

## MEMORANDUM

April 13, 2022

TO: Planning, Housing, and Economic Development (PHED) Committee

FROM: Pamela Dunn, Senior Legislative Analyst  
Livhu Ndou, Legislative Attorney  
Dr. Glenn Orlin, Senior Analyst

SUBJECT: Silver Spring Downtown and Adjacent Communities Plan

PURPOSE: Worksession to develop recommendations for Council consideration

**Expected Participants:**

Casey Anderson, Chair, Montgomery County Planning Board  
Gwen Wright, Director, Montgomery Planning Department  
Elza Hisel-McCoy, Down County Chief, Planning Department  
Larissa Klevan, Master Plan Supervisor, Planning Department  
Atara Margolies, Planner Coordinator, Planning Department  
Cristina Sassaki, Parks Planner Coordinator, Parks Department  
Rebeccah Ballo, Supervisor, Historic Preservation  
John Liebertz, Planner Coordinator, Historic Preservation

This is the Planning, Housing, and Economic Development (PHED) Committee's last worksession on the Silver Spring Downtown and Adjacent Communities Plan. This worksession will cover elements of plan implementation, and several follow up items including an assessment of market rate affordable multifamily housing and correspondence regarding a handful of properties within the Plan area. The Committee has requested the property-specific issues and review of the market rate housing analysis be covered first. It is likely the Committee will not have time to review the entire Implementation section; however, three implementation recommendations that focus on topics not yet covered by the Committee are included in the review below.

<b>Councilmembers may wish to bring their copy of the Plan to the meeting.</b>
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A link to the Planning Board Draft for those wishing to access the Plan online is here:

<https://montgomeryplanning.org/wp-content/uploads/2022/01/SSDAC-Planning-Board-Draft-FINAL-FOR-WEB-reduced2.pdf>

## REMAINING ISSUES

Since the Committee's review of the Plan began, the following correspondence has been received requesting property-specific changes. The correspondence is organized by Districts below.

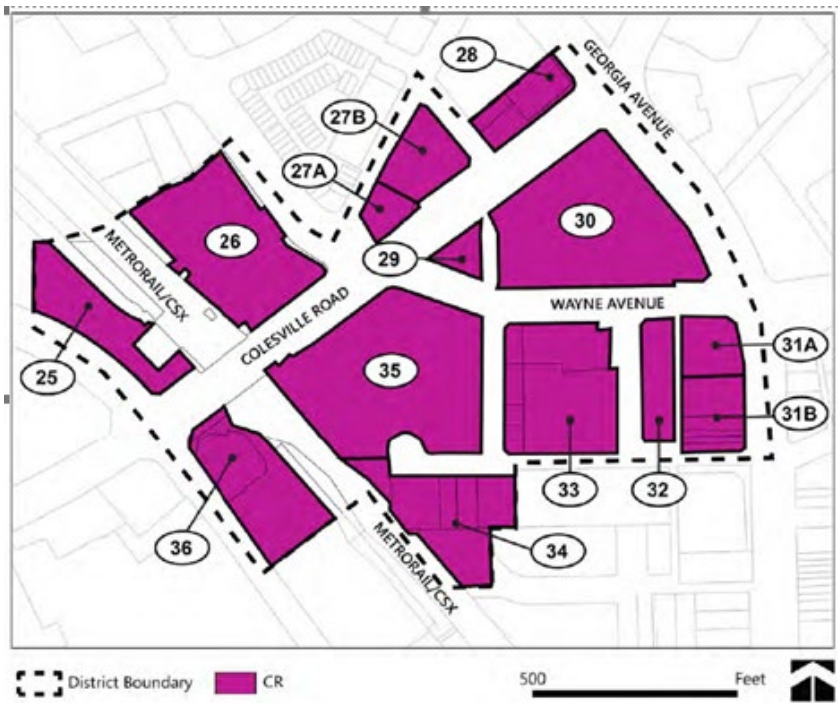
### *Fenton Village*



The Council received a letter from the County Executive (CE) on March 25, which included specific recommendations related to Garage 4 (Map Number 14). The Committee previously discussed revisions to the text regarding the Opportunity Sites description of Garage 4. The CE's proposed revisions are in line with the Committee's prior review. However, the CE is requesting the zoning for Garage 4 be changed from the Plan recommended zoning of CR-3.0, C-3.0, R-3.0, H-130 to CR-5.0, C-5.0, R-5.0, H-130.

**Council Staff suggests the Committee support the change in zoning to better support redevelopment of this site.**

## *Metro Center District*



1. Written testimony was received from Lerch Early Brewer requesting additional height for Metro Plaza (Map Number 25). Testimony asks that the mapped height for this site be increased, rather than requiring participation in the Building Height Incentive Zone (BHIZ). The testimony notes that the site is constrained, as acknowledged in the Plan. The letter requests:

As a result of this unique site condition, to allow the property to have full functional use of the 240-foot height, that height should either; (1) begin its measurement at the point 85 feet off the ground, or (2) if measured from the adjacent ground or street grade, the 85 feet should be added to the 240 feet to allow the building to reach 325 feet. Either method allows the property the functional 240 feet within which to provide the intended development abutting the Metro Station. Greater height allows for greater design flexibility to create interesting massing that allows for articulation of different elements of the building: to add visual interest, to provide a distinction between base and tower, and to allow more light and air into the site. The property and its redevelopment potential has already been severely impacted by the presence of the substation on the property. The substation interferes with the integrity of new building floorplates. Further, a building cannot be put above the substation, nor can the building be in front of the substation because of conduits and cables from the street to serve the substation.

**Council Staff does not recommend changing how height should be measured, nor does Council Staff recommend any additional changes to the mapped height at this time. This letter was received before the Committee recommended changes to the BHIZ. Consistent with the Committee's recommendation, this property (Map Number 25)—and all the properties along the Metrorail tracks (Map Numbers 25, 26, 34, 35, and 36)—will go from a Plan-proposed mapped height of 240 feet to a mapped height of 300 feet.**

2. The Council also received testimony from Mr. Tim Edens, Development Manager of Starr Capital. His testimony is primarily in reference to 8600 Georgia Avenue (Map Number 28), where the existing zoning is CR-5.0 C-4.0 R-4.75 H-145 T. The Plan proposed zoning is CR-5.0 C-5.0 R-5.0 H-200, which is consistent with the 20% increases in height throughout the Plan-area. However, Mr. Edens notes in his written testimony that neighboring properties to 8600 Georgia Avenue are proposed to be zoned at 240 feet in height with an FAR of 8.0.

