




MCPB  
Item No.  
Date: 7.21.16

Project Name: Sligo Artspace,  
Mandatory Referral MR2016031, Preliminary Plan No. 120160270, Site Plan No. 820160140

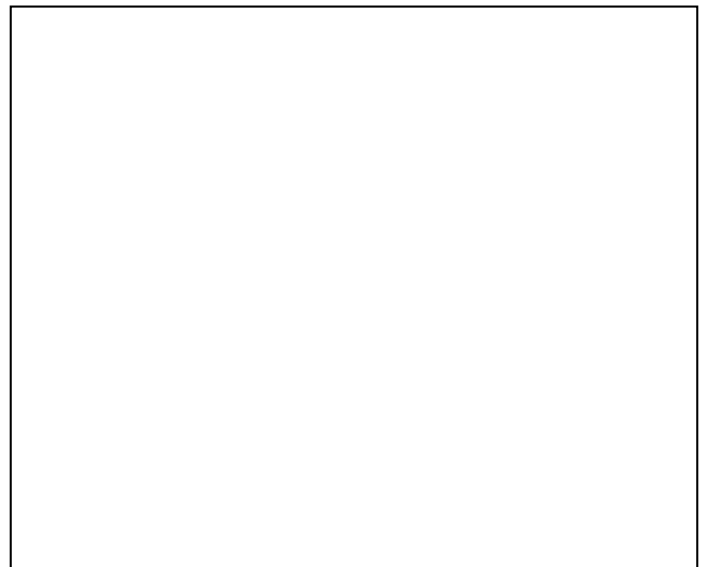
Completed: 7.11.16

 Elza Hisel-McCoy, Regulatory Supervisor, Area 1 Division, [elza.hisel-mccoy@montgomeryplanning.org](mailto:elza.hisel-mccoy@montgomeryplanning.org), 301.495.2115

 Robert Kronenberg, Chief, Area 1 Division, [robert.kronenberg@montgomeryplanning.org](mailto:robert.kronenberg@montgomeryplanning.org), 301.495.2187

## Description

- Creation of 12 lots with associated open space parcels for up to 130,000 square feet of development, including up to 110,000 square feet of residential uses, with up to 68 multi-family units and 11 townhomes, and up to 20,000 square feet of non-residential uses, with up to 30 artist studios and 1,500 square feet of retail.
- Current use: Vacant police station
- Located 801 Sligo Avenue, Silver Spring;
- 2.75 gross acres zoned CRNF-1.25, C0.25, R1.0, H65 in the *East Silver Spring Master Plan* area;
- Applicant: Artspace Projects, Inc.
- Accepted as complete on 4.6.2016



## Summary

- Staff recommends approval of the Mandatory Referral, Preliminary Plan, and Site Plan.
- The property was rezoned in February from R-60 to the current zone for this redevelopment.
- The development is a public-private partnership that includes 91% of the units as affordable housing.
- MCDOT is recommending alterations to the Grove Street frontage to improve safety. The community is opposed to DOT's recommendations and suggests a more holistic review of the function of Grove Street. Staff is sympathetic to the need to improve safety by narrowing pavement widths, Staff concurs with the community in not requiring this project to implement a partial solution.
- Additional efforts at preservation of existing community trees are conditioned as party of a partial denial of variance request.

## TABLE OF CONTENTS

<b>SECTION 1: RECOMMENDATION AND CONDITIONS</b>	<b>3</b>
Mandatory Referral	
Preliminary Plan	
Site Plan	
<b>SECTION 2: SITE DESCRIPTION</b>	<b>10</b>
Site Vicinity	
Site Analysis	
<b>SECTION 3: PROJECT DESCRIPTION</b>	<b>11</b>
Previous Approvals	
Proposal	
<b>SECTION 4: PRELIMINARY PLAN</b>	<b>16</b>
Analysis and Findings	
Master Plan	
Adequate Public Facilities Review	
Environment	
Compliance with the Zoning Ordinance and Subdivision Regulations	
<b>SECTION 5: SITE PLAN</b>	<b>27</b>
Analysis and Findings	
<b>NOTIFICATION AND COMMUNITY OUTREACH</b>	<b>33</b>
<b>ATTACHMENTS</b>	<b>33</b>

## SECTION 1: RECOMMENDATION AND CONDITIONS

### **Mandatory Referral No. MR2016031**

The Applicant has requested that the Planning Board consider the Mandatory Referral review that applies to the public agency component of this Project (under Section 20-301 of the Land Use Article of the Md. Ann. Code) as part of the Planning Board's review of Preliminary Plan No. 120160270 and Site Plan No. 820160140.

The Applicant believes that it would be in the public interest and would further "administrative economy" for the Applications and any mandatory referral review to be considered at the same time because: (1) the submission requirements for site plan applications are very comprehensive (more comprehensive than the requirements for mandatory referral review); (2) the development proposals contained in the Applications are the same as the development proposal that would be considered under a separate mandatory referral review; and (3) the time allowed for the Planning Board to review the Applications is longer than the time allowed for the Planning Board to review a project under mandatory referral review. The Applicant agreed to waive the 60-day review period required under Section 20-304 of the Mandatory Referral Review statute, in order to allow the Applications and the required mandatory referral review to be considered and acted upon by the Planning Board at the same time. Staff supports the Applicant's request.

### **Preliminary Plan No. 120160270**

Staff recommends approval of Preliminary Plan No. 120160270 subject to the following conditions:

1. This Preliminary Plan is limited to 12 lots with associated open space parcels for up to 130,000 square feet of development, including up to 110,000 square feet of residential uses, with up to 68 multi-family units and 11 townhomes, and up to 20,000 square feet of non-residential uses, with up to 30 artist studios and 1,500 square feet of retail.
2. Include the stormwater management concept approval letter and Preliminary Plan resolution on the approval or cover sheet(s).
3. The Applicant must comply with the conditions of approval for the preliminary forest conservation plan no. 120160270, approved as part of this Preliminary Plan, subject to the following:
  - a. Before Certified Site Plan approval, the Applicant will coordinate with Staff on any necessary minor plan revisions, clarifications and corrections within the Final Forest Conservation Plan signature set.
  - b. The sewer line connection within the paper street alley shall be specified as directionally bored within the CRZ of Tree 1. Associated excavation pit(s) shall be located east of the existing concrete driveway apron for the eastern tie-in, and out of the CRZ of tree #1 for the western segment.

- c. Reduce disturbance near Tree 13 to the greatest extent possible, however any trenching and/or excavation shall be no closer than 5 feet offset from the location of the pipe as currently proposed. Equipment access between the tree and 5-foot offset may occur if the area is appropriately armored with temporary root protection matting.
  - d. All tree protection measures must be certified by an International Society of Arboriculture certified arborist who is also a Maryland Licensed Tree Care Expert.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated June 10, 2016, except comment 2.b) regarding Grove Street, and hereby incorporates all others as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
6. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated June 29, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
7. The Applicant must dedicate and show on the record plat(s) the following dedications:
  - a. Five (5) feet from the existing right-of-way centerline along the Subject Property frontage for Sligo Avenue Road.
  - b. Five (5) feet from the existing right-of-way centerline along the Subject Property frontage for Grove Street.
8. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, “To Be Constructed By \_\_\_\_\_” are excluded from this condition.
9. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other

limitations for site development may also be included in the conditions of the Planning Board's approval.

10. The record plat must show necessary easements, including common ingress/egress and utility easements over all shared driveways.
11. The record plat must reflect all areas under Homeowners Association ownership and specifically identify any stormwater management parcels.
12. The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The Applicant must provide verification to Staff prior to release of the final building permit that the Applicant's recorded HOA Documents incorporate the Covenant by reference.
13. The Applicant must comply with the binding elements of County Council Resolution No. 18-405 approving Local Map Amendment H-110.
14. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.
15. The Subject Property is within the Blair School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the single-family attached and multi-family unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
16. Prior to recordation of any plat, Site Plan No. 820160140 must be certified by MNCPPC Staff.
17. No clearing or grading of the site prior to certified site plan approval.
18. Final approval of the number and location of (buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths) will be determined at site plan.
19. Record Plat may be submitted for review prior to Certified Site Plan.

**Site Plan No. 820160140**

Staff recommends approval of Site Plan 820160140. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.<sup>1</sup>

---

<sup>1</sup> For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor (s) in interest to the terms of this approval.

## **Conformance with Previous Approvals & Agreements**

### 1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120160270.

## **Environment**

### 2. Forest Conservation & Tree Save

The development must comply with the conditions of the approved Final Forest Conservation Plan and Tree Save Plan.

a) Before issuance of an associated Sediment Control Permit, the Applicant must receive approval from the M-NCPPC Office of the General Counsel for a Certificate of Compliance for an off-site forest mitigation bank, or fee-in-lieu as applicable, to satisfy the equivalent credits of 0.43 acres or as established with the Final Forest Conservation Plan for this Site Plan.

