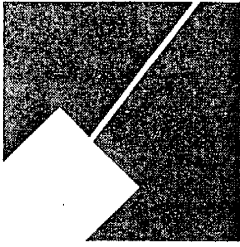


APPENDIX B

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

Date of Mailing: FEB 15 2006

**MONTGOMERY COUNTY PLANNING BOARD
OPINION**

Project Plan No.: 9-06001
Project: 1200 Blair Mill Road Condominiums
Date of Hearing: October 10, 2005

Action: **APPROVAL SUBJECT TO CONDITIONS.** (*Motion to approve was made by Commissioner Wellington; duly seconded by Commissioner Robinson; with a vote of 3-0, Commissioners Robinson, Wellington and Berlage voting in favor. Commissioners Perdue and Bryant were absent.*)

The date of this written opinion is FEB 15 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

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

INTRODUCTION

On July 12, 2005, 1200 BMR Associates, LLC ("Applicant") submitted an application for the approval of a project plan for approximately 107,095 square feet of gross floor area, including 88,100 square feet of residential space consisting of a maximum of 96 multi-family dwelling units, of which 12 (or 12.5% of the total number of units) will be MPDUs, under the optional method of development on one (1) lot consisting of 0.77 gross acres of CBD-1-zoned land located in the Silver Spring Central Business District ("Project Plan"). The Project Plan was designated #9-06001 (920060010). The Applicant filed a concurrent Preliminary

Plan application #1-06006 (120060060) ("Preliminary Plan"). On October 10, 2005, the Project Plan 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 SUBJECT PROPERTY

The 0.77 acre site ("Property" or "Subject Property") is comprised of one unrecorded lot, Lot 917, within the Silver Spring Central Business District (CBD) and is zoned CBD-1. The Property is located at 1200 Blair Mill Road at the apex of Blair Mill Road, East-West Highway and Newell Street. The Property is currently improved with a vacant, one-story, auto-related building in the southwest corner, with ancillary parking framing the remainder of the site up to the property lines. Access points to the site are located from Blair Mill Road and Newell Street.

Overhead wires exist along the frontage of Newell Street and across Blair Mill Road. Overhead utilities connect from the streets to the existing building on the Property. The intersections of Blair Mill Road, Newell Street and East-West Highway are signalized. The entire boundary is delineated by a 6-foot chain-link fence.

The topography on the Property slopes from east to west by approximately five feet. Existing vegetation is located on the western boundary from the building to Blair Mill Road and consists of a mix of minor deciduous trees and understory shrubs.

The site is surrounded by CBD-2 properties to the north and east across East-West Highway and CBD-R2 to the north and west. The zoning pattern transitions to the CBD-1 Zone from Blair Mill Road to the south, including the Subject Property. The apartment complexes west of the Subject Property toward Eastern Avenue are zoned R-10.

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 further north and west on East-West Highway. 1200 East-West Highway, a recently approved mixed-use project plan (#9-05004), is located across Blair Mill Road and includes the property adjacent to Blair Towers. Springwood Apartments, a 4-story mid-rise apartment complex, is located directly adjacent to and west of the site along Blair Mill Road. The Discovery Channel Communications building is situated southeast of the site at East-West Highway and Kennett Street. Acorn Park is nestled between the Discovery Channel building and the subject property, separated by Newell Street.

BACKGROUND

Master Plan

The Project Plan is in conformance with the Silver Spring Central Business District and Vicinity Sector Plan, adopted February 2000 ("Sector Plan"). A description of the themes and goals for Silver Spring are outlined within the Sector Plan Conformance standards.

Proposed Development

The concurrently reviewed preliminary plan seeks to create 1 lot on 0.77 acres of land located in the southwest quadrant of the intersection of Blair Mill Road and Newell Street, in the Silver Spring CBD and Vicinity area. The Applicant proposes to redevelop the existing auto-related building on the site into approximately 107,095 square feet gross floor area of development, including 88,100 square feet of residential space, consisting of a maximum of 96 multi-family dwelling units, of which 12 (or 12.5% of the total number of units) will be MPDUs.

