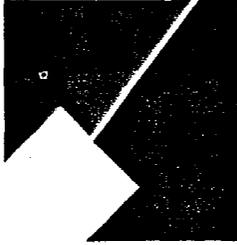


APPENDIX A

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
301-495-4500, www.mncppc.org

OCT 0 4 2005

Date Mailed:

Date of Hearing: June 30, 2005

Action: Approved with conditions

Motion of Commissioner Bryant,
seconded by Commissioner Robinson,
with a vote of 4-0;
Commissioners Bryant, Perdue,
Wellington and Robinson voting in
favor. Chairman Berlage was absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-05084

Name of Plan: 1200 East West Highway

OCT 0 4 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 within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rule).

INTRODUCTION

On 03/31/05, Goodman East-West I, LLC ("Applicant"), submitted an application for the approval of a preliminary plan of subdivision of property in the CBD-2 zone. The application proposed to create 1 lot on 0.93 acres of land located at the northwest quadrant of the intersection of East-West Highway (MD 410) and Blair Mill Road in the Silver Spring CBD master plan area ("Subject Property"). The application was designated Preliminary Plan No. 1-05084 ("Preliminary Plan"). On 06/30/05, the Preliminary Plan was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all

correspondence and any other written or graphic information issued by Planning Board staff concerning the application; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

SITE DESCRIPTION

The Subject Property consists of 1.4 acres of land located at the corner of East-West Highway (MD 410) and Blair Mill Road within the Silver Spring Central Business District. The site is zoned CBD-2 and lies within the Sligo Creek watershed which is designated as Use Class I. There are no environmentally sensitive areas or significant trees located on the site.

PROJECT DESCRIPTION

This is an application to create a multi-family residential community using the optional method of development in the CBD-2 zone, consisting of up to 250 dwelling units, with below-grade structured parking. The housing will contain a mix of efficiencies, one-bedroom, two-bedroom, and two-bedroom plus den units. A minimum of 12.5% of the units (approximately 31 units) will be Moderately Priced Dwelling Units (MPDUs). In addition to the residential dwellings, the 14-story building will contain up to 10,600 square feet of ground-floor retail use. Site plan review per Section 59-D-3 of the Zoning Ordinance is required for this project.

RELATIONSHIP TO THE SILVER SPRING CENTRAL BUSINESS DISTRICT AND VICINITY SECTOR PLAN

The Silver Spring Central Business District and Vicinity Sector Plan, approved by the County Council on February 1, 2000 ("Sector Plan"), outlines six themes, which articulate the shared goals and vision for a revitalized Silver Spring. Four of these themes (i.e., a commercial downtown; a residential downtown; a green downtown; and a pedestrian-friendly downtown) apply to this proposed project. This project expands the employment base within the CBD by providing new retail opportunities to serve the surrounding neighborhood. The Sector Plan does not specifically identify the proposed project site as a potential housing site. However, the Sector Plan does encourage housing as an important component of the revitalization efforts. The project is being developed under the optional method of development and proposes new opportunities for landscaped public open spaces, public art and streetscapes. This project encourages the development of active urban streets by providing building entrances along East-West Highway and easily accessible public space with a significant public art component as an activity generator. This proposal improves the quality of the pedestrian environment by extending the East-West Highway streetscape treatment and other amenities required for optional method projects as well as providing a shared use path.

TRANSPORTATION

Local Area Transportation Review

A traffic study was submitted to evaluate the effect of this development on the area transportation system. A total of three intersection were included in the study area (East-West Highway/Blair Mill Road/Newell Street, East-West Highway/Georgia Avenue/Burlington Avenue/13th Street, and East-West Highway/Colesville Road). The site-generated trips were added to the existing and background traffic (traffic from approved but unbuilt developments) to develop the total future traffic. All traffic was assigned to the three intersections and the results show that they are operating within the congestion standard of 1,800 Critical Lane Volume (CLV) for the Silver Spring Central Business District (CBD) Policy Area. Therefore, the proposed development passes the LATR test.

Site Access, Circulation and Pedestrian Facilities

The only vehicle access to the site will be provided from Blair Mill Road and is located at the farthest point away from the intersection of Blair Mill Road and East-West Highway, providing for safe operation of traffic on Blair Mill Road. Adequate sidewalks and bikeways recommended in the Sector Plan will be provided along the site frontage on Blair Mill Road and East-West Highway. These facilities are connected to a comprehensive network of sidewalks and bikeways within the CBD area. Safe crosswalks with pedestrian signals are provided at all signalized intersections in the CBD.

Right-of-way Width Waiver

The Applicant has requested a waiver of Section 50-26(a) pursuant to Section 50-38 to permit reduced-width road rights-of-way along the Blair Mill Road and East-West Highway frontages of the property. The Sector Plan stipulates right-of-way widths of 70 feet and 110 feet, respectively. The plan proposes a right-of-way width of 63 feet for Blair Mill Road and 100 feet for East-West Highway.

Staff, in collaboration with the State Highway Administration, has agreed that an additional 25 feet of right-of-way dedication along East-West Highway, for a total right-of-way of 100 feet is acceptable. Standard vehicular travel ways, bikeway, sidewalk, and streetscape recommended in the Sector Plan will be provided. There was also consensus that East-West Highway is not planned for widening so the additional right-of-way is not required in the foreseeable future.

Staff also agreed that three additional feet of right-of-way dedication along Blair Mill Road, for a total right-of-way of 63 feet is acceptable. Again, within the 63 feet, there will be three travel ways, a Class III (on-road) bikeway, and a 12-foot sidewalk

along the frontage of Blair Mill Road. These improvements meet the requirements of the Sector Plan for total circulation needs.