### 3. Noise Attenuation

- a. Prior to issuance of a building permit, the Applicant must provide Staff with certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- b. The Applicant must provide a signed commitment to construct the units in accord with these design specifications, with any changes that may affect acoustical performance approved by the engineer and Staff in advance of installation.
- c. After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide staff with a certification from an engineer specializing in acoustics confirming that the dwelling units were constructed in accord with the approved specifications for noise attenuation.
- d. If the plan changes in any manner that affects the validity of the noise analysis for acoustical certifications and noise attenuation features, the Applicant must conduct a new noise analysis to reflect the revised plans, and new noise attenuation features may be required.
- e. Before issuance of any Use and Occupancy Certificate for residents, the Applicant must certify that the noise impacted units have been constructed in accordance with the certification of the engineer that specializes in acoustical treatments.
- f. For all residential dwelling units to be constructed within the projected 65 dBA Ldn noise contour, the Applicant must disclose in writing to all prospective purchasers that those units are impacted by transportation noise.

## **Public Use Space, Facilities and Amenities**

### 4. Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 12,510 square feet of public open space on-site.
- b. The Applicant must provide a minimum of 11,870 square feet of common open space on-site.

- c. The Applicant must construct streetscape improvements, not including the undergrounding of utilities, along the property's frontage on Sligo Avenue and Grove Street, consistent with the Silver Spring CBD Streetscape Standards.
- d. Before the issuance of the first use and occupancy certificates for the multi-family residential development, all public open space areas on the Subject Property must be completed.
- e. Within one year of the issuance of the first use and occupancy certificates for the townhouse development, all common open space areas on the Subject Property must be completed.

5. Recreation Facilities

Before Certified Site Plan approval, the Applicant must meet demonstrate to M-NCPPC Staff that each recreational facility meets M-NCPPC Recreation Guidelines.

6. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to Public Open Space, Common Open Space, and related areas.

## **Transportation & Circulation**

7. Transportation

a) The Applicant must make a Transportation Policy Area Review (TPAR) Mitigation Payment, equal to 25% percent of the General District Transportation Impact Tax, as required by the 2012-2016 Subdivision Staging Policy within the XXX Policy Area. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

8. Pedestrian & Bicycle Circulation

- a. The Applicant must provide 27 private and 4 public bicycle parking spaces.
- b. The private spaces must be in a secured, well-lit bicycle room adjacent to the covered parking area, and the public spaces must be inverted-U racks installed along the building's Sligo Avenue retail frontage (weather protected preferred). The specific location(s) of the public bicycle rack(s) must be identified on the Certified Site Plan.
- c. The Applicant must provide minimum 5-foot wide sidewalks
- d. adjacent public streets and along the internal drive aisle, as shown on the Site Plan.

9. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services (MCFRS) Fire Code Enforcement Section in its letter dated July 5, 2016, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval.

## Density & Housing

### 10. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of Department of Housing and Community Affairs (DHCA) in its letter dated June 6, 2016, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

- a) The development must provide a 100 percent of the multi-family units on-site as MPDUs (or MCDHCA-approved equivalent).
- b) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the Department of Housing and Community Affairs (DHCA) must be executed.

### 11. Workforce Housing Units (WFHUs)

- a) The development must provide a minimum of four of the townhouse units as WFHUs onsite, consistent with the requirements of Chapter 25B, Article V, and the applicable Master Plan.
- b) Before issuance of any building permit for any residential unit, the WFHU agreement to build between the Applicant and the DHCA must be executed.

## Site Plan

### 12. Architecture

The exterior architectural character, proportion, materials, and articulation of each of the buildings must be substantially similar to the schematic elevations shown on the Certified Site Plan.

### 13. Lighting

- a. Before Certified Site Plan, the Applicant must provide certification to M-NCPPC Staff from a qualified professional that the lighting plans conform to the appropriate Illuminating Engineering Society of North America (IESNA) standards for residential development.
- b. All onsite down-lights must have full cut-off fixtures.
- c. Deflectors will be installed on all uplighting fixtures causing potential glare or excess illumination.
- d. The light pole height must not exceed the height illustrated on the Certified Site Plan, including the mounting base.

### 14. Public Art

The Planning Board accepts the recommendations of the Art Review Panel as described in their letter dated June 3, 2016, and hereby incorporates them as conditions of approval.



15. Site Plan Surety and Maintenance Agreement

Before issuance of any building permit or sediment and erosion control permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4. of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount;
- b. The cost estimate must include applicable Site Plan elements including, but not limited to, plant materials, on-site lighting, exterior site furniture, vegetated walls, retaining walls, railings, curbs, gutters, sidewalks, and associated improvements; and
- c. The bond or surety must be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety will be followed by inspection and release of the surety.

16. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

17. Certified Site Plan

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

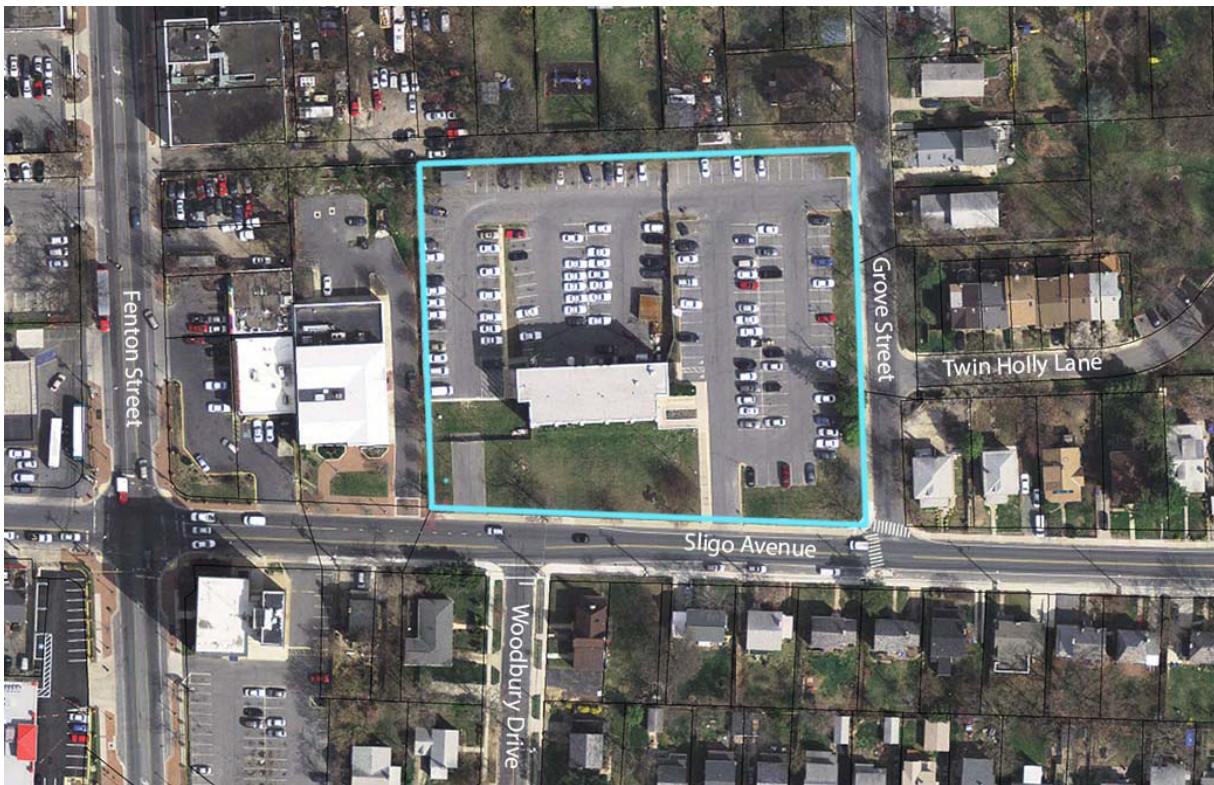
- a. Include the stormwater management concept approval letter, development program, and Site Plan resolution and other applicable resolutions on the approval or cover sheet(s).
- b. Add a note to the Site Plan stating that “M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading.”
- c. Add a note stating that “Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”
- d. Modify data table to reflect development standards approved by the Planning Board.
- e. Ensure consistency of all details and layout between Site and Landscape plans.
- f. Expand note #12 on the site plan cover sheet to state that any increased impacts to variance trees would trigger a Forest Conservation Plan amendment and new variance request.
- g. Provide the variance mitigation tree plantings within the plaza space as shown in previous plan submissions.
- h. Revise landscape plans to provide appropriate notes, details and specifications for onsite soil restoration.
- i. Clearly label all stormwater management facilities.

