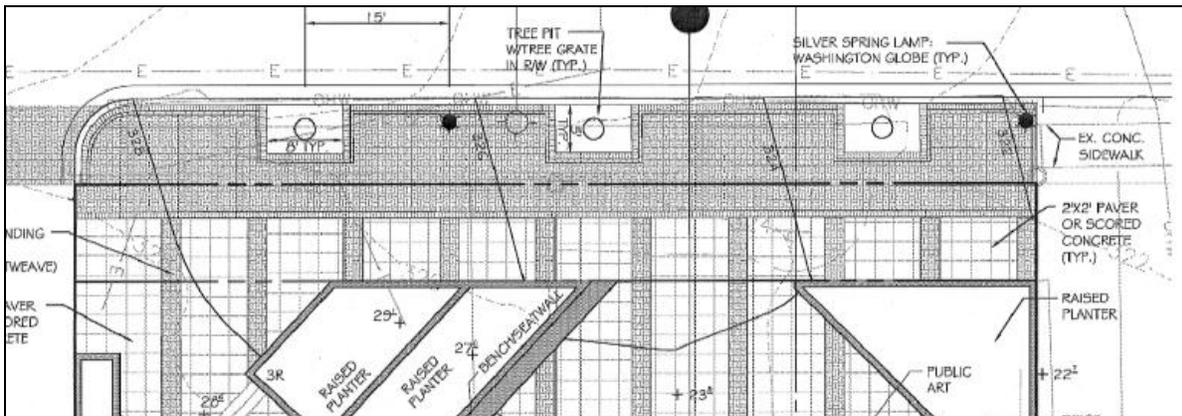
Thayer Avenue Elevation of Proposed Plan Amendment (plaza and sidewalk in front of building do not reflect current design; the remaining utility pole would be located adjacent to the right-most street tree)

Redesign the Public Use Space

The applicant has redesigned the public use space in front of the building. The previously approved design (below) has a sunken courtyard accessed by steps from the sidewalk, with planting beds, seat walls, and public art. The approved design covers 22.5 percent of the net lot area.



Approved Landscape Plan



Approved Landscape Plan, Paving Detail

DE PER PLAT No.54)
ESTIMATE RW 70'



PROPOSED 4-STORY
RESIDENTIAL BLDG W/
PARKING BELOW
BLDG HT.=60 FEET (MAX.)

Proposed Landscape Plan

The revised design also covers 22.5 percent of the net lot area and responds to the change in the building footprint along Thayer Avenue by consolidating two fragmented spaces into one triangular public use space.

The new design better integrates the public use space with the sidewalk. Whereas the approved plan featured steps between the sidewalk and the space, and an abrupt transition between the concrete paving of the plaza and the brick of the sidewalk, the revised design continues the scored concrete of the residential sidewalk onto the site, and combines the sidewalk and public use space into one design, using a curvilinear language and landscaping.

Staff supports the alternative design. Implementation of the CBD zoning requirement to provide 20 percent of the net lot area as public use space can make it difficult, particularly on smaller lots, for the space to feel public and welcoming, rather than merely as an entry court to a private building. The revised design presents an innovative approach: bend the sidewalk to make it and the public use space part of the same experience.

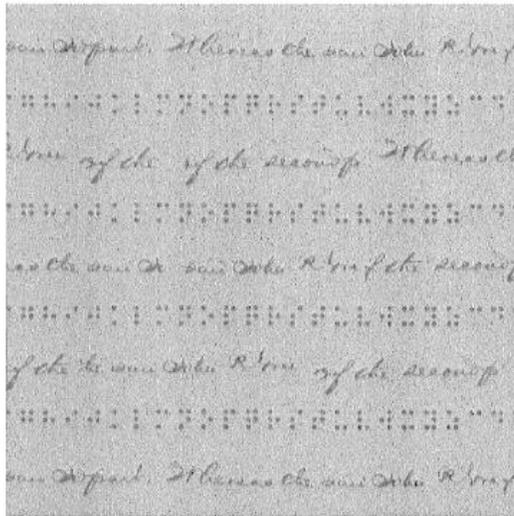
However, the proposed design uses paving materials and design that are not consistent with use the Silver Spring Streetscape, a standard which is the accepted practice for sidewalk treatment in the CBD (other streetscape elements, including lighting, street trees, and the amended soil panels for the street trees will be used). Staff and DCHA agree that the Silver Spring Streetscape treatment provides value in creating a unified character in an urban district. Were the sidewalk on each property to have a different treatment, the affect would be disorienting and visually chaotic.

But staff and DHCA also agree that the subject site is unique, and merits a flexible approach. It is the last CBD property on its side of the street. The project is a residential building with no commercial uses. To the east sit one-family homes. To the west are two commercial properties, including a two-story office building and a potentially historic dry-cleaner, before Fenton Street. The sidewalk on Fenton Street has been upgraded to the Silver Spring Streetscape Standard, but when you turn the corner onto Thayer Avenue, the sidewalk remains scored concrete. Should these commercial properties redevelop in the future, or should the County itself elect to install streetscaping here, there is ample opportunity to extend the uniform treatment from Fenton Street into the residential neighborhood.

Staff also discussed concerns that allowing a project with a high percentage of subsidized housing to provide a sidewalk treatment “less than” the Silver Spring Streetscape would apply a lower standard than other CBD projects, singling it out. Staff finds the quality of the building, public space, and sidewalk design to be high, and expects the uniqueness of the design to add to its attraction, encouraging the community to use a space which might otherwise be marginalized.

Public Art

Another facet of the public use space is public art. The previously approved proposal included two art works relating to the building’s history as the former headquarters of the National Association of the Deaf and Blind. These included a wall mural and an antique teletype machine, as interpreted by artist Kari Minnick.



CONCEPT WALL MURAL

MURAL OF SIGN LANGUAGE BRAILLE AND TEXT TO BE PLACED ON NORTHWEST FACING BUILDING WALL. IMAGE FOR ILLUSTRATIVE PURPOSES ONLY. FINAL ART DESIGN BY KARI MINNICK ART GLASS STUDIO, LLC INCLUDING MATERIALS AND CONSTRUCTION DETAILS TO BE REVIEWED AND APPROVED BY THE SILVER SPRING ARTS PANEL.

7
SP-3

PLAZA PUBLIC ART DETAIL

NOT TO SCALE



CONCEPT HISTORICAL ART PIECE

HISTORIC TELETYPE MACHINE FROM EXISTING BUILDING PROPOSED AS PART OF PUBLIC ART. IMAGE FOR ILLUSTRATIVE PURPOSES ONLY. FINAL ART DESIGN BY KARI MINNICK ART GLASS STUDIO, LLC INCLUDING MATERIALS AND CONSTRUCTION DETAILS TO BE REVIEWED AND APPROVED BY THE SILVER SPRING ARTS PANEL.

8
SP-3

PLAZA PUBLIC ART DETAIL

NOT TO SCALE

The applicant asserts that these art pieces reflect the inherited preferences of the previous owners, not their own. The applicant proposes instead to establish a relationship with the art department at the nearby Takoma Park campus of Montgomery College that would yield a revolving exhibition of high-level student work. Staff supports this change, and has included conditions of approval intended to ensure that the public use space will continually provide art for public enjoyment.