Staff believes the waiver is the minimum necessary to provide relief from the section, is not inconsistent with the purposes and objectives of the General Plan, and is not adverse to the public interest.

ENVIRONMENTAL

The Subject Property contains no environmentally sensitive areas, forest, or significant individual trees. The property is exempt from forest planting requirements because of its small size.

STAFF RECOMMENDATION

Staff finds the proposed Preliminary Plan to be in conformance with the requirements of Chapter 50, the Subdivision Regulations and Chapter 59, the Zoning Ordinance, and recommends approval of the plan with conditions.

PLANNING BOARD HEARING

At the hearing, Staff introduced property location, described the proposed development, and outlined the requested waivers of right-of-way widths. Staff recommended approval of the Preliminary Plan with one modification to the proposed Condition No. 7 to clarify the timing of the execution of the traffic mitigation agreement.

The applicant was represented by legal counsel who stated that the applicant accepted all of the conditions of approval as well as the proposed change. No other speakers testified at the hearing.

FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies¹; the applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds, with the conditions of approval, that:

¹ The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

- a) The Preliminary Plan No. 1-05084 substantially conforms to the Silver Spring CBD and Vicinity Sector Plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision. The Planning Board further grants the requested waiver of § 50-26(a) to permit reduced width rights-of-way for Blair Mill Road and East-West Highway along the property frontage pursuant to the Staff's analysis as set forth above.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.
- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-05084 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-05084, including a waiver of § 50-26(a) to permit reduced width road rights-of-way for Blair Mill Road and East-West Highway along the property frontage, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 275,000 square feet of gross floor area, consisting of 264,400 square feet of residential (up to 250² multi-family dwelling units, including 12.5% MPDUs) and 10,600 square feet of retail space.
- 2) Applicant shall dedicate an additional 25 feet of right-of-way from the existing property line to provide for a total of 100 feet of right-of-way for East-West Highway (MD 410).
- 3) Applicant shall dedicate an additional three feet of right-of-way from the existing property line to provide for a total of 63 feet of right-of-way for Blair Mill Road.

²While the Applicant has demonstrated that adequate public facilities exist for up to 250 multi-family dwelling units, Project Plan No. 9-05004 limits the development available on this site at 247 multi-family dwelling units.

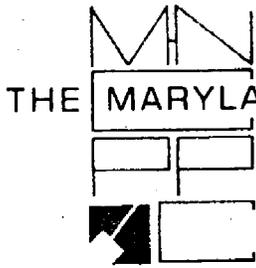
CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on **Thursday, September 29, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission by unanimous consent **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 **Preliminary Plan No. 1-05084, 1200 East West Highway**. Vice Chair Perdue was absent. Chairman Berlage abstained.



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

APPENDIX B



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring Maryland 20910-3760

Date Mailed **OCT 04 2005**

Date of Hearing: June 30, 2005

Action: Approval with conditions

Motion of Commissioner Bryant,
seconded by Commissioner Wellington,
with a vote of 4 to 0;

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

**MONTGOMERY COUNTY PLANNING BOARD
OPINION**

Project Plan No.: 9-05004

Project: 1200 East-West Highway

The date of this written opinion is OCT 04 2005 (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 in Circuit Court within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions (Rule 7-203, Maryland Rules).

I. INTRODUCTION

On June 30, 2005, Project Plan No. 9-05004 ("Project Plan") was brought before the Montgomery County Planning Board for a public hearing. The applicant in this case is Goodman East-West I, LLC ("Applicant"). At the public hearing, the Planning Board heard testimony and received evidence submitted in the record on the application.

II. THE SUBJECT PROPERTY

The proposed development is located in the northwest quadrant of the intersection of Blair Mill Road and East-West Highway in south Silver Spring. The site is zoned Central Business District-2 ("CBD-2") and is surrounded by CBD-2 properties to the north and east across East-West Highway with the zoning pattern transitioning to CBD-1 to the south across Blair Mill Road. The subject site and surrounding properties to the east and north are within the Ripley/South Silver Spring Overlay Zone.

The property is surrounded by residential properties, including the Barrington Towers, a 15-story apartment complex, and the 4-story Silverton/Canada Dry condominium project directly to the north across East-West Highway. The 15-story Blair Towers is located adjacent to the property further northwest on East-West Highway.

Springwood apartments, a 4-story mid-rise apartment complex, is located south of the site along Blair Mill Road. Discovery Channel Communications building is situated southeast of the site at East-West Highway and Kennett Street, adjacent to Acorn Park.

The site is located at 1200 East-West Highway at the intersection of Blair Mill Road. The property consists of two separately platted parcels, N864, an unrecorded lot, and N811, shown on Plat no. 5534. The property is currently being used as an All Tune & Lube service facility in a one-story building with ancillary parking on the north side, and a vacant one-story auto-related facility building and parking on the south side. The frontage of All Tune & Lube contains a five-foot-wide sidewalk, street trees and lights within a 3-foot grass panel. A below-grade parking entrance with structured parking on top is located behind the auto-related facility. Access to the parking for this building is located from East-West Highway and Blair Mill Road. Access to the All Tune & Lube is from East-West Highway.

Overhead wires exist along the frontage of Blair Mill Road and on the northern property line adjacent to the Blair Apartments. The intersection of Blair Mill and East-West Highway is signalized. The northwestern boundary contains a 6-foot wood fence and Leyland Cypress buffer as well as a 40" dbh (diameter breast height) red oak on the adjacent property near the property line at East-West Highway.

The topography on the property slopes from west to south by approximately three feet along East-West Highway; however, the grade drops significantly by 10 feet along Blair Mill Road toward Eastern Avenue.