According to the zoning tables for the Metro Center and Downtown North Districts, the abutting and confronting properties to 8600 Georgia Avenue all received a proposed height of 240 feet. In addition, while one of two confronting properties has a proposed total density of 5.0 FAR, the other confronting property and the abutting properties—Map Numbers 68C, 64 and 27B—all have a proposed total density of 8.0 FAR.

**The PHED Committee (2-1) previously recommended that the zoning for 8600 Georgia Avenue be changed from CR-5.0 C-5.0 R-5.0 H-200 T to CR-5.0 C-5.0 R-5.0 H-240, providing an increased mapped height. However, the Committee unanimously chose to wait to make any adjustments to the density until a review of the Connectivity Infrastructure Fund (CIF).**

**The question before the Committee is whether this property should be mapped to a density equivalent to abutting properties or should any increase in its density require a contribute to the CIF.**

### *Ripley District*



Map 10. Proposed Ripley District Zoning



1. Council received correspondence from Lerch Early Brewer regarding the property at 8230 Ripley Street (Map Number 39C). The Opportunity Sites language from the Plan states:

Block of Ripley Street, Dixon Avenue, and Georgia Avenue: This is a large potential development site along Georgia Avenue. The Plan recommends redevelopment of this site to include a central open space, potentially connected across Ripley Street to the 8230 Georgia Avenue site.

The letter notes that 8226 Georgia Avenue was recently renovated so will likely not redevelop soon, and that the two properties are separated by a public right-of-way, making unified redevelopment unlikely. The letter also states that 8230 Ripley Street is constrained by the master-planned right-of-way for Ripley Street between Dixon Avenue and Georgia Avenue, and dedication of Ripley Street would affect the developable area even further. The letter requests the Plan instead encourage redevelopment of 8230 Ripley Street by itself, and that the Plan

...recommend retaining adequate width through providing a public access easement for any planned expansion of Ripley Street, with the easement specifically allowing structures to extend above and below pedestrian access along Ripley Street at street level. Such an easement would avoid issues with buildings crossing lot lines. Streetscape and other public use facilities along the frontage should also be limited, so as not to reduce the developable area.

**Council Staff does not recommend including language in the Plan for a public access easement. However, recognizing the constraints on this Opportunity Site, Council Staff does recommend including language regarding the latter part of this request: that streetscape and other public use facilities not significantly reduce the developable area.**

2. Council also received a letter from Montgomery Preservation regarding 8230 Georgia Avenue. The letter notes that this Opportunity Site is the former corporate headquarters of the Little Tavern Companies, constructed in 1941. The letter notes that the company has a history of racial discrimination, and that nearby signage could tell this story. The letter notes that the building's "Art Deco-Streamline Moderne" style is a "recognizable standout" on Georgia Avenue that should be preserved and suggests the front of the building provide green space that can co-exist with the parking. MPI requests that this property not be identified as an opportunity site, as it implies demolition.

**Council Staff does not recommend removing this property from the Opportunity Sites section, as an opportunity site is not synonymous with demolition, as the letter suggests. However, Council Staff does suggest that the history of this property be examined, and that language about this site be added to the Historic Resources section, as appropriate.**

### ***South Silver Spring District***



1. Council received correspondence from Lerch Early Brewer regarding the property at 7980 Georgia Avenue (Map Number 48A). The Plan recognizes this as an opportunity site, stating:

The Plan recommends considering the redevelopment as a mixed-use development on the portion of the parcel that fronts on Georgia Avenue, while preserving the existing community garden at the western end of the parcel. Improve connections in this area of South Silver Spring by creating a through-block connection at this site from King Street to Georgia Avenue that aligns with the midblock connection adjacent to the Galaxy Apartments. The Plan recommends retaining the community garden as part of any redevelopment.

The letter requests that Figure 21 be revised to say, “relocate the community garden”, rather than “preserve the community garden.” It also requests that on Map 21, remove the recommendation to retain the community garden. Lastly, the letter requests the community garden language be removed from the King Street Park language in the Parks section of the Plan. The letter also includes a request to:

- Remove the northern protected crossing and focus on one crossing from the southeast corner of the property where a through block connection can emerge (also on Map 23);
- Remove the community garden as an open space and instead provide a publicly accessible, urban, and activated open space at the new crossing in the southeast corner;

- Reorient the internal through-block connection to split the block across the longer southwestern frontage rather than along King Street, thereby preserving a larger continuous development site;
- Allow for flexible building typology that can accommodate parking and amenity spaces in wrapped product; and
- Improve connections in this area of South Silver Spring by creating a through-block connection at this site from Eastern Avenue to Georgia Avenue.

**With respect to the community garden site, the Committee made a previous recommendation to revise the description of 7980 Georgia Ave as an Opportunity Site, remove the community garden reference in Figure 21, and modify the reference to Map 21 in the Parks and Public Spaces section to read: “Support current community garden use or open space until the property redevelops.”**

**To address the through-block connection concern, Council Staff suggests the following further revision to the Opportunity Sites description:**

