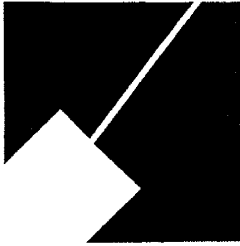


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

MAY 12 2005

**Date Mailed:**

**Action:** Approved Staff Recommendation  
**Motion** of Commissioner Bryant,  
seconded by Commissioner Robinson,  
with a vote of 5-0.

Chairman Berlage and Commissioners  
Perdue, Bryant, Robinson and Wellington  
voting in favor.

**MONTGOMERY COUNTY PLANNING BOARD**

**OPINION**

PROJECT PLAN REVIEW #: 9-04002A  
PROJECT NAME: Silver Spring Gateway

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MAY 12 2005

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

**I. THE SUBJECT PROPERTY**

The property is generally bordered by: the existing Blair Mill Road, East-West Highway, Georgia Avenue and the CSX/WMATA rail lines. The property is comprised of ten individual properties, a portion of the Silver Spring Innovation Center (SSIC) site, and the portions of Blair Mill Road to be abandoned. Blair Mill Road, as it traverses the property, has been conditionally approved for abandonment by the Montgomery County Council and will revert to private ownership in conjunction with the development process.

As part of the abandonment of Blair Mill Road, the owner of the Silver Spring Square site plan will accept the ownership reversion from centerline of the adjoining Blair Mill Road right-of-way. The portion of the abandoned Blair Mill Road adjacent to the County-owned land being developed with the SSIC will be assigned to the Applicant and is included as part of the property (and will be formally included through the record plat process).

The property is adjoined to the north by the Silver Spring Square multifamily site plan. Further to the north by Foulger Pratt's residential high-rise, Metro Center Phase V; to the south by existing commercial uses, a proposed Arts Alley (discussed in more detail below) and Georgia Avenue; to the east by the WMATA/CSX rail lines; and to the west, across East-West Highway, by Discovery Communications and the M-NCPPC Acorn Park.

East-West Highway has been improved with the Silver Spring Streetscape adjacent to new development to the north. A portion of abandoned Blair Mill Road will be improved as an internal street adjacent to the southernmost retail properties and Silver Spring Innovation Center (SSIC) at Georgia Avenue. The East West Highway right-of-way south and adjacent to the project, is unimproved and not dedicated to the full width of the right-of-way.

## **PROPOSED DEVELOPMENT**

JBG/Silver Spring Gateway Residential, L.L.C. ("Applicant") proposed to develop the property developed with a mixed-use commercial and residential project, comprised of a total of 544,692 sf (4.66 FAR) residential and retail space. It will also include public use space and other on and off site amenities, streetscape and landscape, and parking on and off site sufficient to accommodate these uses, the SSIC and adjacent commercial uses. The project proposes 22.0 % on-site public use area, 4.7% on site amenity area and 14.1% off site amenity area for a total of 40.9% of the net lot for on and off site improvements.

The proposed project is organized around several significant front door public spaces:

1. Central Plaza - a circular terrace between this project and Silver Spring Square site plan featuring the Canada Dry building as a centerpiece,
2. Terraced Lawn - in front of the grocery store;
3. West Park - an urban park that blends the open spaces of Silver Spring Square with the open spaces of this proposal;
4. Pocket Park - a small park with a more private outdoor area.

The project is further organized around vehicular and pedestrian circulation systems for the site:

1. Internal Street - connects the above open space areas to the adjacent Arts Alley and the lower parking lot for the grocery store, and

2. New Mixed Street - a private mixed street that connects Georgia Avenue and the Arts Alley to East West Highway through the project; it provides sidewalks and street trees, a raised intersection and access to the loading/service area and access to the upper parking levels for residential and adjacent retail areas. This street will operate and appear as a public street with full pedestrian and vehicular movement in order to provide interconnection between several properties, its linkage between Georgia Avenue and East West Highway and its prominence to the Arts Alley.