III. PROPOSED DEVELOPMENT

The Applicant proposes to redevelop the existing auto-related uses into approximately 275,000 square feet of development, including 264,400 square feet of residential space consisting of approximately 247 multi-family dwelling units, of which 31 (or 12.5% of the total number of units) will be MPDUs, and 10,600 square feet of retail space on 1.40 acres.

A. Building Design

The proposed building is a modified "L"-shaped structure, corresponding to the shape of the street frontage on the two intersecting streets. The building is proposed as a 14-story, 142-foot tall building, with retail and amenity space on the first floor. The retail space will face East-West Highway incorporating an urban plaza, while also addressing pedestrian thru traffic. The residential lobby entrance to the building is on East-West Highway adjacent to the retail frontage.

The 14-story building is equipped with two levels of underground parking: 13 stories of residential units atop a mixed-use base on the first floor that includes the residential

lobby, mail room, recreational area for the owners and two retail areas located at each side of the residential lobby entrance. The façade is composed of pre-cast stone, stucco, glass and metal accents integrated in a rectangular grid that is broken up by the glazed entry to the residential lobby. The pre-cast stone base of the building highlights the storefront of the retail areas and provides, in conjunction with the plaza and the landscape, an interesting streetscape. The colors proposed in the building, silhouetted by metal components, are similar to those that dominate most Art Deco buildings. The Art Deco components of this building were inspired by the existing architecture of the Canada Dry building.

B. Public Use Space and Amenities

The project plan is providing 24 percent on-site public use space and 36 percent off-site public use space for a total of 60 percent. The minimum on-site public use space requirement is 20 percent, which is being significantly increased with this proposal, and the combined on and off-site public use space is higher than the standard percentage of public use space within the Silver Spring CBD of 46-48 percent. The on-site public use space consists of integrated spaces, including a public plaza, designed as a foreground to the building. This public plaza is outlined by the building to the south and west with widely spaced planting to the north and east. An eating establishment is planned for the building corner, which would animate the use considerably.

The public plaza contains many elements that are unified by paving patterns, planters, vertical elements and the public art. The linear paving from East-West Highway to the building face corresponds to the architecture and vertical elements in the building. The arc of stone paving directly relates to the building location and curvature of the intersecting streets, terminating into a circular ring at the entrance to the residential lobby. The arc directs pedestrian movement through the plaza while activating the retail store frontage. The larger portion of the plaza toward the intersecting streets is a circular plaza that spirals to the vertical public art element.

The off-site public use space is comprised of the streetscape improvements within the rights-of-way of Blair Mill Road and East-West Highway.

The Applicant is also proposing a private amenity space on the south side of the building, which consists of a terrace with tables, chairs, benches and planters for the building's residents. A portion of the private amenity space will serve as a pedestrian area for moving material and supplies in and out of the retail bays, linked via an elevator with the vehicular service entrance on Blair Mill Road.

The developer has retained Ray King as the artist for the Project. He is recognized as a pioneer of glass and light works and incorporates into his work innovative types of new

glass and some of the newest light and glass technology. Ray King will work with the design team throughout the project and site plan processes to explore several opportunities for incorporation of art, possibly on the building itself, and within the public use space. Vertical features within the plaza will delineate a gentle separation between ongoing pedestrians and patrons of the retail frontage. These features will be treated as art elements, incorporating horizontal and vertical lighting, planters and landscape that highlight the area.

Lighting along the street will be the Washington acorn globe fixture and pole. Walkways and the building's face will be illuminated with a combination of building sconces and pavement up-lights and specialty light posts to illuminate and activate the pedestrian space during evening hours.

The Silver Spring CBD streetscape tree planting along East-West Highway is specified as London Plane Tree. Within the open space behind the walkway are many planters, designed to provide additional soil depth promoting survivability of plant material in an urban environment. The planters along East-West Highway will consist primarily of flowering trees to visually accentuate the plaza area.

C. Pedestrian and Vehicular Access

The retail component is designed to draw pedestrians from adjacent and nearby residential properties from the nearby transit stations for Metro and MARC, attract VanGo shuttle bus riders, complement the nearby shopping plaza, and activate the sidewalk and bike pathway along East-West Highway. To further promote the use of mass transit and the Silver Spring urban parking district, the Applicant will also be seeking to add a VanGo stop and provide "Flex-car" space in the building's garage.

East-West Highway and Blair Mill Road are both publicly dedicated and improved streets. The existing right-of-way for East-West Highway is 75 feet. The sector plan recommends a total right-of-way of 110 feet for East-West Highway. The proposed redevelopment of the Property anticipates an additional dedication of 25 feet, for a total right-of-way width of 100 feet. Additionally, a reduction of 7 feet of the recommended 70-foot right-of-way is proposed on the north side of Blair Mill Road. The development proposes a dedication of an additional 3 feet, in-lieu-of 10 feet for a total right-of-way of 63 feet. All of the streetscape improvements, including sidewalks and bike lanes can be accommodated within the reduced rights-of-way for both roads.

The Project plan is proposing a 10-foot Class I bikeway (off-road, shared-use path) along the west side of East-West Highway and a Class III bikeway (on-road, bike lanes or signed shared roadway), as recommended by the Sector Plan.

IV. PLANNING BOARD HEARING

At the hearing, Staff described the location of the site and the proposed project. Staff recommended approval of the Project Plan with one modification to the proposed conditions. Staff recommended that Condition No. 3(g) be modified to clarify the timing of the execution of the traffic mitigation agreement.

The Applicant was represented by legal counsel who stated that the Applicant accepted all of the conditions of approval as well as the proposed change. No other speakers testified at the hearing.