Building Design

The proposed building is a rectangular-shaped structure, situated in the western portion of the property, placing the mass of the building in the widest portion of the site. The building combines pre-cast concrete panels and masonry in a balanced composition that addresses three major exposures, providing a dignified backdrop for the public park facing East West Highway. The base of the building and the cornice will most likely be constructed of precast concrete panels, with the remainder of the building comprised of a mix of brick and concrete. The proposed building is a 9-story, 90-foot tall building, with the maximum 90-foot building height measured from the southwest corner of the site directly off of Newell Street. The residential lobby entrance to the building is accessed via Blair Mill Road in the northeast corner of the first floor of the building. The first floor also includes residential units along with recreation and amenity space, including a mailroom, an office, and a fitness room.

Parking and Access

The 9-story building contains two levels of underground parking consisting of 44 parking spaces.¹ The underground parking garage will be accessed via Blair Mill Road, at the northwest corner of the site.

Public Use Space and Amenities

The Project Plan is providing 24.7 percent (4,387 sq. ft.) on-site public use space and 23.8 percent (4,235 sq. ft.) off-site public use space for a total of approximately 48 percent. The Project Plan significantly exceeds the minimum requirement of 20 percent on-site public use space. The combined on- and off-site public use space is consistent with the standard percentage of public use space within the Silver Spring CBD of 46-48 percent, primarily due to the property configuration and amount of street frontage.

The on-site public use space consists of a public green area at the foreground to the building that includes walkways, seating, a pergola and lawn area for public interaction. An art program is being developed to include artistic treatment of the pergola and building façade.

The off-site public use space is comprised of the streetscape improvements within the rights-of-way for Blair Mill Road, Newell Street and a small portion of East-West Highway. The streetscape improvements include the standard Silver Spring streetscape (Type B for both roads) consisting of shade trees in tree pits, brick pavers, Washington Globe streetlights and underground utilities.

Accent planting along the building foundation will highlight the curvilinear walk and public use area. The lawn area will compliment the open space associated with Acorn Park and will add a green component to the urban plaza framework associated with the surrounding developments proposed and under construction. Specialty lighting, oriented toward accenting the plant material and seating and walkway areas, is proposed within the on-site public use area in front of the building.

Pedestrian and vehicular access

Under the Silver Spring Sector Plan recommendations, East-West Highway is classified as a major highway with four travel lanes and an ultimate right-of-way width of 90 feet between Blair Mill Road and Georgia Avenue. Newell Street is classified as a primary residential street of ultimate right-of-way width of 70 feet,

¹ The project data table, presented in the Staff Report, had proposed 46 parking spaces. At the request of the Applicant, the Board approved a reduced number of parking spaces (44) at the public hearing.

and Blair Mill Road is classified as a Business Street with 70 feet of ultimate right-of-way. The proposed redevelopment of the Property anticipates an additional dedication of approximately 10 feet on Newell Street, for a total right-of-way width of 52 feet.² Blair Mill Road does not require additional dedication. The recently approved Project Plan #9-05004 for a neighboring development at 1200 East-West Highway allowed for a reduction of 7 feet of the recommended 70-foot right-of-way on the north side of Blair Mill Road. The right-of-way approved for Blair Mill Road totals 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) on both sides of Blair Mill Road, as recommended by the Sector Plan.

SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

Development Review Staff ("Staff") recommended approval of the Application in its memorandum dated September 29, 2005 ("Staff Report"). Staff testified at the public hearing, presenting its findings consistent with the Staff Report. Staff described the Subject Property, neighboring developments (proposed and approved), and features of the Project Plan. Staff advised the Board that the Application as conditioned complies with Subdivision Regulations and recommended approval of the Project Plan.

The Applicant appeared at the hearing represented by legal counsel. Counsel for the Applicant stated that the Applicant accepted the Staff recommendation and conditions regarding the Project Plan, with modifications to the Project Data Table as discussed during the public hearing.³

Staff advised the Planning Board that the Applicant had requested two revisions to the Project Data Table. First, the Applicant asked that the Data Table reflect that 44 parking spaces would be provided on site, instead of 46 spaces originally

² The resulting 52-foot right-of-way for the portion of Newell Street adjacent to the Subject Property will thus be 18 feet less than the 70 feet recommended by the Sector Plan. As a part of its approval of the concurrently reviewed Preliminary Plan #120060060 (formerly #1-06006), the Board granted Applicant's request for a waiver of the required right-of-way width pursuant to MONTGOMERY COUNTY CODE § 50-38.