The project also contains a number of significant pieces of artwork, including sculpture pieces that resemble Art Deco furniture. They will be placed throughout the open space areas adjacent to East-West Highway and the Silver Spring Square site plan (see attachment). Sculptor and artist Carolyn Braaksma will design and build the art objects. The Montgomery County Planning Board Art Panel has favorably reviewed the artwork. Their enthusiastic response to the design included comments on the size and placement of the pieces for the artist to resolve (see attached memo and sketches).

The art objects will include historical references of form and pattern in the design of over-sized art-deco furniture. Two (2) large couches, six (6) small "art deco" chairs, and three (3) large "upholstered" chairs for a total of eleven (11) art pieces are proposed. These art pieces serve a dual purpose as ornamental art objects and functional park seating.

The seating reflects the architectural style of the adjacent Canada Dry building (Silver Spring Square). Both the form of the seating and the surfaces reference the Art Deco Period in art and architecture. The "upholstered" chairs bring the living room outside. Two chairs placed together create areas for a conversation. Add a table and you can "do" lunch, play chess or sip coffee. The seating is an emulation of actual Art Deco style chairs - biomorphic, streamlined and angular, but rendered in durable outdoor materials. Other site furnishings will include planters, benches, lights, etc. This will help "knit" the design together over a larger area.

The project architecture consists of a "U"-shaped, 15-story residential high-rise building stacked over a multi-level parking garage and a grocery store, linked to an "L"-shaped, 15-story residential high-rise building. The "U"-shaped residential building has frontage along East-West Highway and is located adjacent to the Canada Dry building near the rear of the property. Configured as a courtyard or "U"-shaped building, it "wraps" around three of the four sides of the parking garage to screen it from the Lawn Terrace and Central Plaza. The façade at the ground floor of the grocery store will be visible to the street and open space areas, as the storefront faces the Terraced Lawn and Central Plaza; visitors will be able to look down through the glass storefront at the main level of the

grocery store one level below. Other ground floor spaces includes residential lobby space and, potentially, residential common areas such as leasing offices.

The "L"-shaped residential building is located along the southeast edge of the property, fronting on East-West Highway and the New Mixed Street. Its ground floor spaces consists of building lobby/residential common areas and/or ground floor retail. Additionally, the lower floor of this building creates the corridor for the Internal Street and Plaza, Terraced Lawn amenity areas to link to the Arts Alley.

Consistent with the Master Plan urban design guidelines of South Silver Spring, the project provides tapered building heights at a 2:1 slope along East West Highway from 90 feet immediately adjacent to the right of way up to 143 feet to contribute to the coherent and attractive streetscape and to allow abundant light and air. The project will derive its character from the mid-twentieth century architectural styles of Silver Spring - Art Deco and Art Moderne - which are exemplified by such buildings as the Silver Theater and the Canada Dry Building, as well as from the "edgy" urban aesthetic suggested by the industrial history of the site. The diverse open spaces will have their own distinct architectural identity that will contribute to the diverse and rich neighborhood character.

The project includes a parking garage, designed with seven levels above grade and two levels below grade, to provide a maximum of 810 spaces as submitted. The spaces within the parking garage exceed the zoning requirements by 23 spaces based on the shared parking formulas for mixed-use development. The parking garage is proposed to allow 48 spaces for the Silver Spring Innovation Center. There will be 266 spaces for grocery store use. The Applicant intends to make 40 additional spaces available for other commercial uses as necessary.

Vehicular access to the Project's parking structure is provided from two locations and is intended to be clearly identifiable and convenient for residents, employees and retail customers. Entrances are located from the private mixed street which is replacing abandoned Blair Mill Road near the SSIC and Georgia Avenue, from the entrance drive at East-West Highway and from the internal street adjacent to the retail entry. The residential buildings and the retail component share a central off-street service area with four loading docks, located at the rear of the parking facility and adjacent to the SSIC service area.

The building will be built in one phase. All on and off site amenity areas shall be fully constructed prior to 25% occupancy of the building.

The Applicant will provide an interpretive historical marker, e.g., a 10 ft by 20 ft "trompe l'oeil" mural, to commemorate the (non-historic) eastbound train waiting station on the façade of the parking garage facing across the CSX tracks towards the Silver Spring Train Station.