V. FINDINGS

Section 59-D-2.42 of the Zoning Ordinance establishes the findings, which must be made by the Planning Board and form the basis for the Board's consideration of approval. In accordance herewith, the Planning Board makes the following findings:

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

Purpose Clause Section 59-C-6.212

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

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

The Project Plan proposes to use the optional method of development and is in conformance with the Silver Spring Central Business District and Vicinity Sector Plan. The proposed development is a high-rise condominium, comprised of approximately 247 dwelling units. High density residential, office and commercial retail uses are permitted in the CBD-2 Zone.

The building is proposed for 14 stories or 142 feet, which is in conformance with the Montgomery County Zoning Ordinance that permits up to 143 feet in height under the Optional Method. The site is within the Ripley/South Silver Spring

Overlay Zone, which provides for flexibility of development standards to encourage innovative design solutions. The project is proposing 247 dwelling units, including 31 (12.5%) Moderately Priced Dwelling Units (MPDUs) provided on-site. The proposal reflects a floor area ratio (FAR) of 4.50 or approximately 275,150 square feet. The maximum density allowed under the zone for mixed-use projects is 5.0 or 305,170 square feet.

The Project Plan will accomplish important Sector Plan objectives by providing a residential component within south Silver Spring, including Moderately Priced Dwelling Units, promoting redevelopment of vacant and underutilized properties, protecting nearby residential development, upgrading the physical environment and providing a pedestrian environment with local retail opportunities. The proposal improves the area by replacing two existing auto-related facilities and surface parking lot with a modern mixed-use high-rise building.

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

The project plan responds to the need for housing in south Silver Spring and addresses the need for smart growth policies where infrastructure, community facilities and elements of an urban district already exist. The Sector Plan encourages housing and retail as an important component to the revitalization efforts for the Ripley/South Silver Spring area.

Under the optional method, this project encourages the development of active urban streets by providing public spaces along street edges and improves the quality of the pedestrian environment within the improved streetscapes. The improved streetscape, along with the amenities addressing the need for public interaction, enhance the downtown Silver Spring area. The project supports the economic base in the downtown by making it easier for workers in Silver Spring to live near their jobs. This project will also increase the vitality of downtown Silver Spring and add an economic infrastructure for commercial and retail businesses in south Silver Spring, especially with the development activity that provides only residential units.

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

The proposed project strengthens the south Silver Spring corridor by complementing the scale and mix of existing design elements along East-West Highway and Blair Mill Road and providing a compatible and desirable relationship with adjacent and surrounding uses. The proposed design provides a retail component along East-West Highway that will blend in with the existing retail and office uses. This provides the pedestrian friendly environment envisioned in the Sector Plan. The 142-foot building provides the necessary and applicable transition from the adjacent residential neighborhoods south and west East-West Highway and Blair Mill Road to the higher density uses and buildings that front East-West Highway toward Colesville Road.

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

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

The proposed development is located approximately 1600-1800 feet from the Silver Spring Metro Station. The proximity to transit facilities, as well as the downtown employment core, will reduce the dependency on the automobile for the residents of the development. The streetscape improvements along East-West Highway and Blair Mill Road facilitate the desire for pedestrian connectivity to the metro station core areas of development within Silver Spring, especially with the existing and proposed improvements to East-West Highway in conjunction with the new developments under way. The proposed streetscape improvements along Blair Mill Road will promote pedestrian circulation to East-West Highway from Eastern Avenue for the residents of Springwood apartments to the south and west, as well as residents of Shepherd Park in the District. The expanded streetscape improvements along the southwest side of East-West Highway will direct pedestrian circulation to Colesville Road and Georgia Avenue and the associated businesses and restaurants in the downtown corridor.

The Applicant will enter into a traffic mitigation agreement (TMA) with the Planning Board to help the Project achieve the non-driver commuting goal for development in the Silver Spring CBD. The TMA will outline possible transit alternatives, monitoring of the program and commuter display information. The Applicant is also coordinating with the developments across East-West Highway as part of their traffic mitigation to realign the crosswalks on East-West Highway to promote a safer crossing.

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

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

Vehicular circulation is enhanced with improved right-of-way along the southwest side of East-West Highway. An additional 25 feet is being proposed for dedication along the Applicant's property line to expand the total right-of-way dedication to 100 feet from the opposite side of East-West Highway. The Applicant has requested a reduction of the 110-foot right-of-way that is recommended in the Sector Plan. The 10-foot reduction will accommodate all of the optional method streetscape treatments, including a combined 15-foot-wide sidewalk and shared-use Class I bikeway (off-road). Additionally, the reduction would allow for window fenestration on the western (rear) property line that greatly enhances the appearance and livability of the building. The Applicant is requesting a right-of-way reduction of 7 feet from the 70 feet recommended by the Sector Plan for Blair Mill Road. The additional 3-foot dedication to the existing 60-foot right-of-way will provide for the standard Silver Spring streetscape improvements and Class II bikeway (on-road). The Planning Board finds that these reduced width rights-of-way are appropriate and improve pedestrian and vehicular circulation.

The entrance to the parking garage and loading area is located at the southwestern end of the property with direct access from Blair Mill Road. The parking garage is a 2-level below grade structure planned to accommodate 220 parking spaces. Signs indicating traffic circulation in and out of the garage will promote safety for pedestrian activity in the public use space.

The streetscape improvements along East-West Highway and Blair Mill Road will facilitate the desire for pedestrian connectivity to the bus and metro station. The streetscape improvements are being expanded along East-West Highway to complement that portion of the existing streetscape on the southwest side and the existing and proposed streetscape improvements on the opposite side of the road. The full streetscape improvements along East-West Highway will complete a portion of the block all the way to Colesville Road. The mixed street and store frontage along East-West Highway will enhance pedestrian movement.