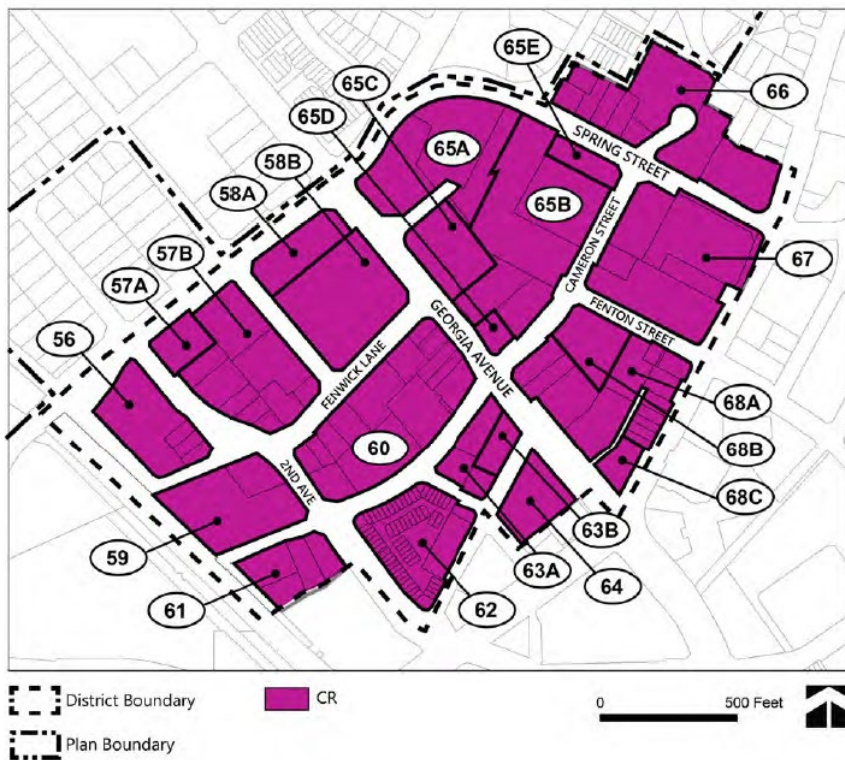
7980 Georgia Avenue: The Plan recommends considering the redevelopment as a mixed-use development on the portion of the parcel that fronts on Georgia Avenue [while preserving the existing community garden at the western end of the parcel]. Improve connections in this area of South Silver Spring by creating a through-block connection at this site [from King Street to Georgia Avenue that aligns with the midblock connection adjacent to the Galaxy Apartments. The Plan recommends retaining the community garden as part of any redevelopment.]

2. The Council also received a letter regarding 8001 Newell Street (Map Number 43B), a self-storage facility. The letter requests the following language be added to the Opportunity Sites description for this property:

To provide flexible development opportunities and allow future development to better adapt to market conditions, the Plan supports expansion of the existing self-storage facility with a maximum of four (4) stories of building height if public benefits and/or amenities are provided through redevelopment. Such public benefits and/or amenities should be defined through a subsequent zoning text amendment that implements various Plan recommendations.

**Council Staff does not recommend including any references to a ZTA in the master plan language. As for height, the Plan recommends a mapped height of 125 feet. The request for additional stories is in response to the storage facility being a grandfathered use in the CR zone, thus being allowed to operate but not expand. If the Council wants to provide for an expansion of self-storage in the CR zone, it should be done via a separate process that exams self-storage facilities throughout the County, not just in Silver Spring.**

### ***Downtown North District***



Map 12. Proposed Downtown North Zoning

1. The Council received a letter from Miles and Stockbridge regarding 8700 1<sup>st</sup> Avenue, located in the northwest quadrant of 1<sup>st</sup> Avenue and Fenwick Lane in Silver Spring (Map Number 57B). The property is currently zoned CR-3.0, C-2.0, R-2.75, H-90 T. The Plan recommends this property (as part of a larger zoning block) be zoned CR-3.0, C-3.0, R-3.0, H-110. However, the letter asserts this designation is inconsistent with the zoning recommended for the abutting zoning block (Map Number 57A) which is recommended for a height of 175 feet and is closer to the single-family neighborhood. In addition, the height recommended for the blocks confronting this property is 175 feet. Furthermore, the block to the south of this property is located in the height incentive zone and following the Committee's recommendation will be mapped to a height of 260 feet. It should be noted that to the west of the zoning block containing 8700 1<sup>st</sup> Avenue, the confronting zoning block is recommended for CR-3.0, C-3.0, R-3.0, H-110.

The letter requests a CR-5.0, C-5.0, R-5.0, H-175 zone be recommended for this property, increasing both its height and density in order for the property owner to develop affordable, "co -living" apartments in which residents have their own bedrooms, but share cooking and living facilities with other residents.

**Council Staff suggests the Committee recommend the zoning block containing 8700 1<sup>st</sup> Avenue be mapped to a height of 175 feet, given the predominant height in the area is 175 feet or greater. The question before the Committee is whether this property should be mapped to a density equivalent to abutting properties or should any increase in its density require a contribute to the CIF.**

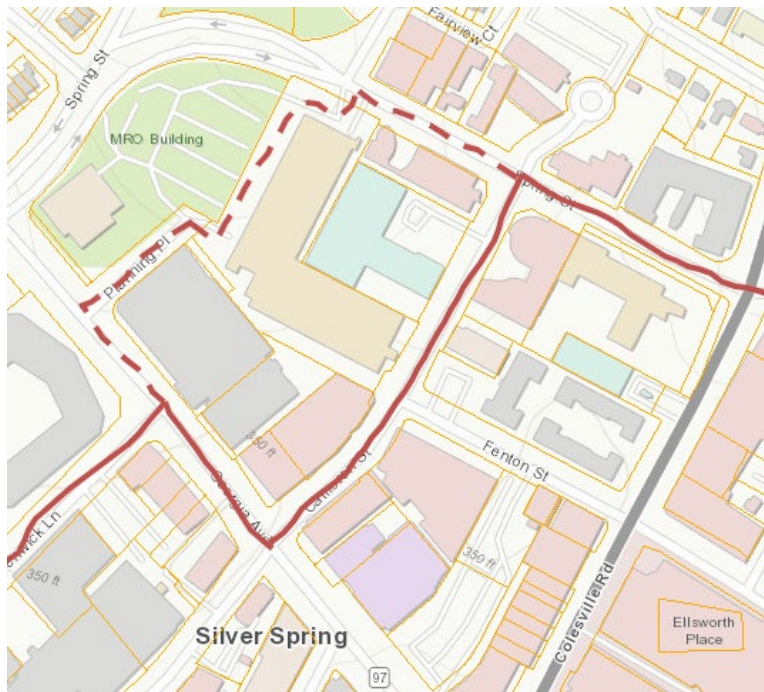
2. The Council received written testimony from United Therapeutics requesting a modification to the Building Height Incentive Zone (BHIZ) boundary such that it be expanded along Georgia Avenue



and Spring Street up to Planning Place (at a minimum) so as to incorporate part of the UT property and Garage 2.