PROJECT ANALYSIS

Master Plan

The *February 2000 Approved and Adopted Silver Spring CBD Sector Plan* identifies six broad themes to guide development in the CBD:

- Transit-Oriented Downtown;
- Commercial Downtown;
- Residential Downtown;
- Civic Downtown;
- Green Downtown; and
- Pedestrian-Friendly Downtown.

The revised proposal addresses the general recommendations of the Master Plan as follows.

- *Transit-Oriented Downtown*
The development locates housing within a diverse network of transportation choices. Aside from a well-developed sidewalk system, the site is within walking distance of MARC, Metrorail, Metrobus and local bus lines, and bike routes.
- *Commercial Downtown*
While the development does not itself include retail, office, or entertainment uses, its close proximity to a great diversity of these uses, both within Fenton Village and the CBD overall, will provide material support to the commercial downtown. Future residents will be within a few minutes' walk of a supermarket, dry cleaners, and numerous restaurants and shops.
- *Residential Downtown*
The development provides 52 multi-family dwelling units, including 42 affordable units, in a building that transitions from one-family homes on Thayer Avenue to approved higher-density development along Fenton Street. This type of low-rise, high-density housing – which includes on-site underground parking – is specifically recommended in the Master Plan.
- *Civic Downtown*
The development includes what the Master Plan calls a “Civic Space”: a landscaped public-use seating area in front of the building at the sidewalk. While it can be difficult to design such a space to be inviting to pedestrians, the curvilinear design is integrated with a curved public sidewalk to encourage people to move into the space. Additionally, this space will feature a public art component that will be programmed in coordination with the art department of the nearby Takoma Park campus of Montgomery College, further emphasizing the development's civic link to the community.

- *Green Downtown*
The development enhances the “green-ness” of the downtown in both the public and private space. The integrated sidewalk/plaza design includes new street trees as well as ornamental trees and shrubs, ground cover, and lawn. The design furthers the transition between the hardscaped pedestrian areas of Fenton Street and the green lawns of the homes down Thayer Avenue.
- *Pedestrian-Friendly Downtown*
The development enhances the pedestrian experience by providing an attractive and welcoming sidewalk/pocket park along Thayer Avenue. New shade trees and streetlights line the curb while ornamental trees, shrubs, and grasses accompany benches for resting or sitting with others. As discussed above, the non-standard elements of the streetscape treatment are consistent with creating an attractive and welcoming pedestrian environment.

The Master Plan recommendations more specific to Fenton Village focus primarily on the Fenton Village Overlay Zone, which does not include the subject site. However, the urban design recommendations in the Plan recommend that “Projects proposed along the east side of Fenton street should make a transition between the commercial district and the adjacent single-family homes, creating compatibility through height changes, siting, and green, landscaped buffers.” The revised development transitions well between the commercial and residential buildings. It maintains the height and scale of the original approved design and offers an attractive landscaped open space along the public sidewalk.

Transportation and Circulation

The proposed amendment does not affect vehicular or pedestrian traffic; however, the Silver Spring Streetscape Guidelines are not being adhered to with respect to undergrounding of utilities and paving treatment. Pedestrian circulation remains safe and efficient along the property frontage and Thayer Avenue. Loading and parking access will remain in the alley behind the building. Local Area Transportation Review (LATR) was satisfied during Preliminary Plan review. The traffic statement demonstrated that the proposed development would generate only 24 trips, short of the 30 trips required at the time for a traffic study. The proposed revisions do not alter this finding.

Environment

The approved plan is not subject to the Forest Conservation Law under the Small Property exemption. The proposed revisions do not alter this finding.

The proposed revisions include a new stormwater management concept, which the Department of Permitting Services Water Resources Section approved on March 13, 2012. The revised concept includes green roof and micro-bio-retention technology.

Development Standards

The subject site is zoned CBD-0.5. The original Project Plan resolution, No. 07-204, found the development in conformance with the intents and purposes of the CBD zones in general and the further intents of the CBD-0.5 zone in particular. As revised, the proposed development continues to meet the intents, purposes, and requirements of the zone.

The following data table indicates the revised development's compliance with the Zoning Ordinance.

Project Data Table for the CBD-0.5 Zone

Development Standard	Permitted/Required	Approved per Site Plan 820080070	Proposed for Approval
Gross Tract Area (sf.)	18,000	28,000	28,000
Dedication (sf.)		7,000	7,000
Net Lot Area (sf.)		21,000	21,000
Dwelling Units, Max. (du)	100 du/a @ 0.64 acres = 64 du	52	52
MPDUs, Min. (%)	12.5	12.5	80 (equivalent MPDUs as defined in County Executive Regulation 13-05, paragraph 3.2)
MPDUs, Min. (du)		7	42
Building Height, Max. (ft.)	60	60	60
Public Use Space, Min. (% of Net Lot Area)	20	22.5	22.5
Public Amenity Space, Min. (% of Net Lot Area)	N/A	18	9
Total, Public Use and Amenity Space, Min. (% of Net Lot Area)		40.5	31.5
Parking Spaces, Max. (based on dwelling unit distribution) *the site will be subject to the Parking Lot District tax for the parking not provided on site.	37	36	21*

COMMUNITY OUTREACH

The applicant has met all proper signage, noticing, and submission meeting requirements. Notice of the subject amendment was sent to all parties of record on January 17, 2012. Staff has discussed the matter with a representative from the East Silver Spring Citizens Association, but received no written correspondence on this matter.

RECOMMENDATION AND CONDITIONS

The proposed modifications to the site plan improve upon the overall design character of the development in relation to the original approval and the site remains compatible with existing and proposed development adjacent to the site. These modifications will improve the efficiency, adequacy, and safety of the site with respect to vehicular and pedestrian circulation, open space, landscaping, or lighting.

Staff recommends approval of site plan 82008007A, 814 Thayer Avenue, for the amendments delineated above. All site development elements shown on the site and landscape plans stamped “Received” by the M-NCPPC on March 30, 2012, are required except as modified by the following conditions.

Conformance with Previous Approvals

1. Project Plan Conformance

The applicant must comply with the conditions of approval for Project Plan 920070120, except as modified below with regard to MPDUs, public use space, and streetscape improvements.

2. Preliminary Plan Conformance

The applicant must comply with the conditions of approval for preliminary plan 120070410 except as modified below with regard to MPDUs and the revised stormwater concept.

3. Site Plan Conformance

The applicant must comply with the conditions of approval for site plan 820080070 except as modified below with regard to transportation.

Environment

4. Stormwater Management

The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Water Resources Section in its letter dated March 13, 2012, (“Agency Letter”), and does hereby incorporate them as conditions of the amended Site Plan approval. Therefore, the applicant must comply with each of the recommendations as set forth in the Agency Letter, which may be amended by MCDPS Water Resources Section, provided that the amendments do not conflict with other conditions of the Site Plan approval.

5. LEED Certification

The applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The applicant must make good faith efforts to achieve a LEED Silver rating. Before the issuance of any use and occupancy certificate, the applicant must inform M-NCPPC staff of the LEED Certification Level for which they are applying. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the applicant must provide to staff a written report for public record purposes only from the applicant’s LEED consultant analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost. Submission of this report constitutes compliance with this condition.

Parks, Open Space, & Recreation

6. Maintenance of Public Amenities

- a. The applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, public use space and public art as identified on the Certified Site Plan.
- b. As stipulated in a letter from the Downtown Silver Spring Urban District, dated April 13, 2012, and located in the file, the Silver Spring Urban District will maintain the streetscape located in the public right of way. The elements of the streetscape which match the M-NCPPC approved standard Silver Spring streetscape will be maintained at no additional charge. Cost for maintenance of non-standard materials in the public right of way will be the responsibility of the property owner of 814 Thayer Avenue.