## SECTION 2: SITE DESCRIPTION

### Site Vicinity

The subject site (Subject Property or Property) is located in the northwest corner of the intersection of Sligo Avenue and Grove Street in Silver Spring, just outside the Fenton Village area of the Silver Spring Central Business District, in the 2000 *East Silver Spring Master Plan* area (Master Plan).

To the west of the site is the mixed commercial/residential Fenton Village with low- and mid-rise buildings. On all other sides the site is nestled within the East Silver Spring residential neighborhood, with primarily single-family detached homes, but with some townhomes and walk-up multi-family apartment buildings as well.



*Aerial photo*

Immediately northwest of the site is the approved but unbuilt Silver Spring Park development site (Site Plan 82010012A) that includes 147,888 square feet of mixed-use development including office, hotel, and retail uses, as well as 58 multi-family dwelling units. The approved site design also includes a through-site pedestrian connection extending from Silver Spring Avenue to the mid-block public alley adjacent to the rear Property line.

### Site Analysis

The 2.24-acre Property presently comprises seven existing lots and is currently improved with a vacant three-story building that previously housed the Montgomery County District 3 Police Station, which has

since relocated to White Oak, and extensive surface parking lots. There is an unpaved paper alley along the northern border of the Property. The Property is zoned CRNF-1.25, C0.25, R1.0, H65.

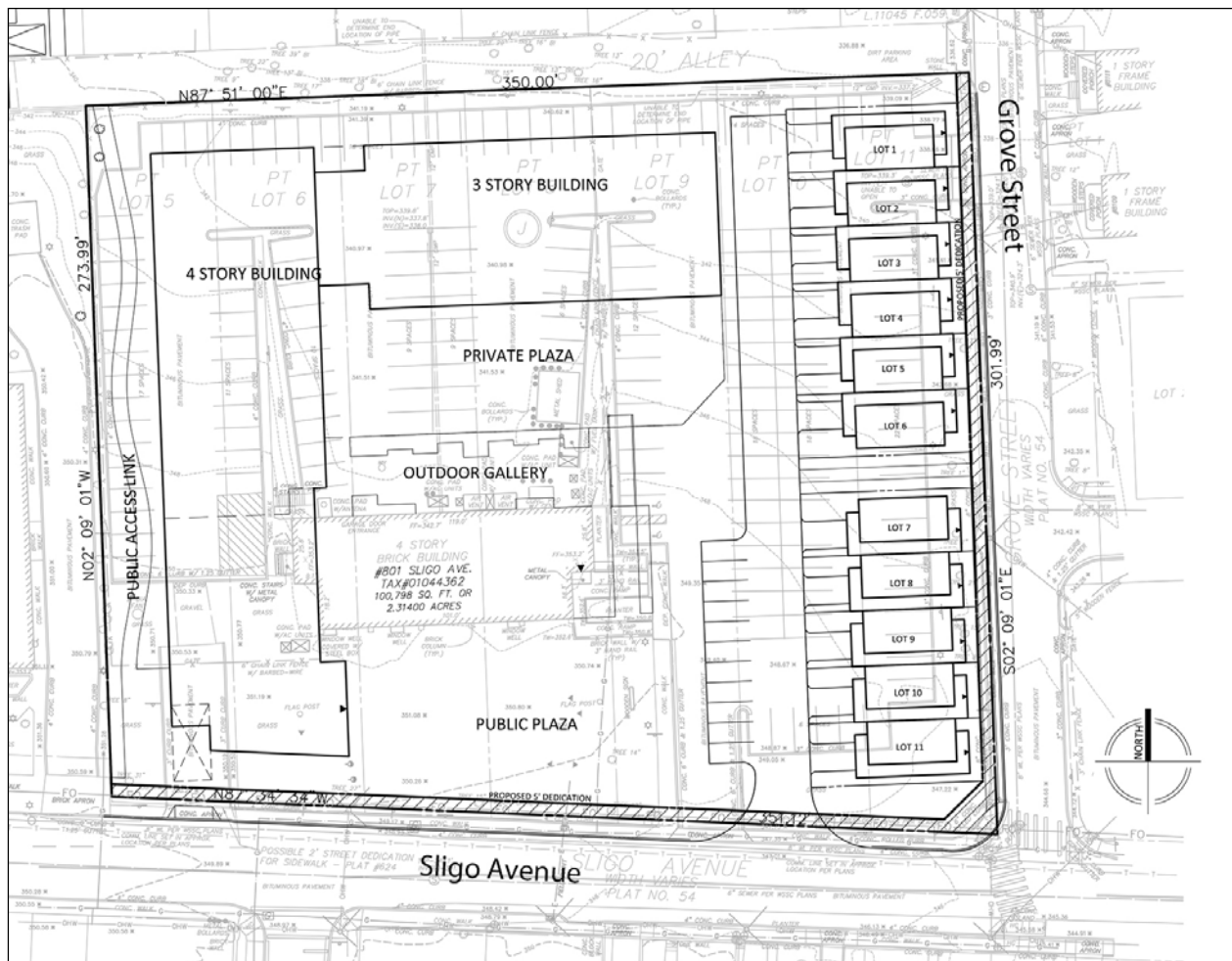
The Property is predominantly cleared with no forested areas. There are no streams onsite and Property is not located within a Special Protection Area. There are no historic resources on the Property.

### SECTION 3: PROJECT DESCRIPTION

#### Previous Approvals

The Project is a Public Private Partnership between the County and the Applicant. The County issued a Request for Qualifications and Development Proposals for redevelopment of the Property in September 2014 and selected the Applicant's proposal for award of the development contract.

On February 23, 2016, the District Council adopted Resolution 18-405 (Attachment A) to rezone the site from R-60 to CRNF-1.25, C0.25, R1.0, H65. The Resolution includes a Floating Zone Plan with Binding Elements. The Planning Board recommended approval of the rezoning on December 17, 2015.



Floating Zone Plan

**Proposal**

Subdivision, Uses and Density

The Applicant proposes creation of 12 lots with associated HOA open space parcels, to construct up to 130,000 square feet of development, including up to 110,000 square feet of residential uses, with up to 68 multi-family units and 11 townhomes, and up to 20,000 square feet of non-residential uses, with up to 30 artist studios and 1,500 square feet of retail. The Project will be constructed as a single phase.



*Illustrative Site Plan*

Buildings

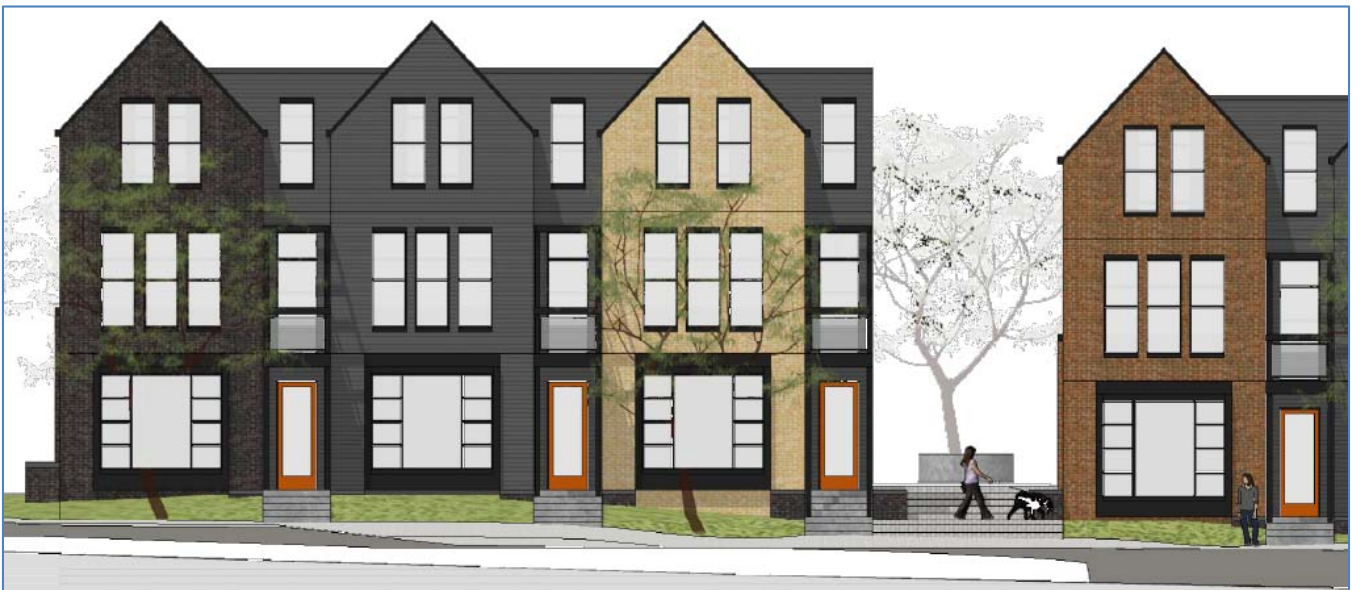
The Applicant is proposing to develop the Property as an affordable, mixed-use development that provides opportunities for artists to live and work. Through adaptive re-use, the Applicant will transform the prior police station building into approximately 30 artist studios (approximately 18,500 square feet) with up to 1,500 square feet of ground floor retail.