³ The Board heard testimony regarding additional issues relevant to the approval of the concurrently reviewed Preliminary Plan, as discussed in the Opinion for Preliminary Plan No. #120060060 (formerly #1-06006).

proposed. Second, the Applicant requested that the Data Table indicate a building setback of 53 feet from the East-West Highway truncation, as opposed to the 55-foot setback originally proposed.

The Board questioned the Applicant regarding the impact of the requested revisions on public use space and parking spaces. Staff and the Applicant testified that the on-site public use space would not decrease as a result of the revision of the required setback to 53 feet as opposed to 55 feet. Staff and the Applicant informed the Board that the CBD-1 zone does not require setbacks for projects under the optional method of development projects. Staff and the Applicant testified that the additional two feet was proposed to allow for flexibility in the use of construction materials. Staff and the Applicant also pointed out that the Subject Property is located within the Silver Spring Parking Lot District and is therefore not required to provide any parking spaces pursuant to the relevant provisions of Article 59-E of the Zoning Ordinance. Staff and the Applicant informed the Board that, subject to relevant provisions of the County Code, the Property is, however, subject to an ad valorem tax regardless of whether 46 spaces or 44 spaces are proposed. The Board accepted the requested revisions to the Project Data Table.

Commissioner Wellington requested that the Project Data Table included in the Opinion add language clarifying that specific development standards had been approved by the Planning Board and were binding upon the Applicant. Commissioner Wellington also requested that the opinion include revised condition language clarifying that the proposed building would not exceed a height of 90 feet. The Applicant confirmed on the record that the building would not exceed a height of 90 feet.

No other speakers testified at the public hearing.

FINDINGS

Section 59-D-2.42 of the Zoning Ordinance sets forth the findings that the Planning Board must make in its review of a project plan application. Having given full consideration to the recommendations and findings of its Staff (including those contained in the Staff Report dated September 27, 2005), which the Board hereby adopts and incorporates by reference, the testimony and evidence presented and contained in the record of the application, the Montgomery County Planning Board makes the following findings:

- (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 a maximum of 96 multi-family dwelling units, including 12 (12.5%) Moderately Priced Dwelling Units (MPDUs) provided on-site. High density residential, office and commercial retail uses are permitted in the CBD-1 Zone.

The building is proposed for 9 stories consisting of a maximum of 90 feet, which is in conformance with the Montgomery County Zoning Ordinance, which permits up to 90 feet in height under the Optional Method. The building height is measured from the Newell Street frontage, consistent with the method for measuring building height contained in the Zoning Ordinance. The proposal reflects 125 dwelling units per acre as permitted by in the CBD-1 Zone.

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 outdoor urban amenities and green space. The proposal improves the area by replacing an existing auto-related facility and surface parking lot with a modern high-rise residential 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 as an important component to the revitalization efforts for the South Silver Spring area. This is one of the last remaining underutilized properties in the intersection of East-West Highway, Blair Mill Road and Newell Street.

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, enhances the downtown Silver Spring area. The location of the public use space unifies the East-West corridor and complements the existing historic Acorn Park and proposed amenities on adjacent properties. 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, Newell Street and Blair Mill Road and providing a compatible and desirable relationship with adjacent and surrounding uses. The 90-foot-tall building provides the necessary transition from the 12-14 story buildings along East-West Highway to the adjacent 4-6 story mid-rise residential buildings south and west of the subject site 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. The improved streetscape for Newell Street and Blair Mill will strengthen the overall pedestrian system along East-West Highway to

Georgia Avenue and especially to the Silver Spring metro station.

- (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, Newell Street 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 and Newell Street 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. A draft TMA was submitted with the proposal that outlines possible transit alternatives, monitoring of the program and commuter display information.

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

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

Vehicular circulation is enhanced with a small section of improved right-of-way along the southwest side of East-West Highway. Newell Street is proposed for an additional 10 feet of dedication along the subject property line to expand the total right-of-way dedication to 52 feet from the opposite side of Newell Street. No dedication is required on Blair Mill Road. The right-of-way for Blair Mill Road is 63 feet due to

a 7-foot reduction in the total right-of-way permitted by the adjacent preliminary plan approval for 1200 East-West Highway (#1-05084).