Transportation & Circulation

7. Transportation

Site Plan 820080070 approval condition 3.b.ii. is revised from “Instructions in the HOA documents for all move-in/move-out loading that moving trucks must not turn right onto Grove Street from the alley.” to “Instructions in the HOA documents (*or their equivalent*) for all move-in/move-out loading that moving trucks must not turn right onto Grove Street from the alley.”

8. Streetscape

The applicant must provide streetscape treatment along the property frontage as illustrated on the Certified Site Plan, including:

- a. replacement of the existing utility pole-mounted “cobra” streetlight with two Washington Globe streetlights;
- b. undergrounding of telephone, cable, and other low-voltage lines running between the utility poles located in the northwest corner of the site and on the adjacent residential property to the east; and
- c. relocation and replacement of the existing utility pole-mounted transformers to the public use space in front of the building.
- d. Except as otherwise provided in this condition, the utility pole located in front of the site may stay.
- e. All other aspects of the Silver Spring Streetscape Guidelines must be provided including the appropriate tree pits and amended soil panels. The pavers may be omitted and replaced with a scored concrete pattern.

Density & Housing

9. Moderately Priced Dwelling Units (MPDUs)

- a. The applicant must provide on-site a minimum of 80 percent of the total number of dwelling units as MPDUs, or equivalent units as defined in County Executive Regulation 13-05, paragraph 3.2. The applicant is not receiving any density bonus.
- b. Upon expiration of the affordability period for the LIHTC affordable units, 12.5 percent of the total number of dwelling units will be administered as MPDUs in accordance with Chapter 25A for the balance of the applicable MPDU affordability period.
- c. The applicant must execute an agreement to build with the Department of Housing and Community Affairs (DHCA) prior to release of the building permit.

Site Plan

10. Architecture

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A3.0.1 and A3.0.2 of the submitted architectural drawings plans stamped “Received” by the M-NCPPC on December 20, 2011, as determined by M-NCPPC Area One Division staff.

11. Public Use Space

- a. The applicant must provide a minimum of 22.5 percent of the Net Lot Area for on-site Public Use Space and a minimum of 9 percent of the Net Lot Area for off-site Public Amenity Space.
- b. The proposed Public Use Space must be easily and readily accessible to the general public and available for public enjoyment.

12. Public Art

- a. The applicant must provide a continuous exhibit of a minimum of one public art installation in the public use space in front of the building along Thayer Avenue.
- b. By Certified Site Plan, the applicant must execute an agreement with the Art Department of the Takoma Park campus of Montgomery College to provide a revolving series of artwork to be located in the public use space in front of the building. This executed agreement must include the concept for the initial artwork and its installation, the process for selecting new artworks, and the process for the removal of installed artworks and the installation of new ones.
- c. The concept for the initial artwork must be reviewed by the M-NCPPC Art Review Panel prior to building permit.
- d. Before the final use and occupancy permit, the applicant must install the initial artwork in the public use space.
- e. The applicant must provide lighting for the artwork for evening and nighttime illumination.

13. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for multi-family residential development.
- b. All onsite downlight fixtures must be full cut-off fixtures.
- c. Deflectors shall be installed on all uplighting fixtures, including those for the public art, that may cause potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. Light poles shall not exceed the height specified on the Certified Site Plan.

APPENDICES

- A. Prior Resolutions
- B. Agency Letters
- C. Excerpt of Montgomery County Executive Regulation on MPDUs
- D. Draft Community Art Exhibition Program Agreement

DEC 18 2007



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

Agenda Date: December 20, 2007
Agenda Item No. _____

December 10, 2007

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Gwen Wright, Acting Planning Director
Rose Krasnow, Chief

FROM: Joshua Sloan, Coordinator
Development Review Division
301.495.4597

Re: Correction to Project Plan Resolution
920070120

Attached please find a redlined version of the resolution for Project Plan No. 920070120, 814 Thayer, which corrects two spelling mistakes and two references to the wrong zone. The resolution was not mailed out. There are no changes to the conditions of approval or the plans presented at the Planning Board Hearing on July 26, 2007.

The changes to pages 6, 7, and 8 are requested to correct two spelling mistakes and ensure that the correct zone – CBD-0.5 – is referenced throughout the document.

Staff is requesting that the Planning Board approve the corrections to the resolution so the Resolution may be mailed out to all parties of record to reflect the redlined changes.



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

MCPB No. 07-204
Project Plan No. 920070120
814 Thayer Avenue
Date of Hearing: July 26, 2007

DEC 18 2007

MONTGOMERY COUNTY PLANNING BOARD

CORRECTED RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review project plan applications; and

WHEREAS, on April 18, 2007, 814 Thayer, LLC ("Applicant"), filed an application for approval of a project plan for the creation of one lot and construction of an Optional Method development for 52 multi-family residential units, including seven Moderately Priced Dwelling Units (MPDUs) ("Project Plan"), on 0.643 acres of CBD-0.5-zoned land, at 814 Thayer Avenue, approximately 150 feet southeast of Fenton Street ("Property" or "Subject Property"); and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920070120, 814 Thayer Avenue, (the "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated July 11, 2007, setting forth its analysis of, 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 July 26, 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

WHEREAS, on July 26, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Lynch; seconded by

¹ 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.

Approved as to
 Legal Sufficiency: DHC 12/10/07
 M-NCPPC Legal Department

Commissioner Bryant; with a vote of 4-0, Commissioners Bryant, Cryor, Hanson, and Lynch voting in favor, Commissioner Robinson being absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board approved Project Plan No. 920070120 for 52 multi-family residential units, including seven MPDUs, on 0.643 acres in the CBD-0.5 Zone, subject to the following conditions:

1. Development Ceiling
The proposed development is limited to 52 multi-family dwelling units.
2. Building Height and Mass
The proposed development is limited to 60 feet in height.
3. Transportation
The Applicant must comply with the conditions of approval in the Memorandum from Transportation Planning dated July 10, 2007 (*Appendix A*), including:
 - a. At the time of site plan review, the Applicant must provide a truck-turning diagram showing how deliveries will be accommodated on site.
 - b. The Applicant must dedicate the right-of-way along Thayer Avenue to 35 feet from the centerline.
4. Moderately Priced Dwelling Units (MPDUs)
The Applicant must provide 12.5% MPDUs on-site, consistent with the requirements of Chapter 25A of the Montgomery County Code. The Applicant is not receiving any density bonus. The final number and distribution of MPDUs will be determined at Site Plan.
5. Public Use Space
 - a. The Applicant must provide a minimum of 20% of the Net Lot Area for on-site Public Use Space and a minimum of 18% for off-site Public Amenity Space. The final design and details will be determined at Site Plan.
 - b. The proposed Public Use Space must be easily and readily accessible to the general public and available for public enjoyment.
 - c. The Applicant will provide two on-site artworks as public amenities. The final design and details must be reviewed by the Art Review Panel and approved by the Planning Board at site plan review.
6. Streetscape
 - a. The Applicant must relocate all utilities underground as part of the proposed streetscape improvements.