The Site Plan shall include the following amenity areas on and off site as follows:

On-site Public Use Space and Amenities

- 1) A Central Plaza along East-West Highway that serves as a central unifying element to link the Project with the adjacent Silver Spring Square project.
- 2) West Park - an urban park that blends the open spaces of Silver Spring Square with the open spaces of this proposal.
- 3) Terraced Lawn - sitting and dining areas in front of the grocery store space.
- 4) Pocket Park - between the two residential buildings and linked to Central Plaza.
- 5) Streetscape and lighting along the former Blair Mill Road at SSIC (Silver Spring Innovation Center) frontage (implemented by others).
- 6) Streetscape and lighting along New Mixed Street - with special pavers, street trees, special lights and other street furniture.
- 7) Streetscape and lighting along the Internal Street - with special pavers, street trees, special lights and other street furniture- with adequate headroom and treatment of overhead area to achieve generous and inviting public passage.
- 8) Public Artwork (two areas) - eleven pieces of outdoor "furniture" thematically linked to the Canada Dry façade placed within the public open space amenity areas.
- 9) East Bound Waiting Room Commemorative - on northeast façade per agreement with Montgomery Preservation, Inc.
- 10) Streetscape and lighting along East-West Highway.
- 11) All Public Streetscape improvements to conform to the *Silver Spring Streetscape* Technical Manual and shall include under-ground utilities along East-West Highway.

Off-site Amenities

- 1) Streetscape and lighting along East-West Highway on project frontage.
- 2) Paving and landscape improvements along south side East-West Highway and in front of adjacent property to the east (the Blair Mill L.L.C. property).
- 3) Paving and landscape and lighting along the east side of the New Mixed Street (on Soorenko Property).
- 4) Pocket Park - on Silver Spring Square as detailed in site plan Site Plan (Canada Dry Building).
- 5) Financial contribution (train station maintenance) to Montgomery Preservation, Inc. prior to record plat.
- 6) Financial subsidy for the construction of the Silver Spring Innovation Center.

## **Public Hearing**

On March 17, 2005 Project Plan Review #9-04002A was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. The Applicant, represented by legal counsel, appeared and testified that it agreed with staff's recommendation of approval and all but two of staff's recommended conditions of approval. Nobody except the Applicant's representatives appeared to testify at the public hearing. The Applicant, staff and the Board engaged in lengthy discussion of two issues, *i.e.*, whether above-grade transformers within the New Mixed Street should be relocated below grade or to an alternate location; and whether the Applicant should provide a architectural cover (roof) for the top level of the above-ground parking garage, both proposals recommended by staff. The Board, as part of the site plan hearing, found that neither proposal was required, for the reasons articulated in the site plan opinion.

## **Findings**

Based on the uncontested testimony and evidence presented at the hearing and contained in the record, and based on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

FINDINGS: Based upon the testimony and evidence of record, with the conditions enumerated below, the Board makes the following findings:

1. Section 59-C-6.212 of the Zoning Ordinance outlines the purposes of the CBD zones. The Board finds that the uncontested evidence of record demonstrates that the project meets the purpose clause of the CBD-2 zone as follows:

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

The Project Plan conforms to the Silver Spring CBD Sector Plan objective to obtain additional density in return for quality public amenities, such amenities discussed in detail in the staff report, and the redevelopment of this site will add to the revitalization of the Silver Spring CBD.

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

The proposed mix of retail and residential uses will add residents, employees, shoppers and visitors to south Silver Spring. These new residents and shoppers will contribute to the creation of the desired "18-hour" environment sought for the Silver Spring CBD. The mix of uses will further compliment the extensive public and private efforts to support the creation of a vibrant Arts and Entertainment District.

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

The Project design complements the Canada Dry preserved facade and maintains a continuum of streetscape and pedestrian amenity areas along East-West Highway. Further, the Project design complements and accentuates the adjacent open spaces within the Silver Spring Square project, the Arts Alley and Acorn Park on the other side of East West Highway. Combined with other public spaces of adjoining projects on East West Highway, the project's public spaces provide visual interest and opportunities for interaction, relaxation, and recreation. The Board expressly finds that the surface parking lot on the garage roof, and the circulation pattern from the underground parking garage, are desirable.