The entrance to the parking garage and loading area is located at the northwestern end of the property with direct access from Blair Mill Road. The parking garage is a 2-level, below grade structure planned to accommodate approximately 46 parking spaces, including 2 handicapped spaces. Signs indicating traffic circulation in and out of the garage will promote safety for pedestrian activity in the public use space. The intersection located at East-West Highway and Blair Mill Road is signalized and contains pedestrian crosswalks on all approaches. Access to and through the intersection is safe and adequate for pedestrians.

The streetscape improvements along East-West Highway, Newell Street 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 the block in its entirety to Colesville Road.

- (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 housing units in the CBD, including the objective of providing moderately priced housing where public facilities, services, and transit options are readily available. Consistent with Code Chapter 25A, the Applicant is committed to providing 12 MPDUs within the building, representing 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."*

This Property consists of Lot 917, an unrecorded lot that proposes redevelopment of a currently underutilized site within south Silver Spring. 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 does recommend a zone for the property that permits 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 and moderately-priced condominium units into an existing framework of commercial and retail use in downtown Silver Spring, further encouraging revitalization in the downtown corridor.

PROJECT DATA TABLE (CBD-1)

	Zoning Ordinance Development Standard	Development Standard Approved by Planning Board and Binding on Applicant
Gross Tract Area (sf.):	22,000	33,747 ⁴
Net Lot Area (sf.):		17,771
Gross Floor Area (sq. ft.):		107,095
Max. Dwelling Units per Acre:	125	124
Max. Number of Dwelling Units:	96	96
Min. Public Use Space (%/ sf.):		
On-site Public Use Space	(20%) 3,555	(24.7%) 4,387
Off-site Public Use Space	none required	<u>(23.8%) 4,235</u>
Total Public Use Space	(20%) 3,555	(48.5%) 8,622
Max. Building Height (ft.):	90	90 (As measured from Newell Street)
Max. Building Height (stories):	none specified	9 stories
Setbacks (ft.):	none specified	
• along Blair Mill Road:		0 feet provided
• along Newell Street:		0 feet provided
• along west property line:		0 feet provided
• from East-West Highway truncation:		53 feet
Parking ⁵ :		
Residential Uses (Mkt. Rate)		
Studio Units @ 1 sp./unit (7 x 1.0)	7	
1 BR @ 1.25 sp./unit (22 x 1.25)	28	
1 BR + Den @ 1.25 sp./unit (27 x 1.25)	34	
2 BR @ 1.50 sp./unit (20 x 1.50)	30	
2 Br + Den @ 1.50 sp./unit (7 x 1.50)	11	

⁴ Includes previous dedication of 13,650 square feet on East-West Highway, Newell Street and Blair Mill Road, and proposed dedication of 2,326 square feet on Newell Street and East-West Highway.

⁵ Includes previous dedication of 13,650 square feet on East-West Highway, Newell Street and Blair Mill Road, and proposed dedication of 2,326 square feet on Newell Street and East-West Highway.

	Zoning Ordinance Development Standard	Development Standard Approved by Planning Board and Binding on Applicant
Residential Uses (MPDUs)		
Studio Units @ 0.5 sp./unit (1x 0.50)	1	
1 BR @ 0.625 sp./unit (4 x 0.625)	3	
1 BR + Den @ 0.625 sp./unit (4 x 1.25)	5	
2 BR @ 0.75 sp./unit (3 x 0.75)	3	
2 Br + Den @1.50 sp./unit (1 x 1.50)	1	
Total Base Parking Spaces	123	
Parking Credits (59-E-3.3)		
10% for CBD 123 x .10	12	
5% for <1600' to metro 123 x .05	6	
Total Parking Requirement after Credits	105	44 (Includes 2 HC spaces)
Loading	1 space	1 space

Amenities and Facilities Summary

On-Site Improvements

Public Green Area

- Paved walkways connecting Blair Mill Road and Newell Street corresponding to the building arc that delineates the proposed buildings at the intersection of all three streets.
- Lawn area to complement Acorn Park and soften the hardscape urban elements of the surrounding plazas in the adjacent properties.
- Green area to incorporate seating areas, accent planting and a pergola or artistically inspired art form between the base of the building front and curved path.
- 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.