The multi-family building will have a four-story wing along the western site boundary that is connected to a three-story wing and the repurposed police station building. The 68 units in the new multi-family building will all be 100% affordable units, accommodating a range of incomes.



*Multi-Family & Studio Buildings, Sligo Avenue Elevations*

The townhouses will be 2.5 stories and will be located along Grove Street to retain and reinforce the single-family residential scale of the street. The townhouses will include a minimum of four workforce housing units.



*Townhouse Grove Street Elevation*

The new multi-family building will include one level of underground parking, while the townhouses will have both internal garages and private driveways. Visitor parking will be provided adjacent to the main public open space. Loading for the multi-family building will be provided from the interior driveway.

### Open Space

In total, the Project will provide a minimum of 25,563 square feet open space on-site, including 12,510 square feet of public open space associated with the multi-family and studio development, and 11,870 square feet of common open space associated with the townhomes.

The main public open space will be located along Sligo Avenue, between the sidewalk and the studio and multi-family buildings. The public plaza will serve as an area where artists can display their work, as well as an inviting space where the community can gather freely.



*Site Plan Detail Showing Plaza*

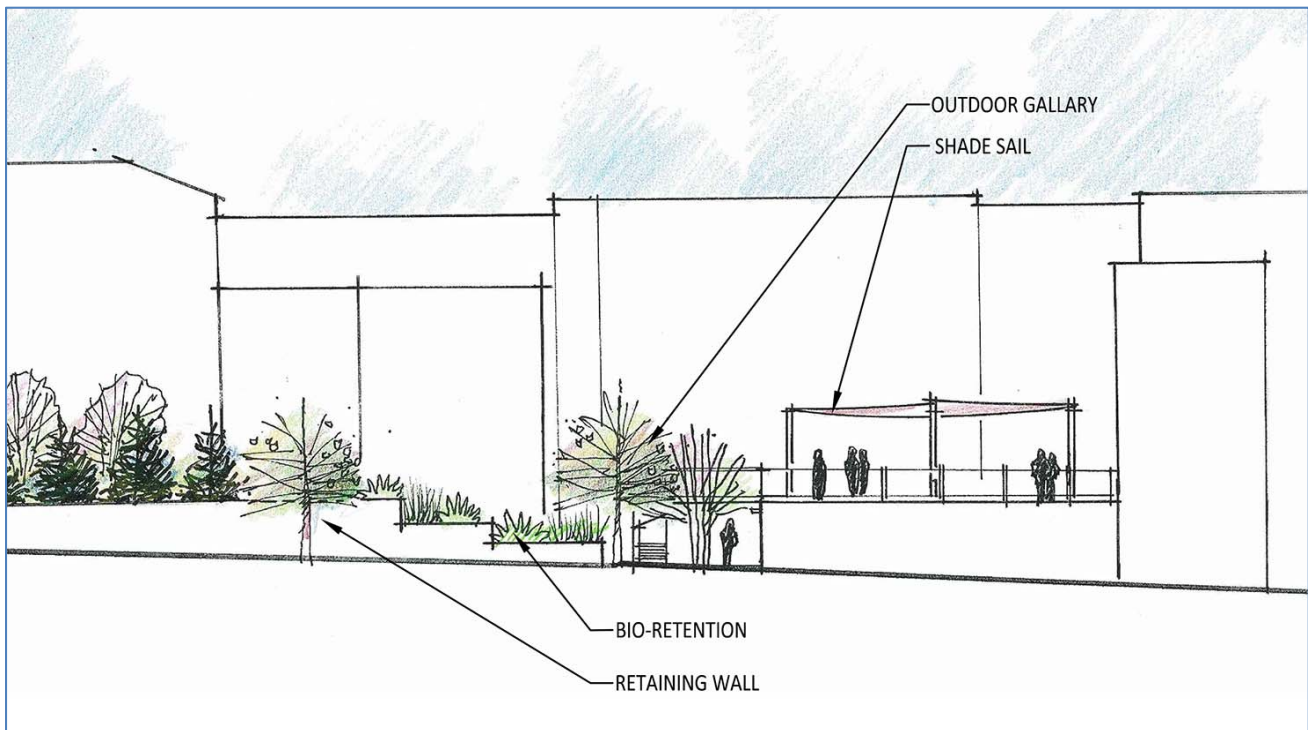


*Elevation Detail Showing Main Public Open Space & Building Entrance*

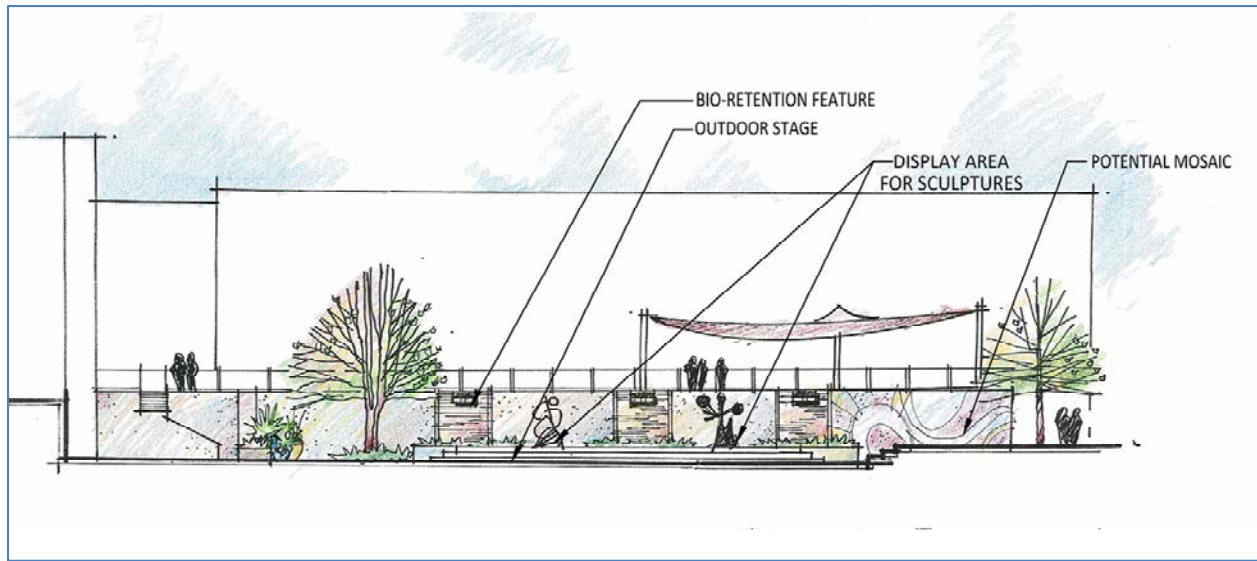
The common open space will be provided through a private plaza located within the "U" created by the proposed additions to the existing building to provide a more private area for residents to host events, garden, dine, and gather. To that end, there are two parts of the common open space: a raised patio and an outdoor gallery space. The raised terraced patio will include a grill area, space for tables and chairs, a gathering node with a fire pit and shade sail, and plantings defining the various spaces and contrasting with the strong geometry of the space. The recessed outdoor gallery space will include planters that double as stormwater bioretention facilities, a stage for presentations, performances, and display, and a patio area where artworks can be displayed.



Site Plan Detail Showing Plaza



Elevation Detail Showing Common Open Space from Internal Drive



*Elevation Detail Showing Common Open Space looking North*

### Circulation

Consistent with the Binding Elements of the LMA, the sole vehicular access point to the property will be on Sligo Avenue, to minimize traffic impacts on the nearby residential streets. The Project eliminates the western-most curb cut on Sligo Avenue and retains the eastern-most curb cut.

The streetscape along both frontages will be upgraded and include ADA-compliant sidewalks, street trees, and adequate street lighting to ensure safety. Most of the Sligo Avenue streetscape will have more of an urban feel providing direct pedestrian access to the retail and studios. The frontage around the townhouses – starting from the driveway entrance on Sligo Avenue and continuing around the corner along Grove Street – will reflect the residential character of the neighborhood with lead walks to the townhouses.