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

The project will provide desired pedestrian connections to mass transit via sidewalk connections along East West Highway to the Metro station and nearby bus stops on East West Highway and Georgia Avenue.

*v. To promote improved pedestrian and vehicular circulation.*

As indicated, the internal and external pedestrian and vehicular circulation patterns, and the abandonment of Blair Mill Road and the addition of internal, private mixed streets, and the improvement of streetscape frontages are intended to greatly improve the pedestrian and vehicular patterns on and around the site.

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

The residential component of the project will provide multi-family dwelling of varying sizes and unit types, including the required MPDUs.

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

The assemblage of land and the public/private agreements that have led to the creation of the Property and the proposed Project, the development of the SSIC, and the abandonment of Blair Mill Road, exactly implement this stated purpose.

viii. *In the CBD-2 zone, it is further the intent to:*

a. *Foster and promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment.*

As indicated throughout, this mixed-use project will introduce residents, workers, shoppers and visitors to south Silver Spring. The project as a whole is a vital part of the overall revitalization effort of the County to create the Silver Spring CBD as a successful urban center.

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

The project is appropriate in size, scale, and use. The internal and external connectivity will provide the necessary links from South Silver Spring to the rest of the CBD and to the peripheral areas adjacent to the CBD.

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

This Project provides both residential and employment uses through the utilization of the optional method. It becomes a convenient center of employment and residential uses because of its relationship to transit systems and vehicular roadways.

The Planning Board also finds that the Project Plan conforms to the development standards of the CBD-2 zone as reflected in the zoning analysis table on page 29 and the parking requirement worksheets reflected on page 30 of the staff report.

2. The Planning Board concludes that, subject to the conditions of approval below, the Project Plan application conforms to the approved and adopted Sector Plan based on the following findings:



The approved Silver Spring Central Business District and Vicinity Sector Plan ("Sector Plan") recommends CBD-2 zoning for this site, which was applied through the Sectional Map Amendment (SMA), adopted July 18, 2000 per County Council Resolution 14-600. The property is within the Ripley/South Silver Spring Overlay Zone that provides for flexibility of development standards to encourage innovative design solutions.

The Sector Plan, approved by the County Council on February 1, 2000, outlines six themes, which articulate the shared goals and vision for a revitalized Silver Spring. Four of these themes apply to this project: (1) Commercial Downtown; (2) A Residential Downtown; (3) A Green Downtown; and (4) A Pedestrian-Friendly Downtown. The Board finds that the project meets these goals as detailed in the staff report, staff's findings incorporated herein by reference.

The Applicant proposes off-peak, on-street parking spaces on East-West Highway. The Sector Plan specifically endorses the provision of on street parking for major arterials within the Silver Spring CBD. Staff is supportive of on-street parking for this proposal subject to review and approval by SHA.

The CBD-2 Zone permits a maximum building height of 143 feet under the optional method of development. The Sector Plan recommends a maximum building height of 90' at the street along East-West Highway. The Sector Plan further suggests the building height may step back at a 2:1 (vertical to horizontal) setback envelope to a maximum of 143 feet after the initial 90 feet. The proposed office building facing East-West Highway as proposed is within the prescribed 2:1 setback envelope. The building adjacent to the Metrorail tracks is approximately 143'. Thus the Board finds that the proposed building heights conform to the Sector Plan recommendations.

The Sector Plan also recommends a street right-of-way of 90 feet for East-West Highway. The Applicant proposes to dedicate an additional 15 feet to meet the required right-of-way width. The Applicant proposes to improve the East-West Highway streetscape including a promenade treatment consisting of a 10-foot wide brick sidewalk separated from the curb by a street tree panel. The streetscape public amenities for the proposed project are in accordance with the standards of the *Silver Spring Streetscape* technical manual and are required of optional method projects. Thus, the Board finds that the project conforms to the Sector Plan recommendations with respect to the road width, design and amenities.

Finally, the Board finds there is no regulatory impediment to removing the former B&O waiting room located on the west side of the tracks across from the historic B&O train station. While the pedestrian tunnel under the tracks is considered part of the historic site, the Board concurs with staff's conclusion that closing access to the tunnel will improve pedestrian safety.