Streetscape Improvements

- Expand the existing streetscape improvements along East-West Highway, Newell Street and Blair Mill Road to include specialty pavers.
- Use specialty lighting in the park area and up-lighting of the landscape elements to softly accentuate and visually activate the plaza at night.
- The fencing on the edge of the park area will be designed to include patterns that are artistic in nature and complement the proposed building and surrounding improvements on adjacent properties.
- Landscape beds and planters with irrigation and plant material for seasonal accent and color.
- Existing overhead utilities to be located underground consistent with the Silver Spring Master Plan.

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 minimum 15-foot-wide sidewalk and shared-use path.
- 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 south 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*.

Newell Street Right-of-Way

- Streetscape (Type B) on the north side of Newell Street, 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*.

(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-1 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 proposed residential development is comprised of 96 residential condominium units (equivalent to 124 dwelling units per acre), which is in keeping with the permitted 125 dwelling units per acre for this site. The application is proposing to develop the site under the optional method of development.

The minimum required public use space for this project is 3,555 square feet (20% of the net lot area). The applicant is proposing 4,387 square feet of on-site public use space and amenities (24.7% of the net lot area). The applicant also proposes an additional 4,235 (23.8 % of the net lot area) square feet of off-site public use space, including the streetscape improvements to East-West Highway and Blair Mill Road, for a total of 8,622 square feet (or 48.5% of the net lot area) of public use space, amenities and off-site improvements.

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. Three of these themes (i.e., a residential downtown; a green downtown; and a pedestrian-friendly downtown) apply to this proposed project. The Sector Plan does not specifically identify the proposed project site as a potential housing site. However, the Sector Plan does encourage housing as an important component to the

revitalization efforts of downtown Silver Spring and is a permitted use in the CBD-1 Zone.

The proposed project will include new public open space and an art amenity and proposes new opportunities for landscaped public open spaces, public art and streetscapes. This project encourages the development of active urban streets by providing the main building entrance along Blair Mill Road. Placing the primary public space in a prominent place as an activity generator further activates the street. This proposal improves the quality of the pedestrian environment by providing the streetscape treatment required for optional method projects. 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 residential development is adjacent to the 4-story Spring Garden apartment building to the west and Acorn Park to the south. The 15-story Blair Towers high-rise apartment building is located directly north of the recently approved 1200 East West Highway mixed-use 143-foot high-rise development across Blair Mill Road. The 60-foot-tall Silver Spring Square (The Silverton) condominium and the 15-story (143-foot) Bennington apartment buildings are located across East-West Highway from the proposed development. These buildings are in the final stages of construction. The 143-foot Silver Spring Gateway project is located east of the Silverton and will be starting construction soon. The Discovery Communications Creative Technology Center (height 60 feet) is located across Newell Street on East West Highway. The proposed building height is 90 feet. The varying heights from 60 to 143 feet on these existing and proposed building provides for a compatible relationship.

The Sector Plan suggests height and setback limitations for buildings along Newell Street and Eastern Avenue to ensure compatibility with adjacent residential neighborhoods. This recommendation was later codified as part of the Ripley/South Silver Spring Overlay Zone; however, this property is outside the overlay zone. The proposed 90' building height is compatible with the existing and proposed residential buildings adjacent to the proposed development and therefore satisfies the intent of the Sector Plan. The proposed development meets the intent of the Sector Plan in terms of compatibility and will not adversely affect surrounding properties. 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. Sector Plan Street Rights-of-Way: The Sector Plan recommends a street right-of-way of 70 feet for Newell Street; however, as Staff advised the Planning Board, the existing right-of-way of 42 feet had been reduced from 60 feet through an abandonment approved by the Board as part of a separate development approval in the 1990's, which abandonment permitted the expansion of Acorn Park. Staff further advised the Board that the earlier, unrelated, development approval anticipated that when the Subject Property—which confronts Acorn Park to the North across Newell Street—came in for development, it would be required to dedicate an additional 10 feet of Newell Street right-of-way. Therefore, Staff recommended that the Applicant dedicate the additional 10 feet of street right-of-way to provide a final right-of-way width of 52 feet. As is mentioned above, the Planning Board granted a waiver of the minimum required right-of-way width on Newell Street as a part of the concurrently reviewed Preliminary Plan application. For the reasons discussed in its approval of the accompanying Preliminary Plan, the Planning Board finds that the Project Plan conforms to the Sector Plan with respect to the Newell Street right-of-way width.