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

The Sector Plan recognizes the need for market rate units in the CBD and the objectives of Montgomery County for moderately priced housing, which is to provide Moderately Priced Dwelling Units (MPDUs) where public facilities, services and transit options are readily available. Consistent with Chapter 25A, the Applicant is committed to providing 31 MPDUs within the building, which represents 12.5% of the total number of dwelling units.

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

The project assembles two parcels for a significant, unified redevelopment initiative of the currently underutilized sites. The Sector Plan does not specifically identify the proposed project site as a potential housing site, however, the Sector Plan encourages housing as an important component of the revitalization efforts for downtown Silver Spring and recommends a zone for the subject site that allows residential uses. The project plan responds to the need for housing in downtown Silver Spring and addresses the need for smart growth policies where infrastructure, community facilities and elements of an urban district already exist. The project plan introduces market-rate condo units, MPDUs, and retail into an existing framework of commercial and retail use in downtown Silver Spring, further encouraging revitalization in the downtown corridor.

- (8) Additional intent of the CBD-2 Zone (Section 59-C-6.213(b)) states that:

In the CBD-R1, CBD-R2, CBD-2 and CBD-3 zones it is further the intent to 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.

The Project will enhance the economic status of the County while providing sources of employment and living opportunities. New retail space and a variety of condominium types in close proximity to the Silver Spring Metro and Transit Center provides an expanding source of both residential and employment opportunities in the urban environment of South Silver Spring. The bulk and height of the proposed building is consistent with the Sector Plan recommendations. The building height and setbacks along East-West Highway and Blair Mill Road and the development of an urban plaza at the intersection of East-West Highway and Blair Mill Road have a compatible relationship with surrounding uses. Furthermore,

the design and residential nature of the proposed building will provide the perfect transition from the CBD-2 zone on the eastern side of East-West Highway to CBD-R2 zone on the western side.

Section 59-C-6.23 describes the development standards applicable to the CBD-2 Zone. The following table summarizes the requirements and features approved for this Project.

PROJECT DATA TABLE (CBD-2)

	Zoning Ordinance Development Standard	Dev. Standard Approved by by Planning Board and Binding on Applicant
Minimum Gross Tract Area (sf.):	22,000	61,034*
Net Lot Area (sf.):		31,789
Gross Floor Area (sq. ft.):		
Retail		10,600
Residential		<u>264,4000</u>
Total	305,170	275,000
Maximum Floor Area Ratio (FAR):	5.0	4.51
Minimum Public Use Space (%/ sf.):		
On-site Public Use Space	(20%) 6,360	(24%) 7,658
Off-site Public Use Space		(36%) 11,511
Total Public Use Space	(20%) 6,360	(60%) 19,169
Total Private Amenity Space (sf):		4,461
Maximum Building Height (ft.):	143	142
Maximum Building Height (stories):		14
Parking**:		
Residential Uses (Mkt. Rate)		
Efficiency Units @ 1 sp./unit (11 x 1.0)	11	
1 BR @ 1.25 sp./unit (136 x 1.25)	170	
2 BR @ 1.50 sp./unit (57 x 1.50)	86	
2 Br + Den @1.50 sp./unit (12 x 1.50)	18	
Residential Uses (MPDUs)		
Efficiency Units @ 0.5 sp./unit (2 x 0.50)	1	
1 BR @ 0.625 sp./unit (20 x 0.625)	13	
2 BR @ 0.75 sp./unit (8 x 0.75)	6	
2 Br + Den @1.50 sp./unit (1 x 1.50)	2	
Residential subtotal:	307	
Retail Uses:		
(10,600 sf @5 sp./1000)	53	
Total Base Parking Spaces	360	<u>220</u>

- * Includes previous dedication of 20,375 square feet on East-West Highway and proposed dedication of 8,135 square feet on East-West Highway.
 - ** Site is within the limits of the Parking Lot District and is not required to provide any parking spaces pursuant to Sect. 59-E-3 of the Montgomery County Zoning Ordinance; however, the PLD will assess a parking tax for the maintenance and use of the county facilities based on the number of spaces required for the uses proposed at the time of building permit. Any spaces provided by the Applicant offsets the parking tax assessed by the County against the Applicant. Parking credits are also applicable pursuant to Section 59-E-3.3 for residential in the CBD and proximity to the metro. The Applicant is proposing "vault space" under the rights-of-way for East-West Highway and Blair Mill Road to accommodate the 220 parking spaces proposed in the subsurface garage.
- (b) *As conditioned, the proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.*

Zoning and Land Use

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

The proposed mixed-use development is comprised of 247 residential condominium units and 10,600 square feet of ground floor retail for a total of approximately 275,000 square feet of development. The permitted maximum density for this site is 5.0 FAR (floor area ratio) or 305,170 square feet of mixed-use development. The application is proposing to develop the site under the optional method of development.

The minimum required public use space for this project is 6,360 square feet (20% of the net lot area). The Applicant is proposing 7,658 square feet of on-site public use space and amenities (24% of the net lot area). The Applicant also proposes an additional 11,511 square feet of off-site public use space including the streetscape improvements to East-West Highway and Blair Mill Road for a total of 19,169 square feet (or 60% of the net lot area) of public use space, amenities and off-site improvements. The following is a summary of the amenities and facilities that is will be provided by the Applicant:

ON-SITE IMPROVEMENTS

East-West Highway and Blair Mill Road Urban Public Plaza

- Brick paved public plaza along majority of site frontage to complement streetscape improvements.
- Expand the existing streetscape improvements along East-West Highway and Blair Mill Road to include specialty pavers.
- Public Art to highlight public's interest of the revitalization efforts of downtown Silver Spring. A public art program shall be developed to include innovative types of new glass and light refraction technology. The artist will work with the project team to explore several opportunities for incorporation of significant art as part of the building and within the paving and seating elements that define the public use space.
- Specialty lighting in the plaza and up lighting of the art elements to softly accentuate and visually activate the plaza at night.
- The paving in the plaza will be designed to include patterns that complement the artwork, including the benches and railings.
- Landscape beds and planters with irrigation and plant material for seasonal accent and color. Plaza trees to be complementary to the proposed East-West Highway and Blair Mill Road streetscape, as well as providing a canopy for shade within the seating areas.
- Existing overhead utilities to be undergrounded consistent with the Silver Spring Master Plan.
- Make available a space for public outdoor interaction and activities.
- Make available a space for entertainment, as needed in conjunction with the Silver Spring Urban District (SSUD), and accommodations for outdoor entertainment.