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

The project is compatible to existing and potential development in the area, and is a contributor to the continuing revitalization efforts for the Silver Spring CBD and South Silver Spring. The overall project design, mix of uses, public spaces and amenities, and circulation systems will mix with other improvements already made and in the process of being made in South Silver Spring.

4. The Board finds that, as conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction. The Board also finds that the project is located within a transportation management district designated under Chapter 42A, article II, and subject to a traffic mitigation agreement that meets the requirements of that article. The record indicates that a draft traffic mitigation agreement has been submitted and is currently under review by Maryland National Capital Park and Planning Commission and Department of Public Works and Transportation staff, and it will be finalized prior to filing a record plat.

A traffic study was submitted to assess the impact of this development on the local area transportation network and analyze whether it meets requirements of the Local Area Transportation Review Guidelines. The uncontested evidence of record supports Transportation Planning staff's conclusion that all intersections will continue to operate within the congestion standard of 1800 Critical Lane Volume (CLV) for the Silver Spring Central Business District, and the Board adopts those conclusions herein as its findings.

The Board accepts staff's uncontested finding that the proposed development will be provided with safe and adequate vehicular and pedestrian access and circulation. There will be one full-movement access at the intersection of MD 410 and the new "Mixed-Use" street. One right in/right out access is from Georgia Avenue (at former Blair Mill Road) and another is from MD 410. Blair Mill Road will be abandoned between Georgia Avenue and East West Highway (MD 410).

The Applicant is coordinating with Department of Housing and Community Development's pedestrian linkage program for the new South Silver Spring pathway that includes improvements along Photogroup Alley on the Soorenko Property. The site plan should provide bicycle racks or lockers; at least 25 for the 477 residential units (partly in the garage), eight for the office area and eight for the retail area.

The site is located within the Silver Spring Central Business District policy area, which has a remaining capacity of 2,860 jobs, and 4,448 housing units, as of June 30, 2004

The Board finds, based on the uncontested evidence of record, that there is adequate school capacity to support the project.

5. The Board finds that the proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development, based upon the clear evidence of record that (a) the project provides appropriate density for a property of this size and at this location; and (b) the resulting public spaces and amenities achieved by proceeding under the optional method, could not be achieved with a standard method project.
6. The uncontested evidence of record reflect that the project will include moderately priced dwelling units in accordance with Chapter 25A of this Code, at 12.5% of total number of units, with the final number of units to be determined at the time of site plan. An agreement with DHCA will be executed prior to building permit in accordance with Chapter 25A..
7. 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 one lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings:
  - (1) The project will preserve an historic site, building, structure or area as shown on the Locational Atlas and Index of Historic Sites or the Master Plan for Historic Preservation; and/or
  - (2) The project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or
  - (3) The project will result in an overall land use configuration that is significantly superior to that which could otherwise be achieved.

The Board finds that the Project Plan utilizes this provision with the open space provided, in part, from the County's Silver Spring Innovation Center (a 20,000 sf high-tech incubator building being developed for the County adjacent to the property) that will be dedicated to this project with the abandonment of Blair Mill Road. Off site open space adjacent to the site will be utilized for off site open space as further justification for the density of this project. The Board further finds that this configuration will result in an overall land use configuration that is significantly superior to that which could otherwise be achieved.

8. As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A.

It is anticipated that the required Forest Conservation afforestation requirements will be met on-site through credits for proposed tree canopies and other plantings. In the event that insufficient credit is obtained from these proposed plantings, off-site credits will be obtained within the County in an approved location and in accordance with approved regulations and procedures.

9. As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.

The Stormwater Management Concept Plan has been filed with the Montgomery County Department of Permitting Services ("DPS"), Water Resources Section, and has been conditionally approved upon a comprehensive analysis on the use of green roofs. Whereas the site presently has no stormwater management controls in place, the proposed project will provide on-site quality controls. Consistent with DPS's approvals, the Board finds that the plan meets the required water quality treatment needs through use of a structural water quality treatment filter.