Blair Mill Road has an existing 63-foot street right-of-way and is symmetrical (street centered). Staff advised the Board that the Subject Property had already dedicated its portion of the required right-of-way. Staff further noted that, although the Sector Plan recommends a street right-of-way width of 70 feet for Blair Mill Road, the right-of-way for Blair Mill Road was established at 63 feet during the Preliminary Plan Review of the 1200 East-West Highway project (No. 1-05084), which confronts the Property across Blair Mill Road. Therefore, the Board required no additional dedication of Blair Mill Road right-of-way by the Applicant in the concurrently reviewed Preliminary Plan. As such, the Board finds that the Project Plan conforms to the Sector Plan with respect to the Blair Mill Road right-of-way width.

The reduced right-of-way meets the circulation criteria and recommendations in the Sector Plan and provides the streetscape elements required by the Silver Spring Streetscape Plan.

- C. Streetscape: The applicant proposes to improve the streetscape for Blair Mill Road and Newell Street along the frontage of their property with the Type 'B' streetscape treatment. The streetscape treatment consists of a 12-foot-wide sidewalk separated from the curb by street

trees. 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.

D. Sector Plan Bikeways: The Sector Plan recommends a Class II or III bikeway (on-road, shared-use path) on Blair Mill Road. Staff recommends a Class III bikeway (on-road, signed shared bikeway) on both sides of 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 residential development is adjacent to the 4-story Spring Garden apartment building to the west, Acorn Park to the south and Blair East high-rise apartment building to the north of the recently approved 1200 East-West Highway mixed-use 143-foot high-rise development across Blair Mill Road. The 60-foot-tall Silver Spring Square (The Silverton) condominium and the 15-story (143-foot) Bennington apartment buildings are located across East-West Highway from the proposed development. These buildings are in the final stages of construction. The 143-foot Silver Spring Gateway project is located next to the Silverton and will be starting construction soon. The Discovery Communications Creative Technology Center (height 60 feet) is located across Newell Street on East West Highway. The proposed building height is 90 feet. The varying heights from 60 to 143 feet on these existing and proposed buildings provides for a compatible relationship. 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.

The proposed 90-foot building height is permitted in the CBD-1 Zone and is not subject to the Ripley/South Silver Spring Overlay Zone.

The public use space proposed at the front of the building along East-West Highway frames the entire intersection providing a unified

relationship with the surrounding properties. The massing of the building is compatible with the surrounding proposed and existing residential buildings and fills in a long-term gap in the urban building fabric along East-West Highway. The building and open space at the apex of the site complete and define the intersection of Blair Mill Road, Newell Street and East-West Highway.

- (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, surrounded by a variety of housing projects and commercial office and retail businesses within the downtown Silver Spring area. Parking for the proposed residential units will occur on-site within a below-grade 2-level parking garage. The parking requirement for the proposed residential use equals 123 spaces. Credits for residential uses in the CBD and for proximity to the metro station are being provided, with the total parking requirement for all uses equaling 105 spaces. Only 44 parking spaces are being provided on the site; however, because the Property is located within the Silver Spring Parking Lot District ("PLD"), the Applicant is not required to provide 105 spaces onsite.

Under relevant provisions of Chapter 60 of the Montgomery County Code, 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 parking spaces; or 3) providing some of the required parking spaces and paying a tax for the number of required parking spaces it does not provide. Sites within the PLD are permitted to minimize the number of spaces provided onsite and take advantage of the County's facilities. The closest County parking facilities are Garage #58 (NOAA building), approximately 500 feet north of the site, and the Kennett Street Garage, approximately 300 feet to the south and east of the project.

The Applicant is meeting its obligation for parking within a PLD, consistent with relevant provisions of the County Code, and is promoting smart growth within the urban environment; and, therefore, the Board finds that 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 nearby commercial and retail establishments.

The proposed development of 96 residential units is not anticipated to generate more than 30 peak hour trips and therefore is not required to provide a formal traffic study per the LATR Guidelines. A traffic statement complying with LATR Guidelines was submitted and accepted for this project proposal.