## **SECTION 4: PRELIMINARY PLAN ANALYSIS AND FINDINGS**

### **Master Plan Conformance**

The Property is located within the 2000 *East Silver Spring Master Plan*, the major emphasis of which “is to support stable residential neighborhoods and to assure linkages to commercial centers and public facilities.” (p. 21) The Plan recommendations seek to achieve this through four general themes for the entire Plan area, as well as a specific recommendation for the Property.

The proposed development echoes these general themes (p. 21):

1. ***Community Preservation, Stability, and Character.*** *Preserve existing residential character, encourage neighborhood reinvestment, and enhance the quality of life throughout East Silver Spring.*



In furtherance of the Master Plan's goal to preserve the existing residential character and encourage compatible reinvestment, the Project will increase the range of the housing stock through the development of townhouses and multi-family units on the Property. It preserves and enhances the existing residential neighborhood by providing an affordable mixed-use, predominantly residential development, which serves as a buffer and provides an appropriate transition between the more intensive uses in the CBD and the single-family residential areas just outside the CBD.

2. **Commercial Centers:** *Improve commercial centers to better serve the needs of local and area residents and people passing through the area.*

Although the Project is located just outside the CBD area of Fenton Village, the proposed development will improve that commercial center and the Silver Spring CBD as a whole by providing a center of arts activity that has the potential to attract people who might typically pass through the area to stay in the area to experience some art and then dine in one of the many nearby restaurants. Further, the creation of a center for art activity will further raise the profile of the CBD as a cultural destination.

3. **Community Facilities, Parks and Environmental Resources.** *Support the community facilities and parks and protect the environmental resources that contribute to community identity and provide valuable services and programs.*

The Project will result in significant improvements to the natural and pedestrian environment by creating additional green space, reducing the amount of impervious area on-site, and providing on-site stormwater management treatment, where there currently is none.

4. **Neighborhood-friendly Circulation.** *Provide safe, pleasant and convenient pedestrian access to places people want to go while accommodating local and regional traffic.*

The Project will provide a pedestrian-friendly environment that will promote pedestrian and bicyclist access, with streetscape improvements along Sligo Avenue and Grove Street, and the realization of a through-block connection between Sligo Avenue and Silver Spring Avenue.

For this Property, the Master Plan recommends the following:

*Increase the range of the housing stock by recommending the site currently occupied by the police department on Sligo Avenue for townhouses, if it becomes available for private development. (p.27)*

*If the police station moves from this location and becomes available for redevelopment, under County policy public reuse of the site will be given first priority. If public reuse of the site is not appropriate, the site may be privately developed under the R-60 or the RT-8 Zone. (p. 32)*

After the police station relocated from the Property to White Oak in 2014, the County issued a request for proposals for a public-private partnership to redevelop the site. In partnership with the surrounding community, the County selected the Applicant's proposal for redevelopment of the site. The proposed development will both enhance the public use of the site, as described under discussion of the general themes above, by creating inviting uses and public spaces. In addition, construction of townhouses and multi-family units will increase the types of housing stock available in East Silver Spring.

The application, with the proposed residential uses of multifamily and townhouses is consistent with the above stated goals and guidance of the *East Silver Spring Master Plan*.

#### Master Plan Roadways and Pedestrian/Bikeway Facilities

The following is a summary of recommendations included in the 2000 Approved and Adopted *East Silver Spring Master Plan* and the 2005 Approved and Adopted *Countywide Bikeways Functional Master Plan*:

1. Sligo Avenue (A-87): A two-lane Arterial roadway with a minimum master planned right-of-way of 50 feet between the Silver Spring CBD and Piney Branch Road. This roadway is recommended to have master planned on-road bicycle facilities located along this segment.
2. Although not discussed in the *Master Plan*, Grove Street runs along the eastern property frontage and functions as a secondary residential street within a 30-foot-wide right-of-way along the property frontage.

Sligo Avenue is recommended to have on-street bicycle lanes to connect the Silver Spring CBD with the East Silver Spring/ Takoma Park communities. Although the subject application does not propose implementing bicycle lanes, it does not preclude future implementation of that facility.

#### Pedestrian Facilities and Public Transit Service

The Site frontages on both Sligo Avenue and Grove Street have existing variable width sidewalks located at the back-of-curb. These sidewalks are part of a continuous sidewalk network connecting the Site with Downtown Silver Spring and the surrounding residential area.

The Montgomery County Department of Transportation (MCDOT) is requiring that the Applicant either narrow the pavement width of Grove Street by two feet or relocate the existing utility poles further into the site. MCDOT's concern is that the existing proximity of the utility poles to the existing curb is an unsafe condition. While Staff does not oppose the narrowing of the pavement width in principal, and indeed on other projects has worked diligently to similarly do so, concerns raised by the community and the Applicant convince Staff that such improvements should be studied as part of a more comprehensive look at the network of neighborhood streets. Staff acknowledges MCDOT's concern but notes that the existing condition has been in place for decades without significant incident. Were the pavement width to be narrowed here, the rest of the block, as well as the remaining blocks of Grove Street would still retain the existing proximity of the utility poles to the curb. Staff recommends that the Planning Board not accept MCDOT's recommendation on this item and instead encourage MCDOT to evaluate the street as a whole. In meetings with residents, it is clear that there are other improvements, particularly the

upgrade of bike facilities, on-street parking, and a complete sidewalks network along Grove, that merit further discussion.

Additionally, given that this is a development with 91% of units consisting of either MPDUs, WFHUs, or State Tax-Credit units, the additional cost of the improvements is not easily borne.

Transit service is available from bus stops immediately adjacent to the Site frontage. That bus stop is served by Montgomery County Ride On Route 16, which runs between Silver Spring and Langly Park-Takoma. Beyond the Site frontage, Ride On Route 17 and WMATA Metrobus Route F4 are accessible from bus stops on Fenton Street.

Local Area Transportation Review (LATR) and Transportation Policy Area Review (TPAR)

The Applicant submitted a traffic exemption statement to satisfy the Local Area Transportation Review because the proposed land use generates fewer than 30 total peak-hour trips within the weekday morning and evening peak periods. The proposed land use is anticipated to generate 26 morning peak hour trips and 25 evening peak hour trips, as depicted in Table 1. The Applicant must satisfy the TPAR test by paying 25% of DPS’s transportation/development impact tax located in the Silver Spring/Takoma Park Transportation Policy Area. This payment is paid to DPS at the time of building permit.

**Table 1  
Proposed Silver Spring Artspace  
Peak Hour Trip Generation Table**

Trip Generation	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
<b>Proposed</b>						
11 Proposed Townhouses	1	4	5	6	3	9
68 Garden Apartments	6	24	30	22	11	33
30 Artist Studios <sup>2</sup>	15	0	15	0	15	15
1,500 SF Ancillary Retail	1	1	2	2	2	4
<b>Total Proposed</b>	<b>23</b>	<b>29</b>	<b>52</b>	<b>30</b>	<b>31</b>	<b>61</b>
<b>Credits</b>						
15% Reduction for resident artists (10 Dwelling Units)	1	3	4	3	2	5
15% Reduction for Resident Artists (10 Studio Units)	5	0	5	0	5	5
Former Third District Police Station <sup>3</sup>	11	6	17	6	20	26
<b>Total Credit</b>	<b>17</b>	<b>9</b>	<b>26</b>	<b>9</b>	<b>27</b>	<b>36</b>
<b>Total Net New Peak Hour Trips</b>	<b>6</b>	<b>20</b>	<b>26</b>	<b>21</b>	<b>4</b>	<b>25</b>

Source: Integrated Transportation Solutions, Inc. Traffic Statement dated Aug. 14, 2015; revised Sept. 24, 2015

<sup>2</sup> Studio Rate: 0.5 peak hour trips/ unit

<sup>3</sup> Peak hour trip rates applied to existing 32,844 square foot District 3 Police Station

## **Other Public Facilities**

Public facilities and services are available and will be adequate to serve the proposed development. The Property is proposed to be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Property. Electrical, telecommunications, and gas services are also available to serve the Property.

## **Compliance with Zoning Ordinance and Subdivision Regulations**

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated. As discussed above, the Application substantially conforms to the 2000 *East Silver Spring Master Plan*. The Application complies with the specific density recommendations for the site as well as the applicable urban design, roadway, and general recommendations outlined in the Master Plan. As evidenced by the Preliminary Plan, the site is sufficiently large to efficiently accommodate the proposed mix of uses.