10. Consistent with the Board's findings in the site plan, the staff report's proposed condition nos. 8.a. (relocating transformers) and 8.e.vi. (providing cover for internal parking deck) are not incorporated into this opinion.

**Board Action:**

The Montgomery County Planning Board APPROVES Project Plan #9-04002A, which consists of 53,027 sq. ft. of Retail (47,839 square feet of grocery 5,188 square feet of other retail) and 468 multifamily units, inclusive of 59 MPDU's on 2.68 acres in the CBD-2 Zone with the following conditions:

1. On and Off Site Amenities. The Site Plan shall include the following amenity areas on and off site as follows:

**On-site Public Use Space and Amenities**

- a. Central Plaza along East-West Highway that serves as a central unifying element to link the Project with the adjacent Silver Spring Square project.
- b. West Park - an urban park that blends the open spaces of Silver Spring Square with the open spaces of this proposal.
- c. Terraced Lawn - sitting and dining areas in front of the grocery store.

- d. Pocket Park - between the two residential buildings and linked to Central Plaza.
- e. Streetscape and lighting along the former Blair Mill Road at SSIC (Silver Spring Innovation Center) frontage (implemented by others).
- f. Streetscape and lighting along New Mixed Street - with special pavers, street trees, special lights and other street furniture.
- g. Streetscape and lighting along the Internal Street - with special pavers, street trees, special lights and other street furniture- with adequate headroom and treatment of overhead area to achieve generous and inviting public passage.
- h. Public Artwork (two areas) - eleven pieces of outdoor "furniture" thematically linked to the Canada Dry façade placed within the public open space amenity areas.
- i. East Bound Waiting Room Commemorative - on northeast façade per agreement with Montgomery Preservation.
- j. Streetscape and lighting along East-West Highway.
- k. All Public Streetscape improvements to conform to the *Silver Spring Streetscape* Technical Manual and shall include under-ground utilities along East-West Highway.

#### Off-site Amenities

- a. Streetscape and lighting along East-West Highway on project frontage.
- b. Paving and landscape improvements along south side East-West Highway and in front of adjacent property to the east (the Blair Mill L.L.C. property).
- c. Paving and landscape and lighting along the east side of the New Mixed Street (on Soorenko Property).
- d. Pocket Park - on Silver Spring Square as detailed in site plan Site Plan (Canada Dry Building).
- e. Financial contribution (train station maintenance) to Montgomery Preservation, Inc. prior to record plat.
- f. Financial subsidy for the construction of the Silver Spring Innovation Center.
- g. All Public Streetscape improvements to conform to the *Silver Spring Streetscape* Technical Manual and shall include under-ground utilities along East-West Highway.

#### 2. Staging of Amenities

The building will be built in one phase. All on and off site amenity areas shall be fully constructed prior to 25% occupancy of the building.

3. Historic Preservation

- a. A financial donation to Montgomery Preservation, Inc. for the long-term maintenance of the historic Silver Spring Train Station shall be made by the Applicant prior to record plat.
- b. A 10 ft by 20 ft trompe l'oeil painting that is representative of and commemorates the East Bound Waiting Room Building (to be removed) shall be provided by this Applicant and the design concept as reviewed by Montgomery Preservation, Inc.
- c. The Applicant shall provide a wrought iron or other metal gate at both ends of the existing pedestrian tunnel, so as to maintain a secure closure with visibility to the tunnel. Details to be provided with the landscape plan.

4. Moderately Priced Dwelling Units

The site plan shall include a phasing and unit distribution plan for the MPDUs. All MPDUs shall be provided on site and the DHCA agreement, to be executed prior to signature set, shall reflect this.

5. Transportation Improvements

- a. Dedicate 15 feet to provide for 90 feet of right of way for MD 410 (East-West Highway).
- b. Complete the abandonment of Blair Mill Road with the site plan approval of Silver Spring Gateway. Create a full movement intersection at New Mixed Street and MD 410 and a second right-in, right-out intersection for the lower garage entry with East West Highway.
- c. Enter into a Transportation Management Agreement with the Planning Board and the Montgomery County Department of Public Works and Transportation (DPWT) to participate in the Silver Spring Transportation Management Organization prior to record plat.
- d. Provide bicycle racks or lockers: at least twenty-five for the residential units, eight for the office area, and eight for the retail area.