The Committee discussed this proposed change at its April 4 worksession. Because this wasn't noted specifically in the staff report for that worksession, Council Staff has included a map below depicting this change. The Committee's recommendation to remove the BHIZ and map properties at 1.5 times the mapped height proposed in the Plan will apply to the area expanded by the dashed line.

**Council Staff would like to confirm the Committee’s recommendation to shift the boundary such that it encompasses Garage 2 and the United Therapeutic property, as opposed to continuing the boundary the length of Spring Street to its intersection with Georgia Avenue.**



### *Adjacent Communities*





The Council received a letter from NOA Architects on behalf of property owners at 8808 Colesville Road (Map Number 73). The property in question is located adjacent to a property in the Downtown North District currently zoned EOF-3.0, H-100. The Plan recommends this adjacent property be zoned CR-3.0, C-3.0, R-3.0, H-100.

The property owners at 8808 Colesville Road (a single-family structure) are requesting a zoning change from R-60 to R-20, a multifamily zone with a density of 21.70 units per acre. However, given the size of property and the minimum lot/site size requirements of the R-20 zone, this zoning change would result in at most 3 residential units<sup>1</sup>.

Given the late consideration of such a request and the fact that this property abuts two other R-60 properties, **Council Staff suggests the Committee recommend this property appropriate for a CRN Floating Zone.** If the Committee supports this approach, Council Staff will work with Planning Staff to confirm the parameters of the floating zone recommendation.

## **HOUSING: PLAN-WIDE RECOMMENDATIONS (Follow up)**

The Plan includes a recommendation to “Preserve existing, market-rate affordable housing where possible, striving for no net loss of affordable housing.” During the Committee’s discussion of this recommendation, the Committee asked how the Plan supports the notion of “no net loss” and what “no net loss” means in the context of this Plan.

The Committee asked Planning to provide an evaluation of apartments in the Plan area currently providing market rate affordable units. That analysis is attached on (© 1-12).

According to slides, the Plan’s approach to the preservation of existing market-rate affordable housing is to retain current zoning<sup>2</sup>. In recent master plans, the Council has adopted different approaches to the preservation of existing affordable housing. In cases where the current owner is already providing regulated affordable units<sup>3</sup>, the plan included a recommendation for a future rezoning (so as not to impact the status of the current program underway). In other cases, primarily in Veirs Mill, 2-3 times the current density was provided to properties with existing market rate affordable units (but no regulated affordable units). Along with this significant increase in density was language in the master plan requiring 15 percent Moderately Priced Dwelling Units (MPDUs), and an additional 5-10 percent (depending on the site) market rate affordable units (provided under agreement with DHCA).

The question often posed in discussing market rate affordable housing is whether non-regulated affordable units will remain affordable over the life of the Plan. Typically, the age and ownership status (rental vs owner-occupied) of the structures are considered. When buildings age past their useful life<sup>4</sup> they require significant renovation. Without density to increase the number of units, property owners are likely to redevelop the units (due to necessity) and charge higher rents to recoup the cost. Without an increase in the number of units, there is no requirement to provide 15 percent MPDUs, therefore any non-regulated units can become 100 percent unaffordable.

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<sup>1</sup> Other development standards such as setback and coverage may reduce this further.

<sup>2</sup> One garden apartment complex is recommended for a change in zoning at the request of the property owner.

<sup>3</sup> The LIHTC complex in the Forest Glen Plan.

<sup>4</sup> The apartments in question were built between 1937-1943.

Planning's analysis shows that under the Plan-proposed zoning, were the properties to redevelop, three could yield more units and two less. One of the three complexes that could yield more units is recommended for a change to its current zoning. Montgomery Housing Partnership (MHP), the property owner, requested this change.

Below is a table showing existing units, possible unit yields under redevelopment using Plan proposed zoning, and zoning density similar to what was approved in the Veirs Mill Plan.

Complex Name	Current Zoning	Existing Units	Plan Proposed Zoning	Yield under Plan Proposed Zoning	Plan Proposed Zoning in equivalent FAR	Alternative Zoning <sup>5</sup> in FAR	Yield under Alternative Zoning <sup>6</sup>	Regulated Affordable (15% MPDU + 20% Rent Regulated)
Blair Park Apartments	R-10	53	CR-3.0 C-0.0 R-3.0 H-75	94	3.0	5.0	157	55
Blair Park Gardens	R-10	74	R-10	56	1.0	3.0	168	59
Eastern Ave Apts	R-10	35	R-10	59	1.0	3.0	178	63
Rock Creek Springs	R-10	129	R-10	161	1.0	3.0	484	170
Spring Garden Apts	R-10	169	R-10	123	1.0	3.0	368	129
<b>Total</b>		460		493			1,356	474

From the table, there are 460 market rate affordable units currently. The total units possible under Plan-proposed zoning should be viewed with caution. It shows that redevelopment under Plan-proposed zoning yields 33 additional units. However, this total captures the increase in units under the one proposed zoning change (requested by MHP) and includes a decrease in units associated with two other complexes built prior to current zoning density limits. It seems unlikely a developer would redevelop to a lower density. In addition, the number of regulated units resulting from redevelopment under Plan-proposed zoning is hard to determine. What is clearer is the total number of units possible from increases in density similar to that allowed in prior master plans, and the potential to achieve no net loss in affordable units where this increase in density includes a requirement for 15% MPDUs and 20% rent regulated units.

According to the attached analysis, Planning recommends achieving increases in density through the Local Map Amendment process by adding a Floating Zone recommendation for these properties to the Plan.