- b. The Applicant must provide the full width streetscape improvements on the south side of Thayer Avenue (Type "B") in accordance with the *Silver Spring Streetscape Plan* (April 1992) Technical Manual or as amended or modified during Site Plan review.
- c. Subject to obtaining all necessary permits, the Applicant must improve the north side of Thayer Avenue as set forth below. At the time of site plan review, this requirement may be reduced by the Planning Board to reflect any portion of this streetscape that is required to be completed by any other approved development.
 - i. Replace the existing sidewalk with a five-foot brick sidewalk (measured from the inside of the curb) from the east end of Lot 19, 20, 21 to the existing brick sidewalk at the corner of Thayer Avenue and Fenton Street in accordance with the *Silver Spring Streetscape Plan* (April 1992) Type B pattern.
 - ii. Install four streetlights according to the *Silver Spring Streetscape Plan* (April 1992).
 - iii. No street trees will be installed along the north side of Thayer Avenue.

7. Staging of Amenity Features

- a. The Applicant will construct the proposed development in one phase.
- b. The Applicant will install the landscaping no later than the next growing season after completion of the building and courtyard.
- c. The Applicant will install the Public Artworks no later than six months after completion of the building and courtyard.

8. Maintenance and Management Organization

Initially the Applicant and, within 90 days of formation, the Condominium Association will create and implement a Maintenance Plan for all Public Use Space and Public Artworks.

9. Coordination for Additional Approvals Required at Site Plan

- a. The Applicant must obtain written approval from the Montgomery County Department of Public Works and Transportation (DPWT) for the final design and extent of any and all non-standard streetscape improvements within the rights-of-way.
- b. The Applicant must obtain a waiver from DPWT for any and all non-standard streetscape improvements as well as a maintenance and liability agreement as necessary.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified herein) and upon consideration of the entire record and all applicable elements of § 59-D-2.43, the Montgomery County Planning Board, with the conditions of approval, FINDS:

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

Intents and purposes of the CBD zones

The Montgomery County Zoning Ordinance states the purposes, which the CBD zones are designed to accomplish. The following statements analyze how the proposed Project Plan conforms to these purposes:

- (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 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 plan utilizes the optional method of development standards and conforms to the goals of the Sector Plan. The proposed development is a multi-family residential building, a use that is permitted in the CBD-0.5 Zone.

The proposed building height is 60 feet, which is in conformance with the Montgomery County Zoning Ordinance, that permits buildings up to 60 feet in height under the optional method.² The Applicant is requesting 52 multi-family dwelling units, which is the current maximum allowed by the Preliminary Plan Adequate Public Facilities (APF) review. An increase in the number of units from 52 at Site Plan would require an amendment to the Preliminary Plan and a new APF review. The CBD-0.5 Zone allows up to 100 dwelling units/acre, which could yield a maximum 64 units. With this Project Plan, the Applicant is proposing 81 dwelling units per acre.

The Project Plan will accomplish important Sector Plan objectives as outlined in the Regulatory Section of the Staff Report. Namely, the proposed project expands housing opportunities in the downtown and does so in proximity to transit facilities. It also encourages a pedestrian friendly downtown and a green downtown through the provision of street trees, landscaping, and a public plaza.

- (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."*

² In fact, the Planning Board may approve building heights up to 90 feet in the CBD-0.5 in certain circumstances.

The project plan responds to the need for a variety of housing, including Moderately Priced Dwelling Units, in the downtown Silver Spring Area. By creating usable public space, the project will help meet the recreational needs of local residents.

Under the optional method, this project encourages the development of active urban streets by providing public space along street edges and improves the quality of the pedestrian environment within the improved streetscapes. The improved streetscape, along with the public amenities, addresses the need for increased public interaction to enhance the ambiance of downtown Silver Spring. This project will also increase the vitality of downtown Silver Spring and add economic infrastructure for commercial and retail businesses.

- (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 Project will provide a compatible and desirable relationship with adjacent and surrounding uses. The design provides an effective relationship with adjacent uses and amenities and allows for a more interactive pedestrian environment due to the upgraded streetscape, public space, and artwork. The building and site designs respond to the unique transition space this Project occupies between the dense urban fabric and the more residential setting.

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

The proposed development is located within one-half mile of the Silver Spring Metro Station and even closer to many bus stops. This proximity to transit facilities as well as other downtown shopping, restaurants, and cultural establishments will help alleviate the dependency on the automobile for the residents of the development. The public plaza and streetscape improvements along Thayer Avenue will facilitate the desire for pedestrian connectivity to the metro station core areas of development within Silver Spring.

The applicant will also provide amenities for residents commuting by bicycle and 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. The TMA will outline possible transit alternatives, monitoring of the program and commuter display information.

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

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, and through the inclusion of public art and open space. Vehicular circulation is removed from the pedestrian environment along Thayer Avenue, thereby alleviating possible conflicts. Instead, all vehicular access to the site is from an existing Public Alley behind the site.

The streetscape improvements along Thayer Avenue facilitate the desire for pedestrian connectivity to the bus and metro station. The proposed lobby entrance off of the public plaza provides easy pedestrian access to the site.

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

The Project proposes 52 dwelling units (with a maximum total of 64 units possible during Site Plan review) and includes seven MPDUs. The unit types provided within the building vary from smaller residences to larger residences with mezzanine space and spacious balconies. This range of unit types allows for people of various incomes to live in the Central Business District.

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

The project plan responds to the need for housing opportunities 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 project is assembling two lots to make one more functional lot accommodating an appropriately sized multi-family residential building.

Further intents of the CBD-1-0.5 Zone

Section 59-C-6.213(a) of the Zoning Ordinance states that it is further the intent that the CBD-0.5 Zone:

- (1) *"Foster and promote the orderly development of the fringes of the CBDs of the county so that these areas will provide land uses at a density and intensity which will encourage small business enterprises and diverse living accommodations, while complementing the uses in the interior portions of these districts; and*

- (2) *To provide a density and intensity of development which will be compatible with adjacent land uses outside the CBDs.”*

The proposed development will enhance the economic status of the county by providing additional housing opportunities on the fringes of the Silver Spring CBD. Increasing the workforce base through the addition of at least 52 new residential units will expand the CBD employee pool in an area that is currently expanding other retail and residential opportunities. Further, the renovation of the streetscape and public artwork will enhance the urban environment for all of the county’s citizens and visitors. The CBD-0.5 Zone also has the lowest density of dwelling units per acre of any CBD Zone and the current Project Plan is within this density cap. This lower density is appropriate for the transition from other CBD Zones and adjacent residential zones.

Requirements of the CBD-0.5 Zone

The following table demonstrates the conformance of the Project Plan with the development standards under the Optional Method of Development.

PROJECT DATA TABLE FOR CBD-0.5 ZONE

<u>Development Standard</u>	<u>Permitted/Required</u>	<u>Approved by the Planning Board</u>
Gross Tract Area (square feet):	18,000	28,000
Net Site Area ³ (square feet):	none	21,000
Dwelling Units/Acre	64 (100 units/acre)	52 (81 units/acre)
MPDUs	12.5% (7 units)	12.5% (7 units)
Building Height (feet): ⁴	60	60
Public Use Space (% of net lot area):		
On-Site	20% (4,200SF)	22% (4,620 SF)
Off-Site		18% (3780 SF) ⁵
Total		40% (8400 SF)

³ Net Site Area is calculated after the dedication of 7,000 square feet of previous recorded dedications and additional proposed dedication.

⁴ Final building height measurement point will be determined at site plan.

⁵ As conditioned in the Project Plan Staff Recommendation.