Under Section 59-4.5.4 of the Zoning Ordinance, the dimensional standards for the lots will be determined with approval of the subsequent site plans.

## **Environment**

### *Environmental Guidelines and Natural Resource Inventory/Forest Stand Delineation (NRI/FSD)*

The NRI/FSD # [420160380](#) for this Property was approved on November 6, 2015. The Property contains no forest, streams, wetland, floodplains or associated buffers. Furthermore, there are no known rare, threatened, or endangered species on or near the site. However, there are a number of specimen trees which measure over 30" DBH located on and near the subject property. There is also a tree stand along the paper alley along the north side of the site; however, the feature does not meet forest definition. The site is located within the Sligo Creek watershed, a Use I watershed<sup>4</sup>.

### *Forest Conservation Plan*

The application is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). The latest version of the Preliminary/Final Forest Conservation Plan was submitted through Eplans on June 23, 2016. Although no forest exists onsite, the application is subject to the Forest Conservation Law and there is an afforestation requirement of 0.43 acres. Given the relatively small size of the Property, the lack of environmentally sensitive areas, and the modest amount of afforestation requirements, the afforestation will be satisfied offsite by either a fee-in-lieu payment or the use of a

---

<sup>4</sup> WATER CONTACT RECREATION, PROTECTION OF AQUATIC LIFE. Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply; and industrial water supply.

forest conservation bank. Furthermore, due to the proposed density of the development and the priority to provide onsite mitigation plantings for the variance trees under Section 22A-12b(3), the Subject property is not an appropriate setting to also accommodate landscape plantings applied toward forest conservation requirements.

The Project proposes to remove three trees that are subject to a Forest Conservation Variance discussed in detail further below. Staff does not believe that two of the three removals are justified and is recommending improved tree protection measures/modified construction techniques along with a partial denial of the variance request.

#### Forest Conservation Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ), requires a variance. An Applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. Unless the variance is granted, the law requires no impact to trees that measure 30 inches DBH or greater; are part of a historic site or designated with a historic structure; are designated as national, state, or county champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The affected resources that have been identified on the current Plan include trees with a DBH of 30 inches or greater. The Applicant submitted the variance request on June 29, 2016, for the impacts and removals of subject trees (Attachment C). The Applicants' request is to impact (but retain) four trees and definitively remove one subject tree and potentially remove two other trees that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law (affecting a total of seven trees).

Table 2 VARIANCE TREES AS PROPOSED FOR REMOVAL

Tree #	Scientific Name/ Common Name	D.B.H (inches)	Field Conditio n	Dispositio n	CRZ Impacts (%)	Justification
1*	<i>Quercus coccinea</i> / scarlet oak	48	Good	Removal	48.5	utility installations
7	<i>Acer rubrum</i> / red maple	34	Poor	Removal	100	construction impacts/conditio n
13*	<i>Acer rubrum</i> / red maple	39	Good	Removal	49.5	utility installation

\*Removal not supported by Staff

Table 3 VARIANCE TREES AS PROPOSED FOR IMPACT

Tree #	Scientific Name/ Common Name	D.B.H (inches)	Field Conditio n	Dispositio n	CRZ Impacts (%)	Justification
3	<i>Juglans nigra</i> / black walnut	38	Good	Impact	27.6	construction impacts
11**	<i>Liriodendron tulipifera</i>	50	Good	Impact	17.8	utility installation
12	<i>Acer rubrum</i> / red maple	43	Fair	Impact	23.4	utility installation
14	<i>Robinia Pseudoacacia</i> / black locust	34	Good	Impact	10.8	utility installation

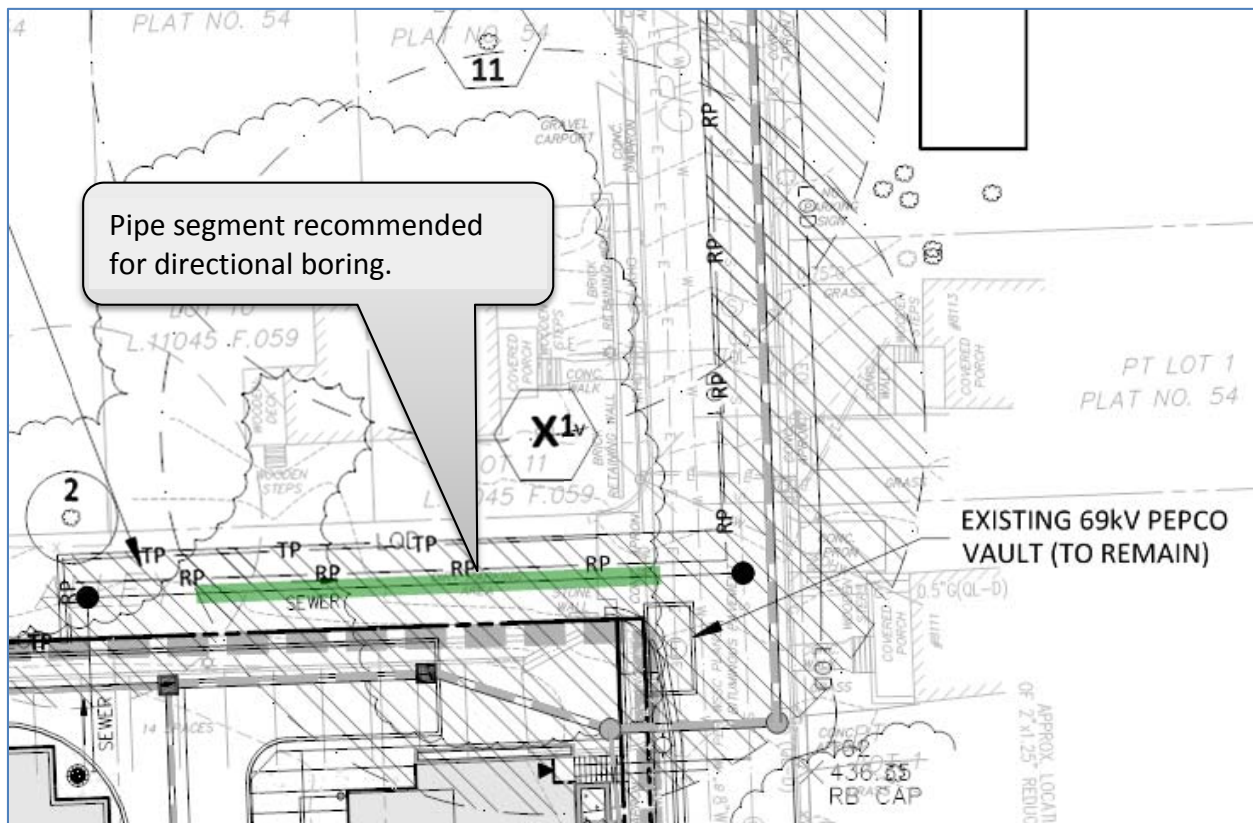
\*\*the variance request misidentifies tree as an oak.

Staff does not support the impacts and resulting potential removal of Tree 1 (illustrated below) relative to proposed activity within the paper street/alley for a sewer line connection, which include traditional trenching for pipe installation that would sever any roots within the excavation. Staff believes that the Applicant has not appropriately explored minimization /avoidance of impacts for this tree. The proposed excavation would likely have a significant impact on the roots of the offsite 48” diameter tree. Even if a number of preservation measures are added, there is potential for the tree to decline from the construction impacts relatively soon (2-5 years) after construction is completed. Additionally, staff notes that older trees are less resilient to impacts than younger trees. The removal of this tree would be among the most difficult (and costly) scenarios for a removal given that the large tree is growing close to the

existing residence and the canopy extends well over the structure and also the nearby locally serving electrical powerlines.

To avoid the considerable construction impacts as shown on the submitted plans/variance request, Staff recommends as a condition of approval (and partial denial of the variance request) that the sewer line connection within the paper street be directionally bored within the CRZ of Tree 1. The staging and excavation pit(s) for the boring machine which would occur to the west outside of the CRZ of Tree 1 and/or within the Grove Street ROW, east of the existing driveway apron, where few (if any) of the trees roots would be present. The proposed LOD which overlaps the CRZ of Tree 1 within the alley would be removed from the plans.