**The question for the Committee is whether the additional review afforded by the local rezoning process is worth the increase in time, cost and process associated with it, particularly for redevelopment aimed at producing significantly more regulated affordable housing.** Redevelopment under greater mapped density is not without process. As it will result in additional units, it will require approval of a Preliminary Plan of Subdivision. Given the density, it will also require approval under the Optional Method of Development (developing at density greater than 0.5 FAR or

<sup>5</sup> Similar to the Veirs Mill Plan at 3 times current density.

<sup>6</sup> Alternative zoning set at 3 times the current FAR equivalent. This doesn't equal 3 times the current number of units which would result in a different FAR estimate by complex but the overall result is same.

10,000 sf) which includes approval of a Sketch Plan and a Site Plan. The Local Map Amendment process includes these approvals too, plus the rezoning approval (with review by the Board and Hearing Examiner and approval by the Council).

## IMPLEMENTATION

### *Zoning Related*

#### *a. Public Benefits in CR Zones*

- CR, CRT and CRN zones in the Plan area allow for higher density under the county's optional method of development but require public amenities to support the additional density. Ensuring the right mix of public benefits is key to realizing the Plan's goals of a stronger, more connected public realm that will help bring people and businesses to Silver Spring.
- The plan recommends certain public benefits as priorities for all CR parcels within the plan boundary. The plan also recommends disallowing certain public benefits to be used in optional method development for projects within the boundary of the Plan.
- The Plan requires that all Optional Method Development include an Exceptional Design Public Benefit and all projects with a residential component achieve Affordable Housing Public Benefit via the requirement for 15 percent MPDUS described in Section 4.1.6. above.
- The Plan proposes that "Transit Proximity" and "Structured Parking" (under Connectivity and Mobility) be excluded from the list of potential public benefits for projects within the Plan area.
- The plan prioritizes the following public benefits:
  - Major Public Facilities
  - Affordable Housing
  - Small Business Opportunity
  - Streetscape Improvement
  - Dwelling Unit Mix
  - Public Open Space
  - Tree Canopy
  - Habitat Restoration
  - Historic Preservation

Testimony: United Therapeutics submitted a letter to Council in opposition to the proposal to remove Public Benefit options. The letter argues that this master plan recommendation conflicts with the Council's determination that these elements are desirable. The letter also argues that taking away these potential incentives will stifle growth and reinvestment in Silver Spring. The Silver Spring Chamber of Commerce also commented on this section of the Plan, noting that public infrastructure is the public's responsibility and should not be borne by private developers. That letter noted that the cost of providing this infrastructure usually means reducing the commercial footprint, making development less feasible. The letter notes that because market rental rates in Silver Spring are lower, the return on investment is not the same as Bethesda.

**This part of the Plan requires more explanation. No justification is given for why these Public Benefit options should be removed. The Plan would also benefit from a brief explanation of how certain public benefits will be "prioritized." Without that justification, Council Staff agrees with the written testimony and recommends "Transit Proximity" and "Structured Parking" not be excluded from the available Public Benefit options. Transit proximity is a category of public**

**benefits that could provide an easy incentive for development in Silver Spring, which has high transit areas. And with the redevelopment of several public parking garages, developers may be more likely to provide private parking. Lastly, Planning has proposed a study of CR public benefits; Council Staff does not recommend eliminating any public benefit options until that study is completed.**

*b. On-Site Public Open Space*

As described in the Plan,

Adequate public open space is critical to meeting this Sector Plan's goal of making Silver Spring a better place to live, work and play. While downtown Silver Spring has a reasonable amount of open space, many of these spaces are small "postage stamp" spaces that do not truly enhance the public realm. In order to ensure the right amount and quality of public open space, this Sector Plan recommends channeling resources to create new and improve existing public parks instead of creating on-site public open spaces that is too small, fail to enhance the public realm and prevent buildings from activating the street. For any Optional Method development project required to provide public open space on a site not recommended for a new public space in the Sector Plan, the Plan recommends that in lieu of on-site open space, applicants contribute to the creation of new and improvement of existing public parks recommended by the Sector Plan, preferably within the same district. These contributions will be determined during the Optional Method development review and approval process and will be based on the cost/sf of constructing an equivalent area of the recommended public space. Contributions to the Commission will be included in the Department of Parks Capital Improvement Program (CIP).

**Council Staff supports the Implementation: On-Site Public Open Space recommendation. It is consistent with other master plans for the coordination of open/public space.**

***Partnerships***

The Plan supports continued cooperation between the public and private sectors to coordinate and implement initiatives and services in downtown Silver Spring. Established by County legislation, the Silver Spring Urban District provides enhanced services within downtown Silver Spring to ensure that the downtown area is maintained, clean, safe, and attractive to support the economic viability of the area. This Plan supports the priorities of the Silver Spring Urban District, the Regional Service Center, and the Arts and Entertainment District in their common mission to provide public services and amenities to the members of the downtown Silver Spring communities.

The Plan recommends pursuing partnerships that:

- Increase the strength and resources of civic organizations championing downtown Silver Spring;
- Strengthen the resilience of Silver Spring by increasing capacity, improving the public realm, supporting independent businesses, and encouraging continued economic growth;
- Use arts and culture to celebrate the past, present, and future diverse cultures that are part of the Silver Spring community[.]; and
- Strengthen partnerships between Montgomery County, civic organizations, service providers, property owners, and businesses to address complex social challenges.

The Plan also encourages partnerships with other agencies and stakeholders.

*a. Partnerships for Economic Growth*

- Partner with the Montgomery County Economic Development Council (MCEDC) and the champion for downtown to create a market incentive to invest in speculative office suites in office space that has been vacant for an extended period. Have MCEDC fund the program and the champion for the downtown market and help property owners secure funds. Create a plan for the incentive that caps the amount at a reasonable cost to the county while also providing a meaningful incentive to building owners.
- The Plan supports the establishment of a “champion” entity in the downtown that will assist with marketing, activation, and maintenance. Such an entity could help address issues of safety and trash collection on the streets, as well as promote, highlight, and support the many amenities the downtown has to offer. Downtown Silver Spring will benefit from a strong champion for downtown and will need support from partnerships between the public sector, property owners, businesses, and social service organizations in order to full achieve the vision expressed in this Plan.