Setbacks (feet)		
Front	0	17
Side	0	0
Rear	0	0
Parking	57 ⁶	36 ⁷

Amenities and Facilities Summary

On-Site Improvements

- Public plaza with benches, landscaping, game tables, and lighting.
- Two public artworks within the public plaza.

Off-Site Improvements

- Streetscape improvements along both sides of Thayer.

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

Zoning and Land Use

The 21,000 square foot subject property is zoned CBD-0.5. The approved CBD Sector Plan recommends the CBD-0.5 zoning for this site, which was applied through the Sectional Map Amendment (SMA) adopted July 18, 2000 per County Council Resolution 14-600.

The proposed residential development is composed of 52 dwelling units (including a minimum of seven MPDUs). The proposal will be implemented under the optional method of development. The project proposes a density of 81 dwelling units per acre. The maximum total density permitted for this site under the optional method of development is 100 dwelling units per acre.

The minimum required on-site public use space for this project is 4,400 square feet. As conditioned, the proposal conforms to the approved and adopted Sector Plan.

⁶ The proposed development is within the Silver Spring Parking District and is not required to provide any parking on site; however, the project is subject to the Parking District Tax.

⁷ The final number and distribution of parking spaces will be determined at site plan.

Sector Plan Conformance

The Approved and Adopted Silver Spring CBD Sector Plan is organized around several themes that the Project satisfies:

- A transit-oriented downtown,
- A residential downtown,
- A green downtown, and
- A pedestrian friendly downtown.

The Sector Plan identifies Silver Spring as a transportation center where regional train, bus, road, and trail systems come together. The project will be within walking distance of the Silver Spring Transit Center and other Metrobus and Ride-On bus stops.

The Sector Plan identifies enhancing the established downtown residential community by “creating new housing opportunities” as an important component in a successful downtown. The proposed development will contain forty-five market rate units and seven MPDUs, thereby helping to revitalize the eastern edge of the Silver Spring CBD.

The Sector Plan envisions a “green downtown [that] includes shaded, tree-lined streets, parks and plazas ... that provide economic, environmental and aesthetic benefits throughout downtown”. The portion of Thayer Avenue within the CBD is identified in the Sector Plan as a “green street”, which is defined as an “urban street with landscaping”. The proposed development will contribute street trees and landscaping that will help achieve this goal at this location and along the adjacent street.

The proposed development is within Fenton Village as delineated in the Sector Plan, but not in the Fenton Village Overlay Zone. It is located in an area that transitions from the core of the Central Business District to an existing single-family residential neighborhood that the Sector Plan cautions should be “buffered” from redevelopment. The Sector Plan also notes that in “Fenton Village, the disjointed pattern of commercial activity and the lack of a residential population dilute pedestrian traffic – a key component of retail activity”. The provision of housing and the appropriate scale and massing will provide more activity in Fenton Village and provide a transitional and pedestrian-friendly buffer between the denser CBD areas and the residential neighborhood.

- (c) *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 has been designed to ensure compatibility with the existing uses and the general neighborhood. The proposed development is in accordance with the Sector Plan

and the requirements of the Zone regarding use, setbacks, height, and massing. The residential project has made provisions for generous sidewalks along its Thayer Avenue frontage and created public use space that will enhance the pedestrian activity of the neighborhood. Because vehicular activity is limited to the alley, pedestrian and vehicular conflicts are minimized. The scale and design of the massing and orientation of the proposed building is appropriate relative to the adjacent properties and provides an attractive and interesting architectural design that adds character to the area.

- (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 residential uses on a site that has access to a 6-inch water main and an 8-inch sewer line along Thayer Avenue. An existing storm drain is located in the alley along the southern boundary and full quality control of stormwater runoff will be included in the final project configuration at site plan review.

The Applicant is promoting smart growth within the urban environment by providing bicycle facilities and developing near the existing Silver Spring Metro Station and will not, therefore, overburden existing public services with the proposed project. In addition, the improvements that are being made to the streetscape facilitate and encourage pedestrian accessibility to the metro and encourage the future employees and retail patrons to take advantage of existing conditions.

A traffic study is not necessary for the proposed development because the replacement of the existing office use with residences will result in a net decrease in vehicle trips. Further, there is adequate capacity in the local schools (Blair High School, Takoma Park Middle School, and East Silver Spring and Piney Branch Elementary Schools) to accommodate any students that may reside at the proposed development.

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

The approval of the Optional Method of Development at this location will permit a greater residential density than allowed under the standard method of development within an area of extensive public transit opportunities and, even with the higher density, will create less traffic than the existing office use. The higher density also allows for a building that can afford to cover and, thereby, visually screen its parking facilities, which will replace the existing surface parking.

The proposed development will also provide more on-site public use space and more off-site public amenity space along the pedestrian network of Thayer Avenue than would be

achieved under the standard method of development. The proposed Optional Method development also provides public art, which is essential to the cultural and aesthetic identity of a downtown.

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

The proposed development provides 12.5% MPDUs on site, in compliance with Chapter 25A of the Montgomery County Code.

- (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:*

The proposed project will be built on one lot and is entirely within the CBD-0.5 Zone.

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

The property is exempt from the forest conservation requirements.

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

The MCDPS Stormwater Management Section approved the stormwater management concept for the site on June 19, 2007. The stormwater management concept consists of on-site water quality control via a volume-based proprietary filtering structure. Onsite recharge is not required for redevelopment applications.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920070120, 814 Thayer Avenue stamped received by M-NCPPC on June 28, 2007 are required except as modified herein; and

BE IT FURTHER RESOLVED that this project plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

BE IT FURTHER RESOLVED that the date of this Resolution is DEC 18 2007 (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).

* * * * *

At its regular meeting, held on Thursday, December 13, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Lynch, seconded by Commissioner Cryor, with Commissioners Hanson, Cryor, and Lynch voting in favor, and with Commissioner Robinson abstaining and Commissioner Bryant absent, ADOPTED the above Corrected Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Project Plan No. 920070120, 814 Thayer Avenue.



Royce Hanson, Chairman
Montgomery County Planning Board



MCPB No. 07-203
Preliminary Plan No. 120070410
814 Thayer Avenue
Date of Hearing: July 26, 2007

JUL 24 2008

MONTGOMERY COUNTY PLANNING BOARD

CORRECTED RESOLUTION¹

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 30, 2006, 814 Thayer, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot on ~~0.62~~ 0.642 acres of land located on the south side of Thayer Avenue 150 feet southeast of Fenton Street ("Property" or "Subject Property"), in the Silver Spring CBD master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070410, 814 Thayer Avenue ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated July 11, ~~2006~~ 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 July 26, 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

WHEREAS, on July 26, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Lynch; with a vote of 4-0, Commissioners Bryant, Cryor, Hanson, and Lynch voting in favor; Commissioner Robinson absent.

¹ 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.