6. Authorization to use off site land for off-site public amenity area.

Applicant to provide authorization from adjacent property owners: SSIC/ Montgomery County, Mr. Soorenko (the parcels to the south) and Silver Spring Square, Ltd. to allow the Silver Spring Gateway project to utilize adjacent, off-site land for an off-site amenity area that will be counted and developed as an off-site

amenity area proffered by this development application. This authorization will also allow the Applicant the ability to access, construct and maintain these off-site amenity areas.

#### 7. Maintenance Agreement

The Applicant shall be responsible for maintaining the public amenity features on and off site. The Site Plan development program shall reference the artist statements about maintenance. The Silver Spring Urban District shall maintain the streetscape within the public right-of-way.

#### 8. Site Plan Issues

The future site plan proposal shall address the following items:

- a. Noise mitigation for the residential units adjacent to the train tracks.
- b. Parking garage façade treatment for frontages adjacent to residential uses (Silver Spring Square) and adjacent to the historic Train Station and views from Georgia Avenue;
- c. Applicant to submit a detailed parking plan as follows:
  1. Provides guaranteed parking for 50 spaces immediately adjacent/available to the local merchants that are available during all hours of business use that provides for safe and adequate pedestrian connections (i.e. well lit, open to views; stable walking surface); and
  2. Provides for adequate parking for construction workers that do not negatively affect parking spaces defined above for local merchants.
  3. The final site plan shall include commercially available parking spaces for local merchants; and
  4. The parking plan shall be developed with consultation from local merchants and approved by staff prior to building permit release. Issues to include, but not be limited to, the number of spaces commercially available to local merchants, threshold for transition to valet parking, etc. The Site Plan shall include internal parking spaces available to the public.
- d. Site Plan to include detailed information on:
  1. Construction of streetscape and public open spaces;
  2. The 10 ft by 20 ft waiting station trompe l'oeil painting;

3. Treatment of loading dock area as viewed from Georgia Avenue, Blair Mill Road (abandoned) and Silver Spring Innovation Center;
  4. Details of the gate for the railroad tunnel;
  5. South side of East-West Highway improvements to accommodate lane widening and crosswalk changes;
  6. Treat façade of above grade parking garage to buffer light from impacting the adjacent Silver Spring Square project;
  7. Along the north facing façade of the above grade parking garage use an appropriate building material and design to coordinate with the building material and create interesting fenestration;
  8. Utilize spacious or transparent treatment of pedestrian passage over Internal Street;
  9. Extension of brick walk to gutter at intersections along East-West Highway.
- e. Coordination with MDSHA to allow on street parking on East West Highway.
- f. Development of grocery store portion of site plan to include: entry to store from Internal Street and from subsurface parking level; pedestrian circulation system within subsurface parking level; compatibility of illuminated entry store signage with adjacent residential land use.
- g. Lighting plan to reflect adequate light levels for public safety per IESNA guidelines and compatibility to adjacent residential uses.
- h. Applicant to submit a revision to the Silver Spring Square Site Plan to accommodate the changes to the shared open space plaza with Silver Spring Gateway. Plan to include consideration of construction access, interim condition during construction and final maintenance considerations.

\* \* \* \* \*

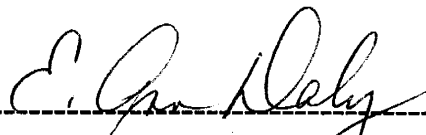
[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

MR 5/02/05  
Appointed to the Efficiency  
M-NCPFL ... Counsel



**CERTIFICATION OF BOARD VOTE ADOPTING OPINION**

At its regular meeting, held on **Thursday May 5, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of **Commissioner Bryant, seconded by Commissioner Robinson, with Acting Chair Perdue and Commissioners Bryant, Robinson, and Wellington** voting in favor of the motion, and with Chairman Berlage absent, **ADOPTED** the above Opinion 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. 9-04002A, Silver Spring Gateway.**

  
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Certification as to Adoption of Opinion  
E. Ann Daly, Technical Writer