**Council Staff recommends removing references to a “champion for downtown.” The purposes of this champion entity overlap with duties already performed by the Silver Spring Urban District and by the Silver Spring Business Improvement District (BID).<sup>7</sup> The language in the Plan should instead reference the existing Urban District or the BID.**

- Analyze the feasibility of a fund operated by MCEDC to invest in office-using start-ups that locate in Silver Spring. Have the champion for downtown market the fund and use the fund to attract additional business to Silver Spring. Create a plan for the fund that establishes accepted levels of risk that is consistent with purchasing equity positions in start-up firms.

**Council Staff does not recommend the creation of a “fund operated by MCEDC to invest in office-using start-ups”, since this already exists via the Economic Development Fund. Council Staff recommends, as an alternative, that the Plan include language encouraging better use of the Economic Development Fund to support office end users.<sup>8</sup>**

- Partner with the County Executive’s Business Advancement Team to reinvigorate the Silver Spring Innovation Center to meet the needs of and to support women and minority entrepreneurs, in alignment with the recommendations of the Business Incubator Review and Entrepreneurial Ecosystem study prepared by Axcel Innovation LLC and presented to the PHED committee on July 26, 2021. Create a business plan to define how the incubator can add value to start-up firms to guide operations and to enable evaluation of whether the incubator is achieving its objectives.
- Encourage activation of underutilized space: Partner with MCEDC, the County Executive’s Business Advancement Team, and the champion for downtown to study a vacancy tax on empty retail frontage to encourage property owners to lease and activate vacant spaces. The funds generated by this tax should be returned to the Silver Spring area. The money should be provided

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<sup>7</sup> The Council-enabling law for the BID went into effect in early January 2022. Additional information about the Silver Spring BID can be found here: <https://www.silverspringbid.org/>.

<sup>8</sup> The PHED Committee received a briefing on the EDF program last year. The staff report can be found here: [https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2021/20211108/20211108\\_PHED2.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2021/20211108/20211108_PHED2.pdf).



to the new champion for downtown Silver Spring and go into the funds this Plan recommends creating to advance placemaking.

**Council Staff recommends several changes regarding these two bullet points:**

- **For the reasons noted earlier, Council Staff recommends removing the reference to a “champion for downtown.”**
  - **Council Staff recommends removing the sentence “Create a business plan to define how the incubator can add value to start-up firms to guide operations and to enable evaluation of whether the incubator is achieving its objectives”, in favor of less prescriptive language. In addition, it is unclear who is being tasked with creating this business plan—the County, MCEDC, or the incubator.**
  - **Council Staff recommends removing the sentences “The funds generated by this tax should be returned to the Silver Spring area. The money should be provided to the new champion for downtown Silver Spring and go into the funds this Plan recommends creating to advance placemaking” because this language is too prescriptive, given a) the proposed vacancy tax study has not yet been done, and b) Council Staff does not recommend including language about a placemaking fund until additional information is given as to where the money for this fund would come from.**
- Create capacity to support small retailers: Form a partnership between the Montgomery County Office of the County Executive Small Business Navigator and mission-oriented nonprofit stakeholders to fund a diverse retail liaison position to support diverse retailers in Silver Spring. Explore creating a loan pool that could provide resources and incentives to local small business, help subsidize tenant improvements, and could support business owners in purchasing their properties. See the Retail in Diverse Communities Report published March 2021 for additional details about these recommendations.

**Council Staff recommends revising this recommendation to say, “Encourage a partnership between...”, since it is less prescriptive and therefore more appropriate for a master plan.**

- Encourage property owners with underutilized and vacant street-level retail space to donate that space to mission-oriented non-profits to run retail incubators in which entrepreneurs can try new retail concepts.

**Council Staff supports this recommendation.**

*b. Partnerships with the Community*

The Plan’s goal is to provide sufficient open space for active recreation, social gathering, and contemplative activities. The Plan provides the following recommendation to achieve that goal:

- Increase placemaking efforts; create a fund to support placemaking throughout Silver Spring; and have the new champion for downtown Silver Spring manage the fund. Prioritize improvements that make the public realm and street network more connected and safer for non-motorized transport, as well as more attractive as places to gather.
- Work with civic stakeholders to form a non-profit that raises funds for, invests in, manages, and activates Jesup Blair Park. This could be a cross-jurisdictional enterprise coordinated with stakeholders and park users from adjacent Washington, D.C. neighborhoods as well.

**Council Staff recommends removing the reference to a “champion for downtown”, as this overlaps with the Urban District and the BID. Council Staff also recommends revising this section to say, “encourage the creation of a fund to...” and “encourage civic stakeholders”, to make the language less prescriptive.**