Approved as to
Legal Sufficiency: D. B. [Signature]

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120070410 to create 1 lot on 0.62 acres of land located on the south side of Thayer Avenue, 150 feet southeast of Fenton Street ("Property" or "Subject Property"), in the Silver Spring CBD master plan area ("Master Plan"), subject to the following conditions:

1. Approval under this preliminary plan is limited to 52 multi-family dwelling units including a minimum of 12.5% Moderately Priced Dwelling Units (MPDUs).
2. The Applicant must comply with the conditions of approval for Project Plan 920070120.
3. The final number of dwelling units and MPDUs will be determined at Site Plan.
4. No clearing, grading, or recording of plat until approval of Certified Site Plan.
5. The Applicant must comply with the conditions of approval of the Montgomery County Department of Public Works and Transportation (DPWT) letter dated June 28, 2007 (*Appendix C*).
6. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (DPS) stormwater management concept approval letter dated June 19, 2007 (*Appendix D*).
7. The Applicant must provide two inverted-U bicycle racks on Thayer Avenue between tree wells ~~and two bicycle lockers in the on-site garage within 50 feet of the elevator.~~ and a secured area for bicycles in the on-site garage. The final location of each will be determined at Site Plan. The final location of the bicycle racks and secured area will be determined at Site Plan.
8. Record Plat must show dedication of thirty-five feet from the centerline of Thayer Avenue.
9. 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 Resolution.
10. All necessary easements must be shown on the Record Plat.

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.*

The Planning Board finds that the 814 Thayer Preliminary Plan complies with the recommendations in the Silver Spring Central Business District and Vicinity Sector Plan by contributing to a residential downtown by providing

housing options; by contributing to a green downtown with the implementation of streetscaping and landscaped public open space; and by contributing to a pedestrian-friendly downtown by providing public open space on Thayer Avenue that incorporates seating, chess tables and public art.

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

Roads and Public Transportation Facilities

The Planning Board finds that proposed vehicle and pedestrian access to the site will be safe and adequate with the recommended conditions. Under the *FY 2005 Annual Growth Policy*, a traffic study is not required to satisfy Local Area Transportation Review because the 24 total peak-hour vehicular trips generated from the site are fewer than 30 peak-hour trips within the weekday morning and evening peak periods. The applicant proposes vehicular access from the public alley south of Thayer Avenue. Trash service will be from a trash room off the public alley to the south of the site. Moving trucks are also being accommodated from the alley, and will meet the DPWT "Off-Street Loading Space" policy but a more detailed turning-radius exhibit will be required at site plan. Pedestrian access for this CBD site is provided on Thayer Avenue and includes a sidewalk built to Silver Spring streetscape standards. When complete, the sidewalk along the frontage will be 19 feet wide. At site plan, two inverted-U Bike racks are required to be located between tree wells on Thayer Avenue and ~~two bike lockers are to be provided inside the garage, within 50 feet of the elevator. a secured area for bicycles in the on-site garage.~~

Other public facilities and services

The Planning Board finds that other public facilities and services are available and will be adequate to serve the proposed units. The Property is served by public sewer and water and a determination has been made by the Washington Suburban Sanitary Commission that adequate capacity exists for the proposed subdivision. 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. Gas, electrical and telecommunications services are also available to serve the Property.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The proposed subdivision was reviewed for compliance with the dimensional requirements for the CBD-0.5 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. Proposed on-site Public Use Space exceeds the minimum requirement of 20%. The proposed subdivision was reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. Access and public facilities will be adequate to support the proposed lot and uses. The Planning Board finds the proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

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

There are no significant environmental features on the subject property and there is no forest on-site. As a result, the Environmental Guidelines are not applicable and the plan is exempt from the County 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 MCDPS Stormwater Management Section approved the stormwater management concept for the site on June 19, 2007. The stormwater management concept consists of on-site water quality control via a volume-based proprietary filtering structure. Onsite recharge is not required for redevelopment applications.

- 6. Issues raised at the public hearing have been appropriately addressed.*

Citizens who provided written or verbal testimony at the public hearing raised the following issues for the board's consideration:

- a) Primary access to the subject property should be located along the property frontage on Thayer Avenue rather than the alley located at the rear of the property.
- b) The proposed public use space does not provide a public benefit.

With respect to issue (a) above, the Planning Board finds that sole access to the site from the rear alley is appropriate in order to enhance pedestrian safety on Thayer Avenue. The availability of egress onto Grove Street will be minimized by the right-only garage egress to Fenton Street and the number of moving trucks potentially using Grove Street does not warrant another curb-cut on Thayer Avenue.

With respect to issue (b) above, the Planning Board finds the public use space is acceptable given the location of the site.

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 24 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).

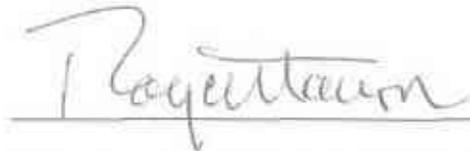
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CERTIFICATION

At its regular meeting, held on Thursday, January 3, 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 Commissioner Bryant, seconded by Commissioner Cryor, with Chairman Hanson and Commissioners

MCPB No. 07-203
Preliminary Plan No. 120070410
814 Thayer Avenue
Page 6

Bryant and Cryor present and voting in favor, and with Vice Chair Robinson abstaining and 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. 120070410, 814 Thayer Avenue.

A handwritten signature in cursive script, appearing to read "Royce Hanson", is written above a horizontal line.

Royce Hanson, Chairman, Montgomery County Planning Board

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

MCPB No. 08-57
Site Plan No. 820080070
Project Name: 814 Thayer Avenue
Date of Hearing: May 1, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on September 25, 2007, 814 Thayer, LLC ("Applicant"), filed an application for approval of a site plan for fifty-two multi-family dwelling units, including seven MPDUs ("Site Plan" or "Plan") on 0.64 acres of CBD-0.5-zoned land, located on Thayer Avenue, approximately 150 feet southeast of Fenton Street ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820080070, 814 Thayer Avenue (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated April 18, 2008, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on May 1, 2008, 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

WHEREAS, on May 1, 2008 the Planning Board approved the Application subject to conditions on the motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 4-0, Commissioners Bryant, Cryor, Hanson, and Robinson voting in favor.

Approved as to
Legal Sufficiency: DAK 5/20/08
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820080070 for fifty-two multi-family dwelling units, including seven MPDUs, on 0.64 gross acres in the CBD-0.5 zone, subject to the following conditions:

1. Project Plan Conformance
The proposed development must comply with the conditions of approval for project plan 920070120 as listed in the Planning Board Resolution, unless amended, including, but not limited to, MPDU, maintenance, and recreation requirements.
2. Preliminary Plan Conformance
The proposed development must comply with the conditions of approval for preliminary plan 120070410 as listed in the Planning Board Resolution unless amended.
3. Transportation
 - a. Department of Permitting Services
A right-of-way permit will be required for any access onto the public alley. As part of that permit, the Department of Permitting Services will review the geometric design and bollard locations and will require signing on the driveway as follows:
 - i. A "Stop" sign and a "Right Turn Only" sign for vehicles leaving the garage into the alley.
 - ii. A "No Right Turn" sign for westbound vehicles on Grove Street to prohibit right turns into the site from the alley.
 - iii. The restrictions in i. and ii. Above will need to be installed to apply to any construction vehicles accessing the site from the alley.
 - iv. The signs must conform to the MUTCD and must be shown on the site plan.
 - b. Loading Truck Restrictions
To protect private property at the intersection of the public alley and Grove Street, the Applicant must provide the following items:
 - i. A sign within the loading area stating that "All trucks turning onto Grove Street must turn left. Right turns are prohibited."
 - ii. Instructions in the HOA documents for all move-in/move-out loading that moving trucks must not turn right onto Grove Street from the alley.
4. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved by Staff prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. On-site and off-site street lamps and sidewalks must be installed within six months after construction is completed. Tree planting may wait until the next growing season.
- b. On-site sidewalks, benches, site amenities, recreation facilities, and artwork must be installed prior to release of any building occupancy permit.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion.
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, recreation facilities, trip mitigation, and other features as necessary.

5. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the forest conservation exemption letter, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval sheet.
- b. Minor corrections to site data, labeling and legends.
- c. Ensure consistency of all details and layout between site plan and landscape plan.
- d. Provide limits of disturbance.
- e. Bike facilities must be within a dedicated and secure area.

BE IT FURTHER RESOLVED that all site development elements as shown on 814 Thayer Avenue drawings stamped by the M-NCPPC on September 26, 2007, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning 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 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 site plan is similar in virtually all respects to the approved project plan 920070120 and has only been refined and enhanced with respect to landscaping, public amenities, and vehicular safety.

2. *The site plan meets all the requirements of the zone in which it is located.*

Multi-family residential units are allowed in the CBD-0.5 Zone, and the site plan fulfills the purposes of this zone by providing lower density housing opportunities.

<u>Development Standard</u>	<u>Permitted/ Required</u>	<u>Approved and Binding on the Applicant</u>
Gross Tract Area (sf)	18,000	28,000
Net Site Area (sf)	n/a	21,000
Dwelling Units	64	52
MPDUs	12.5% (7)	12.5% (7)
Building Height (ft)	60	60
Public Use Space (% of net lot area)		
On-Site	20%	22.5%
Off-Site	n/a	18%
Total		40.5%
Parking Spaces	57	36

As the project data table above indicates, the site plan meets all of the development standards of the CBD-0.5 Zone. With respect to building height, setbacks, and density the proposed development is at or under all the maximum standards allowed. With respect to public-use and amenity space the proposed development provides twice the amount required, thus allowing for a greater amount of permeable surface and landscaped open space. The addition of artwork enhances the cultural image and attractiveness of the area.

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

Due to the requirement for 20% public-use space on the site, the building is setback from Thayer Avenue. In many cases in the CBD, this makes the continuation of a street-wall and the pedestrian orientation of a building difficult. In this case, however, the proposed open plaza acts as a transition from the denser CBD core to the traditional setbacks and yards of the detached homes to the east. Further, the Applicant has used this space to create a forecourt that is both inviting and – through the addition of trees, plantings, seating, and public art – interesting for the residents and neighbors. The building, site features, and open space are adequate and efficient, while meeting the aesthetic goals of the Master Plan, and do not pose any safety concerns on the site.

The recreation facilities required for this site plan are provided through various sitting areas, the connection to the local sidewalks, and an indoor community room. These on-site facilities, combined with nearby parks, adequately and efficiently address the recreational needs of the residents in a safe and comfortable environment.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the growing commercial center of downtown Silver Spring. Safety is enhanced by placing the vehicular access from the alley, rather than a curb cut on Thayer Avenue. Given the constraints of the alley, though, specific vehicular sizes and movements will be prohibited. Parking on the site is limited to 36 spaces and is accessed via a right-in, right-out channelized entrance from the alley. Loading is limited to smaller box trucks and is limited to one-way ingress and egress on the public alley; only left-turns are allowed at the intersection of the alley with Grove Street. Although these limits are being implemented only through on-site signage and HOA documents, the Board finds that the number of trips for moving vans and trucks will be limited and will not substantially exacerbate existing conditions. As conditioned, the proposed circulation routes provide an efficient, adequate, and safe atmosphere for pedestrians, cyclists, and vehicles.

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

The proposed five-story multi-family building is compatible with the adjacent and confronting commercial and residential uses as well as proposed site plans. The subject site plan and other pending residential and commercial projects in the area will greatly enhance the availability and accessibility of various types of housing and commercial conveniences in Silver Spring. The structure and plaza are in scale with the nearby commercial uses and provide transitional height and massing from the CBD to the adjacent residential area.

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 proposed development is not subject to the forest conservation law.

The stormwater management concept consists of on-site water quality control via a volume-based proprietary filtering structure. Onsite recharge is not required for redevelopment applications.

BE IT FURTHER RESOLVED, that this resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

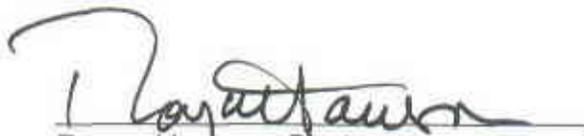
BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this resolution is JUN 03 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).

* * * * *

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Bryant, seconded by Commissioner Robinson, with Commissioners Bryant, Cryor, Hanson, and Robinson voting in favor of the motion, at its regular meeting held on Thursday, May 1, 2008, in Silver Spring, Maryland.


Royce Hanson, Chairman
Montgomery County Planning Board



DEPARTMENT OF PERMITTING SERVICES

Diane R. Schwartz Jones
Director

Isiah Leggett
County Executive

March 13, 2012

John Clapsaddle, P.E.
Vika Maryland, LLC
20251 Century Boulevard, Suite 400
Germantown, MD 20874

Re: Stormwater Management **CONCEPT** Request
for 814 Thayer Avenue
Preliminary Plan #: 120070410
SM File #: 229597
Tract Size/Zone: 0.51 Ac./CBD-0.5
Total Concept Area: 0.5 Ac.
Lots/Block: 4 & 5 /G
Watershed: Sligo Creek

Dear Mr. Clapsaddle:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via ESD to MEP with the use of green roof technology and micro-bioretenion.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Provide a copy of the mechanical drawings showing where the roof and garage drains outlet.
6. All covered parking areas must to drain to the WSSC system. The drains for any other garage areas must be equipped with drain valves. These valves will need to be closed when the parking levels are being washed or cleaned. What ever is being used (wet or dry chemicals) for cleaning will need to be vacuumed and disposed of properly. The floor cleaning plan should be detailed on the approved stormwater management plan.
7. The green roof will be 8 inches in thickness and cover 7,525 square feet (58%) of the roof area. Include a narrative on the plan which explains how to access the green roof area for inspections. Green roofs are to be designed by a professional with green roof experience.

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www.montgomerycountymd.gov



8. **Provide easements and covenants for all ESD practices.** Include access paths from the right of way to the micro bio-filters. These do not need to be constructed paths but must be an area free of obstructions. If there are any sidewalks in this path then that area will need to meet tertiary road section standards.
9. Use the MCDPS latest design standards for ESD practices at time of plan submittal.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is **not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB: tla CN229597 814 Thayer Avenue.DWK

cc: C. Conlon
SM File # 229597

ESD Acres:	0.57
STRUCTURAL Acres:	0.00
WAIVED Acres:	0.00



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

May 3, 2012

Mr. Elza Heisel-McCoy, Planner Coordinator, Area 1
Maryland National Capitol Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Subject: Residences @ Thayer Avenue, 814 Thayer Avenue
Limited Site Plan Amendment 82008007A

Dear Mr. Heisel-McCoy:

Department of Housing and Community Affairs (DHCA) staff reviewed the Residences @ Thayer Avenue Mixed-Income Housing project and attended meetings with the developer and M-NCPPC staff exploring alternatives to achieve a public amenity package typically expected within the Silver Spring Commercial Business District (CBD). Specifically, DHCA sought to continue the Fenton Village Streetscape standard, underground utility lines and remove the transformers along the property frontage.

Although DHCA would have preferred another solution, we support the proposal to maintain the pole and power lines. The estimated cost to remove the poles, move the transformers, underground utilities, and the disruption to local small business, as well as the negative impact on the adjacent residential property outweighs the visual value of implementing the streetscape standard in this case. This is the last parcel within the CBD. It will serve as a transition from the commercial area to the residential neighborhood.