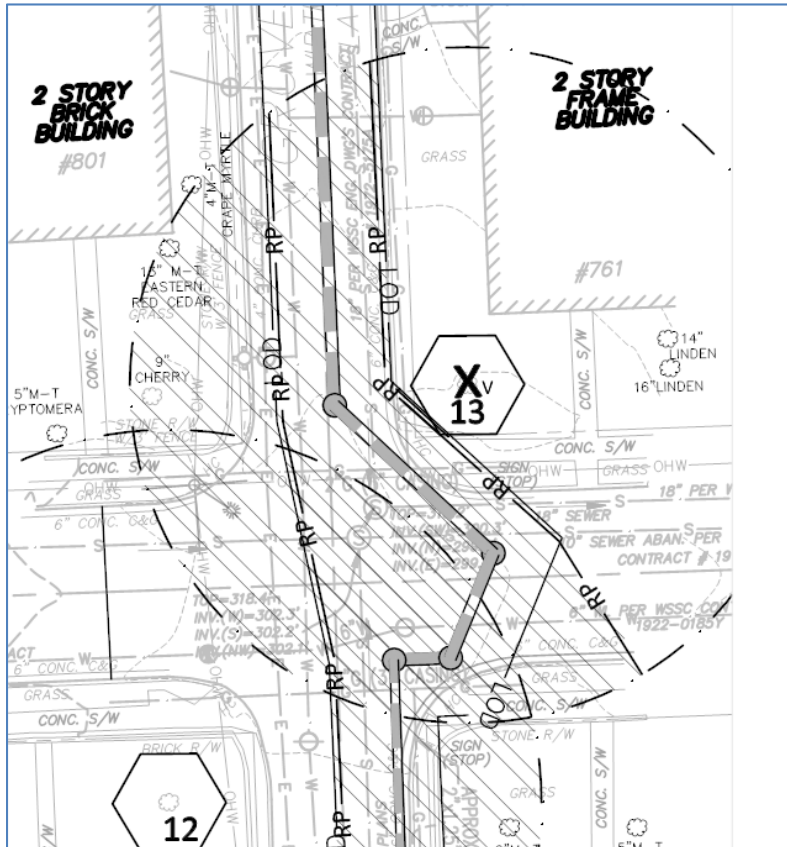
Although cost is generally not a factor for considering variance request, Staff notes that any additional expense with the directional boring would be offset by the precluding the considerable cost of the tree removal.



*Submitted plans showing Impacts to CRZ of Tree 1*

Additionally, staff has concerns with the excessive disturbance shown for offsite Tree 13 (illustrated below). As shown trenching and excavation would be allowed within approximately 8 feet from the base of the tree. The impacts as requested would likely require removal of the tree. The extensive impacts are shown and requested to accommodate potential design changes and a variety of construction methods such as sloping back the excavation face (rather than using temporary shoring that would minimize the disturbance/impact).

Staff notes that there have been relatively minor impacts to the tree from sidewalk reconstruction and other roadway/utility work. However, the impacts currently requested are well beyond any previous impacts to the tree. Staff is recommending as a condition of approval (and partial denial of the variance request) that the impacts for trenching and excavation impacts to Tree 13 relative to the northeast corner of the intersection be limited to no more than a 5-foot offset from the edge of the pipe location that is currently proposed. However, equipment access between the tree and 5-foot offset would be allowed if the area is appropriately armored with temporary root protection matting.



*Submitted plans showing Impacts to CRZ of Tree 13*

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. In addition to the required findings outlined numerically below, Staff has determined that the Applicant (as conditioned) has demonstrated that enforcement of the variance provision would result in an unwarranted hardship for the following reasons:

The removal of Tree 7 would likely be necessary even in a no-build scenario given the poor condition of the tree. Furthermore, most of the proposed impacts are associated with necessary utility modifications that are located within the built ROW where such impacts are routinely anticipated.



Staff has reviewed this Application and based on the existing circumstances and conditions on the Property, Staff agrees that there is an unwarranted hardship.

*Variance Findings*

Staff has made the following determination based on the required findings that granting of the requested variance:

1. Will not confer on the Applicant a special privilege that would be denied to other Applicants.

As conditioned, the impacts are avoided/minimized to the greatest extent possible and are generally associated with utility modifications within the built ROW where such impacts are anticipated. Therefore, the variance request would be granted to any Applicant in a similar situation.

2. Is not based on conditions or circumstances which are the result of actions by the Applicant;

The requested variance is based on proposed development allowed under the existing zoning and the need to achieve adequate utility and storm drain connections. The variance can be granted under this condition if the impacts are avoided or minimized (as conditioned) and that any necessary mitigation is provided.

3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The requested variance is generally a result of the sewer and storm drain modifications in the right-of-way that is included within the net tract area of this project and not as a result of land or building use on a neighboring property.

4. Will not violate State water quality standards or cause measurable degradation in water quality.

Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality. The subject area is not directly associated with any streams, wetlands or related buffers. The Department of Permitting Services (DPS) staff approved the stormwater management (SWM) concept for the project on June 29, 2016. The SWM concept proposes to meet required stormwater management goals by the use of micro-bioretenion, with the remaining volume to be treated by a structural sandfilter. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality. Additionally, the mitigation plantings will contribute to these goals.

*Mitigation for Trees Subject to the Variance*

There is one subject tree proposed for removal in association with the project that is supported by Staff. Planting mitigation for the removal should be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. This means that for the 34 diameter inches of tree to be removed (as conditioned

rather than the three removals requested), the Applicant must provide mitigation of at least 8.5 inches of caliper replacements. Therefore, the mitigation requirements will be addressed by the planting of three 3" caliper trees. As a related point, Staff notes that the proposed plans do not provide appropriate space to mitigate for the three tree removals proposed. The lack of suitable planting space for the otherwise commensurate mitigation underscores the need to appropriately preserve trees 1 & 13. A condition of approval is also recommended to provide the required mitigation trees in plaza space which is unencumbered and would readily accommodate the planting of canopy trees (rather than the understory trees now proposed).

Staff does not recommend mitigation plantings for variance trees that are not removed or overly impacted.

#### *County Arborist Recommendation*

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The Applicants' request was forwarded to the County Arborist on July 1, 2016. The County Arborist response to the variance request is anticipated to be available prior to the Planning Board hearing and will be presented at that time.

#### *Staff Recommendation on Variance*

As a result of the above findings, Staff recommends the Board **partially deny** the Applicant's request for a variance from Forest Conservation Law to potentially remove subject tree 1 and 13 associated with the project and *instead* approve a variance only for removal of Tree 7, and for impacts to trees 1,3,11,12,13 & 14.

#### Noise

The project location is fronting an arterial roadway (Sligo Avenue) and is therefore subject to the Noise regulations associated with residential development. A noise analysis dated June 16, 2016, was prepared by Phoenix Noise & Vibration, LLC. The analysis shows that excessive noise impacts (measured at 65 dBA Ldn) do affect the Subject Property. The report concluded that interior noise levels for the affected residential units fronting Sligo Avenue can be mitigated to appropriate levels (less than 45 dBA Ldn) by suitable building shell construction and installation of windows designed to mitigate the sound. Standard conditions of approval are recommended to address the interior noise mitigation.

The analysis also showed that the art plaza open space area is within the 65 dBA Ldn noise contour. Providing noise mitigation for the plaza would likely involve berms, walls or other types of barriers. In a letter dated June 21, 2016, (Attachment D) the Applicant requested that the public space fronting Sligo Avenue not be subject to the noise mitigation requirements because the otherwise necessary design changes would adversely affect the design intent of the space which to be closely connected and visually/physically accessible from Sligo Avenue. Staff supports the Applicants' request.

*Stormwater Management*

The MCDPS Stormwater Management Section approved the stormwater management concept on June 29, 2016 (Attachment F). According to the approval letter, the stormwater management concept meets stormwater management requirements via environmental site design to the maximum extent possible through the use of micro-bioretenion, with the remaining volume to be treated by a structural sandfilter.

**SECTION 5: SITE PLAN FINDINGS**

FINDINGS

1. *When reviewing an application, the approval findings apply only to the site covered by the application.*
2. *To approve a site plan, the Planning Board must find that the proposed development:*
  - a. *satisfies any previous approval that applies to the site;*

As demonstrated below, the Site Plan conforms to all Bindings Elements of Local Map Amendment H-110:

1. *Vehicular access from Grove Street shall be prohibited.*

The sole vehicular access to the site is from Sligo Avenue.

2. *Vehicular access from the alley located to the north of the property is prohibited.*

The sole vehicular access to the site is from Sligo Avenue.

3. *The maximum building height of any structure with frontage on Grove Street shall not exceed 42 feet for a depth of 75 feet, as measured from the curb at Grove Street.*

The only structures with frontage one Grove Street are the 11 townhouses, which have a maximum building height of 42 feet.

4. *The maximum building height of the 3-story building located parallel to the alley shall not exceed 50 feet, as measured from the curb at Sligo Avenue.*

The maximum building height of the 3-story multi-family building wing located parallel to the alley will not exceed 50 feet, as measured from the curb at Sligo Avenue.