OFF-SITE IMPROVEMENTS

East-West Highway Right-of-Way

- Streetscape on the south side of East-West Highway along the entire property frontage to be expanded to include Brick Pavers consistent with *Silver Spring Streetscape Technical Manual*, or as modified to include the bikeway.
- Provide a 15-foot-wide sidewalk and shared-use path separated from the curb by street trees.
- Existing overhead utilities and street level meters to be installed underground consistent with the Silver Spring Master Plan and the *Silver Spring Streetscape Technical Manual*.

Blair Mill Road Right-of-Way

- Streetscape (Type B) on the north side of Blair Mill Road, along the entire property frontage, to include street trees, brick pavers and street lights (Washington Globe) consistent with the standards of the *Silver Spring Streetscape Technical Manual*.
- Granite sets within the tree pits as specified in the *Silver Spring Streetscape Technical Manual*.
- Existing overhead utilities and street level meters to be installed underground consistent with the Silver Spring Master Plan and the *Silver Spring Streetscape Technical Manual*.

Sector Plan Conformance:

The Silver Spring Central Business District and Vicinity Sector Plan, approved by the County Council on February 1, 2000, outlines six themes, which articulate the shared goals and vision for a revitalized Silver Spring. Four of these six themes (*i.e. a Residential Downtown, a Green Downtown, a Commercial Downtown and a Pedestrian-friendly Downtown*) directly apply to this development. This project expands the employment base within the CBD by providing new retail opportunities to serve the surrounding neighborhood. The Sector Plan does not specifically identify the proposed project site as a potential housing site. However, the Sector Plan does encourage housing as an important component to the revitalization efforts of downtown Silver Spring.

The proposed project will include new public open space and an art amenity. This project encourages the development of active urban streets by providing building entrances along East-West Highway and easily accessible and highly visible public space with a significant public art component as an activity generator. This proposal improves the quality of the pedestrian environment by extending the East-West Highway streetscape treatment and other amenities required for optional method projects, as well as providing a shared-use path on East-West Highway. The proximity to transit facilities and to the downtown employment core will reduce the dependency on the automobile for the residents of the development.

- A. Compatibility: The proposed mixed-use project is adjacent to the Blair East high-rise apartment building to the north, Blair East parking structure to the west and the Spring Garden apartment building to the south. The Silver Spring Square (The Silverton) condominium and the Bennington apartment buildings are located across East-West Highway from the proposed development. The varying heights from 4 to 15 stories on these existing and

proposed building provides for a compatible relationship. The proposed development meets the intent of the Sector Plan and the Montgomery County Zoning Ordinance in terms of height and massing, and will not adversely affect the surrounding properties, the streetscape or the adequacy of light and air.

- B. Silver Spring Wayfinding System: According to the Silver Spring Wayfinding Master Plan prepared by the Silver Spring Regional Center, there are two wayfinding signs (#40-Type C1 and #210-Type D2) programmed along East-West Highway. The Applicant shall coordinate with the Silver Spring Regional Center for the placement of the proposed signs within the public right-of-way.
- C. Sector Plan Street Rights-of-Way: The existing right-of-way for East-West Highway is approximately 75 feet and has a cross section that is asymmetrical (street not centered). The Sector Plan recommends a 110-foot right-of-way for East-West Highway; however, the Applicant is requesting a reduction in the full width to 100 feet. The Applicant justifies the 10-foot reduction by demonstrating that the 100-foot right-of-way more than adequately accommodates any current or future road width, streetscaping and the Class I bikeway.

Blair Mill Road has an existing 60-foot street right-of-way and is symmetrical (street centered). The Sector Plan recommends a street right-of-way of 70 feet for Blair Mill Road. The Applicant is proposing to provide an additional 3 feet of right-of-way along their property frontage for a total of 63 feet. The 7-foot reduction allows the proposed development to include a minimum 12-foot-wide sidewalk (streetscape), three travel lanes within the dedicated portion of Blair Mill Road and a Class III (on-road) bikeway. The reduced right-of-way meets the circulation criteria and recommendations in the Sector Plan. The Applicant is proposing to reduce the Blair Mill Road right-of-way based on the expectation that the abandonment of the road between East-West Highway and Georgia Avenue will reduce the traffic volumes anticipated by the Sector Plan. The abandonment of this portion of Blair Mill Road as part of the approved Silver Spring Gateway project may leave the remainder of Blair Mill Road operating as a local secondary residential street. Community-Based Planning staff notes that the Sector Plan did not anticipate the abandonment of the road to the east of this project. It may have an affect on circulation but there is no empirical data to determine any adverse effects by not requiring the full master planned right-of-way. Blair Mill Road functions as a residential street and appears to adequately address the needs for circulation and on-street parking for the residents it serves.

Community-Based Planning staff expects that Blair Mill Road will continue to function this way and recommend the reduction of the right-of-way from 70 feet to 63 feet.