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.

- (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 use of the standard method of development. The Project Plan proposes to use the optional method of development and is in conformance with the goals and objectives of the Silver Spring Sector Plan. The proposal reflects a density of 124 dwelling units per acre. The CBD-1 Zone permits a maximum density of 125 dwelling units per acre.

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 approximately 49% 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 density both for residential use and for availability of 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 12 Moderately Priced Dwelling Units 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 on lot to another or transfer densities, within a lot with two or more CBD zones,*

pursuant to the special standards of either section 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings:

This section is not applicable. The property consists of one unrecorded lot and is not transferring public open space or density from other projects.

- (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 forest 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 #9-06001 (920060010) for a maximum of 96 multi-family dwelling units, of which 12 (or 12.5% of the total number of units) will be MPDUs, on 0.77 gross acres in the CBD-1 Zone with the following conditions:

1. Development Ceiling

The proposed development shall be limited to a maximum of 96 multi-family dwelling units or 124 dwelling units per acre.

2. Building Height/Mass

The maximum height of the proposed building shall not exceed 90 feet, as measured from Newell Street.

3. Transportation Improvements

- a. Dedicate additional street right-of-way along the Newell Street frontage to provide a total width of 52 feet.
- b. 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.
- c. Provide a Class III bikeway (on-road, signed, shared bikeway) along both sides of Blair Mill Road along the property frontage.
- d. Provide standard full width Silver Spring streetscape improvements on Newell Street (Type "B") and Blair Mill Road (Type "B") in accordance with the *Silver Spring Streetscape* (April 1992) technical manual or as amended, along the entire site frontage.
- e. Ensure conformance with the Maryland State Highway Administration approved changes to pedestrian crosswalks, curb ramps and other approved street improvements near the intersection with East-West Highway.

4. Moderately Priced Dwelling Units (MPDUs)

The applicant shall provide 12 MPDUs (or 12.5% of the total number of units) on-site, consistent with the requirements of Chapter 25A. An executed MPDU agreement with DHCA must be attached and included with the first building permit application.

5. Public Use Space

- a. The Applicant shall provide no less than 24.7 percent (4,387 sf) of on-site public use space and no less than 23.8 percent (4,235 sf) 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

The Applicant shall provide the full streetscape improvements along the Blair Mill Road and Newell Street frontages using the *Silver Spring Streetscape* (April 1992) Technical Manual. The following elements are proposed: brick pavers, street trees, lighting, and any other details that are necessary, including the undergrounding of utilities, to fulfill the Silver Spring streetscape standards.

7. Public Art

A public art element shall be provided to include an art-inspired pergola that defines the space between the curvilinear walk and the eastern front of the building in the public use space. The space defining art shall visually link and integrate the path, landscaping and proposed building.

8. Staging of Amenity Features

- a. The proposed project shall be developed in one phase.
- b. Streetscape improvements, on-site landscaping 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 for Site Plan Approvals

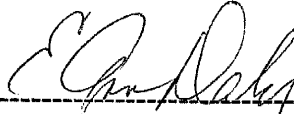
The Applicant shall secure the following additional approvals:

- a. Prior to submittal of the site plan, the Applicant shall present the detailed public art components to the Planning Board Art Review Panel for review and comment that will be available to the Planning Board.
- b. Prior to submitting the site plan, the Applicant shall obtain written documentation from the Montgomery Department of Public Works and Transportation (MCDPWT) staff accepting the non-standard elements as part of the proposed streetscape improvements within the public right-of-way.
- c. Prior to signature set approval of the site plan, the Applicant shall enter into a maintenance agreement with the Silver Spring Urban District for maintenance of all or some of the streetscape improvements.
- d. Prior to signature set approval, the Applicant shall finalize and execute the Traffic Mitigation Agreement.

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON APPROVED AS TO LEGAL SUFFICIENCY
APPROVED AS TO LEGAL SUFFICIENCY
M-NCPPC LEGAL DEPARTMENT
DATE 4/3/05

CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on **Thursday, February 9, 2006**, 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. 9-06001, 1200 Blair Mill Road Condominiums**. Commissioners Perdue and Bryant abstained.



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