5. *The maximum building height along Sligo Avenue shall not exceed 60 feet, as measured from the curb at Sligo Avenue.*

The maximum building height along Sligo Avenue is 60 feet, as measured from the curb at Sligo Avenue.

6. *A public plaza, at least 3,750 square feet in size, will be located along Sligo Avenue.*

The primary public open space, located along Sligo Avenue, will be at least 3,750 square feet in size.

7. *A minimum of 3,500 square feet of common open space will be located in an interior courtyard for use by residents of the site.*

The common open space for the Project will cover at least 3,500 square feet and is located in an interior courtyard created by the repurposed police station and the new multifamily building and will be available for use by residents of the site.

8. *The minimum building offsets from the proposed right of way from Grove Street will be 5 feet and from Sligo Avenue will be 15 feet.*

The Project meets these building offsets.

9. *Final development/unit mix shall not exceed: 68 multifamily units; 11 townhomes; 30 artist studios; 1,500 sf commercial/retail.*

The final development/unit mix does not exceed these maxima.

10. *A minimum of 10 of the artists studios will be leased to residents of the development.*

The Applicant will monitor lease rolls to ensure compliance with this Binding Element.

11. *Final development will include a minimum of 12.5% MPDUs.*

The final development will include a total of 79 dwelling units, of which at least 72, or over 91%, will be either MPDUs (or DHCA-approved equivalent) or WFHUs.

12. *Total square footage of development will not exceed 1.16 FAR or 139,000 square feet.*

The maximum total square footage of development will be 130,000 square feet.

- b. *satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;*

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

- c. *satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment;*

This section is not applicable as the Property's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

- d. *satisfies applicable use standards, development standards, and general requirements under this Chapter;*

- i. *Division 4.5. Commercial/Residential Zones*

Development Standards

The Project is approximately 2.75 acres zoned CRNF-1.25, C0.25, R1.0, H65. following table, Table 10, shows the application's conformance to the development standards of the zone and the approved Floating Zone Plan.

**Table 4  
Commercial Residential Floating Neighborhood Zone Standards**

<b>Development Standards</b>	<b>Required</b>	<b>Floating Zone Plan</b>	<b>Provided</b>
Tract Area			119,990 sf
Prior Dedications	NA		19,192 sf
New Dedication	NA		3,551 sf
Site	NA		97,433 sf
Density			
Total FAR/GFA, max.	1.25 (149,987 sf)	1.16 (130,000 sf)	1.08 (130,000 sf)
Commercial, max.	0.25 (29,997 sf)	0.24 (29,000 sf)	0.17 (20,000 sf)
Residential, max.	1.00 (119,990)	0.92 (110,000 sf)	0.92 (110,000 sf)
Building Height, max.			
Townhouses	Established by Plan		42 ft
Multi-Unit	Established by Plan		60 ft
Building Setbacks, min.			
Public Street	Established by Plan		0 ft
Adjoining Lot			
Side	Established by Plan		15 ft
Rear	Established by Plan		0 ft
Public Open Space, min.	10% of multi-family use area	7,960 sf. (10%)	12,510 sf (16%)
Common Open Space, min.	10% of townhouse use area	1,760 sf. (10%)	11,870 sf (67%)
Parking	Min. 70/ Max. 183	Established by Site Plan	102

*ii. Division 4.7 Optional Method Public Benefits*

As the Project is in a CRNF zone, it is being developed under the Standard Method, which does not require provision of Public Benefits.

*iii. Division 6.1. Site Access*

The retention of the existing vehicular access point on Sligo Avenue provides safe and convenient access into the site with direct access to visitor and resident parking, while minimizing potential for conflicts with pedestrians. The improved sidewalks along the Sligo Avenue and Grove Street frontages will enhance the existing pedestrian access to the site.

*iv. Division 6.2. Parking, Queuing, and Loading*

Parking for the multi-family residential building will be provided in a below-grade facility. The townhouses will include integrated parking garages and private driveways for each unit. Vehicular and loading access is located off of the internal private driveway.

*v. Division 6.3. Open Space and Recreation*

The Project has open space requirements for 10 percent each of the site area devoted to both the multi-family (Public Open Space) and townhouse (Common Open Space) uses. In total, the Project will provide a minimum of 25,563 square feet open space on-site, including 12,510 square feet of public open space associated with the multi-family and studio development (16%), and 11,870 square feet of common open space associated with the townhomes (67%).

The development will meet the active and passive recreation space required by the zone, based on the calculation methods in the M-NCPPC Recreation Guidelines. As a condition of approval, the Certified Site Plan will provide the calculations. The development will provide adequate, safe, and efficient recreation facilities to allow residents to lead an active and healthy life.

*vi. Division 6.4. General Landscaping and Outdoor Lighting*

Landscaping and lighting, as well as other site amenities, will be provided to ensure that these facilities will be safe, adequate, and efficient for year-round use and enjoyment by residents and visitors. The on-site lighting will limit the necessary light levels to streets and sidewalks and will prevent light spillover to adjacent areas. Site furnishings will be integrated within the site to create a unique and interesting place and ensure accessibility and comfort.

As shown in the Development Standards table, the Site Plan meets all of the general requirements and development standards of Section 4.5 of the Zoning Ordinance, the optional method public benefits provisions of Division 4.7 of the Zoning Ordinance, and the general development requirements of Article 59-6 of the Zoning Ordinance.

*e. satisfies the applicable requirements of:*

*i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and*

The MCDPS Stormwater Management Section approved the stormwater management concept on June 29, 2016 (Attachment F). According to the approval letter, the stormwater management concept meets stormwater management requirements via environmental site design to the maximum extent possible through the use of micro-bioretenion, with the remaining volume to be treated by a structural sandfilter.

ii. *Chapter 22A, Forest Conservation.*

As conditioned, the Application is in compliance with the M-NCPPC's Environmental Guidelines and Forest Conservation Law. The Forest Conservation Plan is consistent with the conditions of approval for the Site Plan. The tree variance approval is assumed in the Planning Board's approval of the Forest Conservation Plan.

f. *provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;*

The Project provides safe and well-integrated parking and circulation patterns. The single vehicular access point minimizes potential conflicts with other modes of locomotion along the site frontages. The circulation maximizes the efficient use of the relatively constrained site while provided the require parking and loading areas.

The Project provides a safe and well-integrated building, open spaces and site amenities. The open spaces are generously sized and well-appointed and are all edged with residential uses to promote activation and "eyes on the street". The display of art within, on, and outside the buildings will attract appreciation and connect the development to the surrounding community.

g. *substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;*

As discussed in the Preliminary Plan findings above, the Property is located within the 2000 *East Silver Spring Master Plan*, the major emphasis of which "is to support stable residential neighborhoods and to assure linkages to commercial centers and public facilities." (p. 21) The Plan recommendations seek to achieve this through four general themes for the entire Plan area, as well as a specific recommendation for the Property. The application, with the proposed residential uses of multifamily and townhouses is consistent with the goals and guidance of the *East Silver Spring Master Plan*.

h. *will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;*

As discussed in the Preliminary Plan findings, the proposed development in the Site Plan will be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.



- i. on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and*

The Property is not located in a Rural Residential or Residential zone.

- j. on a property in all other zones, is compatible with existing and approved or pending adjacent development.*

The Site Plan is compatible with other uses and other site plans, as well with existing and proposed adjacent development. The Project will serve as a buffer and provide an appropriate transition to the residential uses just outside of the CBD. The massing and site layout have been specifically designed with the confronting residentially zoned properties in mind. The Project will be compatible with and will complement the adjacent development.

- 3. To approve a site plan for a Restaurant with a Drive-Thru, the Planning Board must also find that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood.*

Not applicable, this Site Plan does not include a restaurant with a drive-thru.

- 4. For a property zoned C-1 or C-2 on October 29, 2014 that has not been rezoned by Sectional Map Amendment or Local Map Amendment after October 30, 2014, if the proposed development includes less gross floor area for Retail/Service Establishment uses than the existing development, the Planning Board must consider if the decrease in gross floor area will have an adverse impact on the surrounding area.*

Not applicable, the Subject Property is not zoned C-1 or C-2.

### **Notification and Community Outreach**

The Applicant has complied with all notice requirements. On June 28, 2016, Staff received a letter from the East Silver Spring Citizens Association (ESSCA) supporting the project and praising the Applicant's efforts to work with the community on the development of the design (Attachment E). But the letter also expresses concern about MCDOT's recommendation for the narrowing of Grove Street and recommends MCDOT take a more holistic look at the street independent of this project.

### **ATTACHMENTS**

- A. Council Resolution
- B. Mandatory Referral letter
- C. Tree Variance Request
- D. Noise Ordinance Request
- E. Community Correspondence
- F. Agency Letters