DHCA considers this an important mixed income affordable housing project for Silver Spring. The Residences @ Thayer includes 52 apartments of which 42 are affordable apartments at 60% or less of the Area Median Income (AMI). The affordable apartments will remain

Code Enforcement
FAX 240-777-3701

Division of Community Development
Neighborhood Revitalization
FAX 240-777-3632

Grants Administration/Special Projects
FAX 240-777-3653

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Mr. Elza Heisel-McCoy, Planner Coordinator, Area 1
May 3, 2012
Page 2

affordable for a minimum of 30 to 40 years as a condition of the financing structure. DHCA is investing funds in the project and is supporting a low-income tax credit application for construction.

Thank you in advance for your thoughtful consideration of this Limited Site Plan Amendment.

Sincerely,



Keylene M. Roberts, Chief
Neighborhood Revitalization

cc: Lawrence Cager, Multi-Family Manager, DHCA



DOWNTOWN SILVER SPRING URBAN DISTRICT

Isiah Leggett
County Executive

April 13, 2012

Reemberto Rodriguez
Director

Mr. Peter Siegel
Residence at Thayer Avenue, LLC
c/o Landex Development LLC
801 International Drive, Suite 110
Linthicum, MD 21090

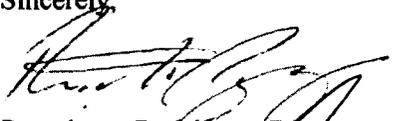
Dear Mr. Siegel,

In reference to the proposed project at 814 Thayer Avenue in downtown Silver Spring, the following requirements exist for maintenance of right of way improvements associated with the project.

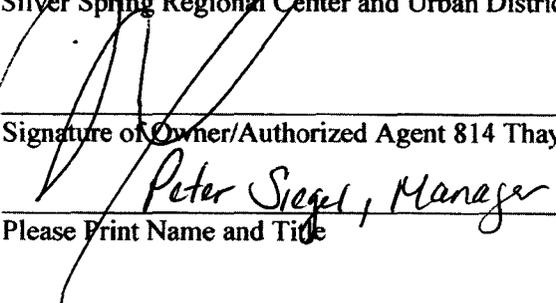
The Silver Spring Urban District will maintain the streetscape located in the public right of way for the proposed project at 814 Thayer Avenue. The elements of the streetscape which match the M-NCPPC approved standard Silver Spring streetscape will be maintained at no additional charge. Cost for maintenance of non-standard materials, if any, in the public right of way will be the responsibility of the property owner of 814 Thayer Avenue. Maintenance expenses for these non-standard elements will be charged back to the property owner of 814 Thayer Avenue through the Optional Method Development Fee as authorized by County Code and collected in the same manner as taxes.

If you have any questions, feel free to contact me or Urban District Chief of Operations, Yvette Freeman. Please sign and return to this my attention at the address below.

Sincerely,


Reemberto Rodriguez, Director
Silver Spring Regional Center and Urban District

Signature of Owner/Authorized Agent 814 Thayer Avenue



Please Print Name and Title

4/16/12
Date

cc: Chris Cary, Montgomery County – Department of Permitting Services
Robert Kronenberg, M-NCPPC – Development Review Division
Sarah Navid, Montgomery County –Department of Permitting Services
Yvette Freeman, Montgomery County – Silver Spring Urban District

Silver Spring Regional Services Center

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MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Moderately Priced Dwelling Unit Program	Number 13-05
Originating Department Department of Housing and Community Affairs	Effective Date April 1, 2005

4. Executed covenants in recordable form.

5. The Agreement must identify all land which is owned by or under contract of sale to the applicant, or, will be available, or is being processed for development and individually or collectively will be subject to Chapter 25A. For subsequent MPDU construction agreements, it will be necessary only to update this statement.

6. The Department must determine that the Agreement meets the requirements of Chapter 25A and these regulations. Any revisions to the Agreement must be requested in writing from the developer, and approved in writing by the Director.

7. A copy of the executed Agreement must be submitted to DPS with the first building permits application in the subdivision. DPS must not issue building permits in a subdivision having an MPDU requirement unless those units are included in the signed Agreement.

3.2 **Housing Programs Which Satisfy the MPDU Requirement.** Federal, state, or local housing programs may be used to fulfill MPDU requirements. When federal, state or local housing programs are used to comply with the requirements of Chapter 25A, the following conditions must be met:

1. Sales prices or rental rates must be affordable to moderate income households.

2. The Director must determine that the controls on the sales prices and/or rents will contribute to the long term availability of moderately priced units and that the covenants on these units contain provisions for the County's recapture of excess profits realized by an MPDU owner as required in Chapter 25A.

25A.00.04 Options for providing less than the required number of MPDUS

4.1 Under certain conditions as specified in Chapter 25A, it may be possible to provide less than the required number of MPDUs in any development.

1. **MPDU Land Transfer Option.** If an applicant wishes to request a land transfer option to fulfill an MPDU requirement in accordance with Section 25A-5(f)(1) the applicant must submit a written request to the Director to transfer land or finished lots to the County not less than 45 days prior to the submission of a development application for the project for which the land transfer option is being requested. The Director must communicate a decision on a request prior to the filing so that the applicant may include the Director's approval in the application, if applicable. The transfer request must include:

a. Justification why the applicant is requesting the land transfer and how this satisfies the Department's requirements;

COMMUNITY ART EXHIBITION PROGRAM

For

THE RESIDENCES AT THAYER AVENUE

(814 Thayer Avenue, Silver Spring, MD)

Concept: The Residences at Thayer, LLC (the, "Owner") is partnering with Montgomery College Department of Visual Arts and Design (VA&D) to promote the artwork of the VA&D community by sponsoring and hosting a rotating sculpture exhibit in the outdoor plaza area at 814 Thayer Avenue. The sculptures will be created by members of the Montgomery College Community, as defined by VA&D, particularly including works created by students in advanced sculpture classes. The Residences at Thayer will display the artwork and VA&D will be the curator.

The Process: Each year, VA&D will issue a call for entries to eligible artists, faculty, and/or students. An individual or a selection committee chosen by VA&D will review completed works of art in the spring of each year and select which piece will be displayed.

Installation & Display: The Owner and the chosen artist "Artist" will work together to transport and install the art. Each installed sculptural work will be displayed for a minimum period of 1 year, with the option to extend the display if all parties are in agreement.

Financial: Management will pay the Artist a monetary stipend of \$1,000, payable 50% upon installation and 50% upon removal of the art. The Artist will retain ownership of the art during the display period, and has the right to sell the work while it is on display with no commission charged by the Owner (The Residencies at Thayer, LLC). The Owner will provide liability insurance to cover damage to persons caused by the art. The Artist will have the option to purchase insurance to protect the art from damage. The Artist will remove the art at the end of the display period.

Format: A permanent concrete mounting pedestal will be built in the outdoor plaza area in front of 814 Thayer on the site. The sculptures may be of any durable medium that will maintain its structural integrity and withstand the weather. The size of the works will vary at the discretion of the artists and VA&D selection committee, however, it is anticipated that the artwork will range in height between 3' to 12'.

Duration: The Owner and VA&D will review the Community Art Exhibition Program annually to ensure the continued success of the program and promotion of the VA&D artist community.