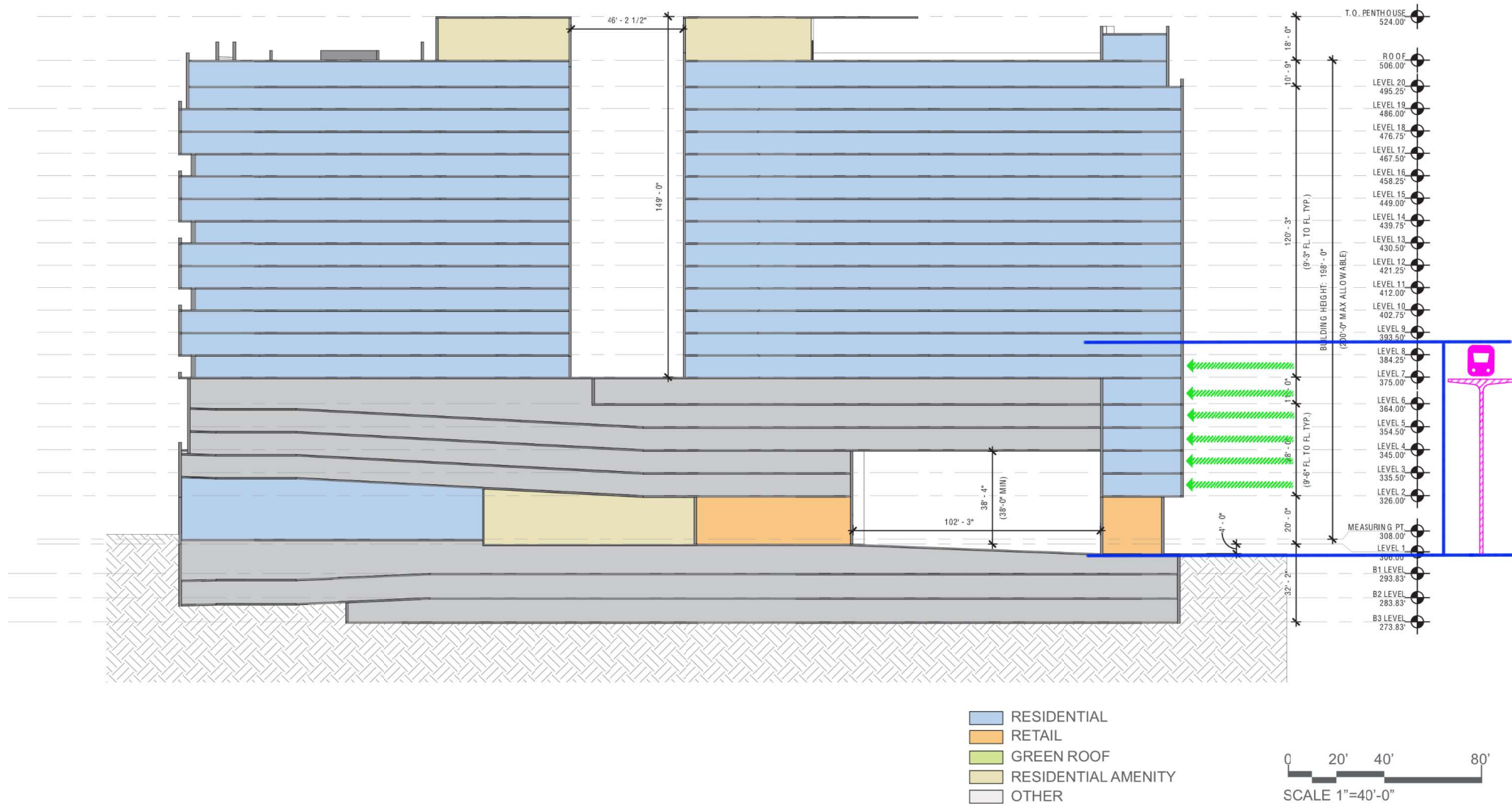
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## **METRO PLAZA – SSDAC PLAN**

- Supports equalizing the commercial and residential densities in our CR Zone classification, and others in Silver Spring, so as to provide more flexibility for development.
- Supports the Draft Plan's height and density recommendations, generally. But, Metro Plaza has unique characteristics that need to be recognized and addressed about where or how the measurement of that height occurs.
- Additional height, to accommodate the unique circumstances of the Metro Plaza property should not have to be purchased, but should be mapped with the SMA.
- The property directly abuts the Purple Line above-grade track section. The track and top of the train on the track extend approximately 85 feet into the air, just to the east of the property and the building presently proposed for the property.
- Because of the views outward being toward and under the tracks, those levels (up to approximately 85 feet above grade) cannot realistically be used for residences looking to the east. Having units just looking west with a single-loaded corridor, is not economically feasible. These levels can be used for service functions for the project: retail on the ground level; lobby; above-ground parking; project amenities; mechanical systems; and other functions that do not operate as continuously-occupied residential or office spaces. (Attached is a rendering showing the stacking plan of a possible building and the relationship of the tracks and train to the building.)
- As a result of this unique site condition, to allow the property to have full functional use of the 240 foot height, that height should either; (1) begin its measurement at the point 85 feet off the ground, or (2) if measured from the adjacent ground or street grade, the 85 feet should be added to the 240 feet to allow the building to reach 325 feet. Either method allows the property the functional 240 feet within which to provide the intended development abutting the Metro Station.
- Greater height allows for greater design flexibility to create interesting massing that allows for articulation of different elements of the building: to add visual interest, to provide a distinction between base and tower, and to allow more light and air into the site.
- The property and its redevelopment potential has already been severely impacted by the presence of the substation on the property. The substation interferes with the integrity of new building floorplates. Further, a building cannot be put above the substation, nor can

the building be in front of the substation because of conduits and cables from the street to serve the substation.

- Supports the Draft Plan's encouragement of relocating the substation. Such relocation should not be a cost burden to this property.
- The property is also constrained by the need to provide access through the site to the tracks and related service facilities.
- Do not eliminate the Public Benefit Points for Transit Proximity and Structured Parking. These benefits have been designed to facilitate development in proximity to transit and to encourage hiding automobile parking in structures. Achieving the requisite number of points required, without use of these two benefits, will be a significant challenge and will add costs to projects. Adding costs for projects in Silver Spring is not the way to implement the Draft Plan and promote development activity.
- Design review through a Design Advisory Panel (DAP) should be aligned procedurally with the development process, so that projects do not get too far along before design feedback is provided. Similarly, any Design Guidelines should have flexible provisions that can accommodate unique site features and constraints like those presented by Metro Plaza.







I am Tim Eden with Starr Capital, development manager for 8600 Georgia Avenue, and also speaking for the two other properties on our block specifically in 8501 Colesville Rd and 8615 Ramsey St, in the Metro District.

#### COSTS FOR ADDITIONAL HEIGHT IN THE BHIZ

We are generally supportive of the Silver Spring Downtown Plan as proposed by the Planning Board that sets ambitious goals for housing development. We are very concerned, however, by the incentives proposed for additional height and density that will further raise development cost. The plan increases the MPDU requirement from 12.5% to 15%, that is an additional cost in a submarket that struggles to compete for multi-family renters. Each affordable housing unit is valued below cost, so that is a real economic burden. However, the Plan proposes further increases in affordable housing requirements in exchange for additional height in the CBD core area. This makes no sense, especially compared to Bethesda where height was increased as an incentive to developers to build more housing, including 15% MPDUs. In Silver Spring, we are effectively being asked to pay for additional height which adds development cost that is already under pressure from inflation and lower rents.