- D. Streetscape: The Applicant shall improve the East-West Highway and Blair Mill Road streetscape along the frontage of their property. The East-West Highway streetscape treatment consists of a combined 15-foot-wide sidewalk and shared-use path separated from the curb by street trees. The Blair Mill Road frontage will be improved with the Type 'B' streetscape treatment. The streetscape public amenities for the proposed development shall be in accordance with the standards recommended in the *Silver Spring Streetscape* (April 1992) technical manual, or as modified to include the bikeway. The Applicant shall implement some non-standard paving elements within the street rights-of-way located in proximity to their main public space.
- E. Sector Plan Bikeways: The Sector Plan recommends a Class I bikeway (off-road, shared-use path) along the west side of East-West Highway and a Class II or III bikeway (on-road, bike lanes or signed shared roadway). The Applicant shall provide a 10-foot Class I bikeway (off-road, shared use path) along the East-West Highway frontage and a Class III bikeway (on-road, signed shared bikeway) along Blair Mill Road.

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

The proposed development is compatible with existing and proposed development within the surrounding area with regard to height, design of the building and public spaces, intensity of the development and operational characteristics.

The proposed mixed-use project is adjacent to the 15-story Blair Towers high-rise apartment building to the north, Blair East parking structure to the west and the 4-story mid-rise Spring Garden apartment building to the south. Directly across East-West Highway is the 4-story Silver Spring Square (The Silverton) condominium, flanked by the 15-story Bennington apartment building to the north and the planned 14-story Silver Spring Gateway mixed-use project to the south. The subject development meets the intent of the Sector Plan and the Montgomery County Zoning Ordinance in terms of height and massing, and will not adversely affect the surrounding properties, the streetscape or the adequacy of providing light and air.

- (d) *As conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and,*

if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.

The project proposes residential units and retail uses, surrounded by a variety of housing projects and commercial office and retail businesses within the downtown Silver Spring area. The parking requirement for the proposed residential use equals 307 spaces, with a credit for residential uses in the CBD and credits for proximity to the metro station. The total parking requirement for all uses is 360 spaces with parking credits.

This site is located within the Parking Lot District, which allows the Applicant flexibility in providing the required parking spaces. Under Chapter 60 of the Montgomery County Zoning Ordinance, the Applicant may satisfy its parking requirements by 1) providing all of the required off-site parking spaces; 2) providing no parking spaces and paying a parking tax for all of the required spaces; or 3) providing some of the required parking spaces and paying a parking tax for the number of required spaces it does not provide.

Parking for the proposed residential units will occur on-site within a below-grade 2-level parking garage. A total of 220 parking spaces for the proposed 247 units and 10,600 square feet of retail are being provided in the subsurface parking area. The Applicant is proposing "vault space" under the rights-of-way for East-West Highway and Blair Mill Road to accommodate the 220 parking spaces proposed in the subsurface garage. The parking garage design proposes a "flex car" space to serve the building's residents and maximize the total number of spaces physically possible for the structure. The Applicant will be required to pay a parking tax for the remaining required parking spaces. In addition, the parking spaces needed to satisfy the County Parking Ordinance for the proposed uses will take advantage of the nearby county parking facilities due to the fact that the site is located within the Silver Spring Parking Lot District. Sites within the Parking District are permitted to minimize the number of spaces provided on-site and take advantage of the County's facilities. The closest County parking facilities are Garage #58 (NOAA building) approximately 400 feet north of the site, and the Kennett Street Garage approximately 400 feet to the south and east of the project.

The Planning Board finds that the Applicant has met its obligation to provide parking within the CBD and that the proposed development promotes smart growth within the urban environment; therefore the proposed project will not overburden existing public services.

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

The proposed development also submitted a traffic study to evaluate the effect of this development on the area transportation system as part of their required Local Area Transportation Review. A total of three intersections were included in the study area. The site-generated trips were added to the existing and background traffic to form the total future traffic. All traffic was assigned to three intersections and the result shows that they are operating within the congestion standard of 1,800 Critical Lane Volume (CLV) for the Silver Spring Central Business District (CBD) Policy Area.

The Applicant will be required to enter into a Traffic Mitigation Agreement (TMA) with the Planning Board to help the Project achieve the non-driver commuting goal for development in the Silver Spring CBD as part of its Preliminary Plan review.

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

The optional method of development permits a more efficient and desirable product than by using the standard method of development. The Project Plan proposes to use the optional method of development and is in conformance with the goals and objectives of the Silver Spring Sector Plan and the Ripley/South Silver Spring Overlay Zone. The proposed development intends to maximize its gross floor area on site to approximately 275,000 square feet, short of the approximate 305,000 square feet permitted by the zone.

In addition to the provision of MPDUs, the project will include a significant new public open space and art amenity on the site. The project is providing over 60% of new on and off-site public use space, which would not have been possible through the standard method of development. The Applicant is maximizing their density for both residential and office/retail, and providing public amenities on the site in a location that is currently underutilized in terms of density.

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

The proposed development is providing the required 31 MPDUs or 12.5 percent of the total number of units on site, in accordance with the provisions of Chapter 25A of the Montgomery County Zoning Ordinance.

(g) *When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from 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 of the Master Plan for Historic Preservation; and/or*
- (2) *The project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or*
- (3) *The project will result in an overall land use configuration that is significantly superior to that which could otherwise be achieved.*

This provision does not apply to the proposed project since the entire site will be one lot zoned CBD-2.

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

In accordance with the requirements for optional method development, a Natural Resources Inventory and Forest Stand Delineation Plan (NRI/FSD) for the Property (No. 4-05228E) was approved by the M-NCPPC on March 8, 2005. This Property qualifies for an exemption to the Forest Conservation Regulations. There are no significant environmental features located on the Property including no forestland or specimen trees.

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

A stormwater management concept plan has been submitted for review to the Montgomery County Department of Permitting Services. A concept approval is required for submittal of the site plan. The concept proposes on-site stormwater management control through the use of water quality control structures for storage and filtration.

PLANNING BOARD ACTION AND CONDITIONS

The Montgomery County Planning Board **APPROVES** Project Plan Review No. 9-05004 for approximately 275,000 square feet of gross floor area, including 264,400 square feet of residential space consisting of approximately 247 multi-family dwelling units, of which 31 (or 12.5% of the total number of units) will be MPDUs, and 10,600 square feet of retail space on 1.40 gross acres in the CBD-2 Zone with the following conditions:

1. Development Ceiling

The proposed development shall be limited to 275,000 gross square feet of development, including approximately 264,400 square feet of residential space and 10,600 square feet of retail.

2. Building Height/Mass

The height of the proposed building shall not exceed 142 feet.¹

3. Transportation Improvements

- a. Dedicate an additional 25 feet of right-of-way to provide for a total of 100 feet right-of-way on the southwest side of East-West Highway.
- b. Dedicate an additional 3 feet of right-of-way to provide for a total of 63 feet of right-of-way on the north side of Blair Mill Road.
- c. Provide a 10-foot-wide Class I bikeway (off-road, shared use path) plus a 5-foot-wide sidewalk, for a total width of 15 feet along the East-West Highway frontage.
- d. Provide a Class III bikeway (on-road, signed shared bikeway) along Blair Mill Road.
- e. Provide standard full width Silver Spring streetscape improvements on East-West Highway (Type "B" modified) and Blair Mill Road (Type "B").
- f. Coordinate with the Maryland State Highway Administration (SHA) regarding the approved changes to the pedestrian crosswalks, curb ramps and other street improvements resulting from the Silver Spring Gateway and Silver Spring Square (The Silverton) projects.
- g. Prior to approval of the site plan signature set, the Applicant shall finalize and execute the Traffic Mitigation Agreement.

¹ Condition No. 2 in the Staff Report states that "the height of the proposed building shall not exceed 143 feet." (Emphasis added.) However, it is clear from the Project Data Table and the Applicant's Project Plan Application that the maximum height requested and approved for this development is 142 feet.

4. Moderately Priced Dwelling Units (MPDUs)

The Applicant shall provide 31 MPDUs (or 12.5% of the total number of units) on-site, consistent with the requirements of Chapter 25A.

5. Public Use Space

- a. The Applicant shall provide 24 percent of on-site public use space and 36 percent of off-site public use space.
- b. The proposed public use space must be easily and readily accessible to the general public and used for public enjoyment. All streetscape improvements shall be in accordance with the *Silver Spring Streetscape (April 1992) Technical Manual* or as amended.

6. Streetscape

- a. The Applicant shall provide the full streetscape improvements along the southwestern boundary of East-West Highway and north side of Blair Mill Road frontage using the *Silver Spring Streetscape (April 1992) Technical Manual*. The following elements are proposed: stone, precast concrete, brick pavers, street trees, lighting, and any other details that are necessary, including the undergrounding of utilities along the frontage of the property, to fulfill the Silver Spring streetscape standards.
- b. Off-site improvements shall be provided along the property frontage of East-West Highway and Blair Mill Road.

7. Public Art

A public art program shall be provided to include a vertical light refracting glass element in the public plaza that encompasses the intersection of East-West Highway and Blair Mill Road. The vertical element will be linked to the ground plane of the plaza through integrated glass elements in the pavers, seating and planters.

8. Staging of Amenity Features

- a. The proposed project shall be developed in one phase.
- b. Landscaping to be installed no later than the next growing season after completion of building and public plaza.
- c. Streetscape improvements and the artwork shall be installed prior to occupancy of the building.

9. Maintenance and Management Organization

Initially, the Applicant, and subsequently, within ninety days of formation, the Condominium Association shall become a member and enter into an agreement with the Silver Spring Urban District for the purpose of maintaining public open spaces and participating in community events.

10. Coordination for Additional Approvals Required Prior to Site Plan Approvals

The Applicant shall secure the following additional approvals prior to Site Plan Review:

- a. Coordinate with the Silver Spring Regional Service Center on the placement of the proposed Type C1 (Sign #40) and Type D2 (Sign #73) way finding sign located on East-West Highway. Locate these signs within the public right-of-way.
- b. Present the public art components to the Planning Board Art Review Panel for review and comment to be available to the Planning Board.
- c. Coordinate with the M-NCPPC staff and the Montgomery Department of Public Works and Transportation (MCDPWT) staff regarding the final design and extent of the non-standard elements as part of the proposed streetscape improvements.
- d. Request a waiver for all non-standard elements and non-standard streetscape improvements as well as a maintenance and liability agreement with the MCDPWT.
- e. Enter into a maintenance agreement with the Silver Spring Urban District for maintenance of all or some of the streetscape improvements.

In accordance with Montgomery County Code § 59-D-2.7, this project plan will remain valid for 24 months from the Initiation Date, as defined in § 59-D-2.7(a), provided that a complete site plan application is filed within 18 months of the Initiation Date.

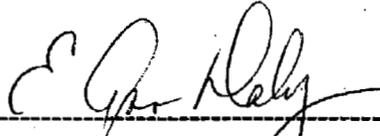
* * * * *

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

APPROVED AS TO LEGAL SUFFICIENCY
MD 9/23/25
M-NCPPC LEGAL DEPARTMENT

CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on **Thursday, September 29, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission by unanimous consent **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. 9-05004, 1200 East West Highway**. Vice Chair Perdue was absent. Chairman Berlage abstained.



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