To further clarify, the Bethesda Sector Plan mapped the height and allowed owners to buy density at \$10/sf to fill up the building envelope. However, in Silver Spring, owners are being asked to buy density at \$5/sf (which still may not be economical), but are then also being asked to buy the additional height in the form of additional MPDUs above 15%. Thus, the overall cost in Silver Spring will be vastly greater than in Bethesda, in an area that already struggles to support development costs. If we are going to increase taxes on something, we are going to get less of it, in this case affordable and market rate housing. We note that the county and state provide affordable housing economic incentives for a good reason: affordable housing development is uneconomical. Let's not go backwards in raising cost to housing development as currently proposed.

To be comparable, and to make the \$5/sf to the CIF viable, the Plan should map the real ultimate heights, just as was done in Bethesda. In our case in the Metro District, that would be 300 feet. That

would provide incentive for these heights and development potential to be realized by purchasing additional density. We support the CIF fee because it is a more efficient methodology than the Density Averaging process, whereby developers purchase Transferable Development Rights (TDRs) from other property owners. This cumbersome process is costly, unpredictable and time consuming. However, we do not support annual increases to this CIF fee that are counterproductive.

#### EQUITABLE TREATMENT OF HEIGHT AND DENSITY

The Planning Board Draft for the Silver Spring Downtown Plan includes recommendations for height and density that are inconsistent and inequitable. Our site at 8600 Georgia is recommended for 200 feet and a 5.0 FAR when surrounding properties in the Metro District are recommended for 240 feet and a 8.0 FAR. In fact, the WMATA site and surrounding properties are currently zoned for 145 feet and an FAR of 5.0, exactly our zoning, and yet are proposed by the Board for a height of 240 feet and density of 8.0. It was noted in the Planning Board worksessions that our site is one of the few in the Metro District that is planned for redevelopment, yet we are not being treated equally with our neighbors as to height and density, and will be subject to additional fees or other requirements to gain the height and density we need for economic feasibility. It appears that we are being subjected to additional fees because we are prepared to move forward with development, and we cannot afford such additional costs.

For example, the most recent discussion shows our site at 200 feet, with a potential increase of 150% allowed (up to 300 feet) by meeting site plan conditions like capital improvements, affordable housing and infrastructure fees. For additional density, a fee of \$5/sf is being proposed. To build out the site from our CR-5.0, we would need another 165,000 sf that would be \$990,000 that our neighbor at CR-8.0 would not pay, and that is unfair. Another proposed extraction would be an increase in mpdus to 17.5% in exchange for additional height that would be an enormous burden compared to our neighbors. For example, another 2.5% of 350 units would be 9 units at a loss of \$200,000 sf each for an extra cost burden (loss) of \$1,800,000. We are simply asking to be treated equally with neighboring properties in the Metro District with a height of 240 feet and a density of 8.0. Thank you.



## Map 9. Proposed Metro Center Zoning

Note: Overlay Zones are not shown on district zoning maps for clarity; see Map 16 Proposed Zoning

**Table 3. Proposed Metro Center Zoning**

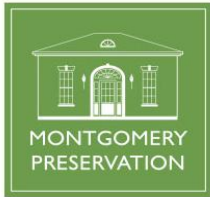
<b>Map Number</b>	<b>Existing Zoning</b>	<b>Proposed Zoning</b>	<b>Justification</b>
25	CR-8.0 C-6.0 R-7.5 H-200 T	CR-8.0 C-8.0 R-8.0 H-240	Increase flexibility for future mixed-use development.
26	CR-8.0 C-6.0 R-7.5 H-200 T	CR-8.0 C-8.0 R-8.0 H-240	Increase flexibility for future mixed-use development.
27A	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
27B	CR-8.0 C-6.0 R-7.5 H-200 T	CR-8.0 C-8.0 R-8.0 H-240	Increase flexibility for future mixed-use development.
28	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-200	Increase flexibility for future mixed-use development.
29	CR-5.0 C-4.0 R-4.75 H-200 T	CR-5.0 C-5.0 R-5.0 H-240	Increase flexibility for future mixed-use development.
30	CR-5.0 C-4.0 R-4.75 H-200 T	CR-5.0 C-5.0 R-5.0 H-240	Increase flexibility for future mixed-use development.
31A	CR-8.0 C-6.0 R-7.5 H-200 T	CR-8.0 C-8.0 R-8.0 H-240	Increase flexibility for future mixed-use development.
31B	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
32	CR-8.0 C-6.0 R-7.5 H-200 T	CR-8.0 C-8.0 R-8.0 H-240	Increase flexibility for future mixed-use development.
33	CR-8.0 C-6.0 R-7.5 H-200 T	CR-8.0 C-8.0 R-8.0 H-240	Increase flexibility for future mixed-use development.
34	CR-5.0 C-4.0 R-4.75 H-200 T	CR-5.0 C-5.0 R-5.0 H-240	Increase flexibility for future mixed-use development.
35	CR-5.0 C-4.0 R-4.75 H-145 T	CR-8.0 C-8.0 R-8.0 H-240	Increase flexibility for future mixed-use development. Increase allowable height due to significant site constraints.
36	CR-8.0 C-6.0 R-7.5 H-200 T	CR-8.0 C-8.0 R-8.0 H-240	Increase flexibility for future mixed-use development.



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### **8230 RIPLEY STREET -- SSDAC PLAN**

- The Draft Plan's recommendation is built on a faulty premise and must be corrected.
- The property at 8230 Ripley and the property across Ripley Street at 8226 Georgia Ave., have different and unrelated owners and are separated by a public right of way and road. The Draft Plan's recommendation to coordinate development with the property across the street (8226 Georgia) is unrealistic and very unlikely. That recommendation should be eliminated. Instead, the Draft Plan should encourage the redevelopment of the 8230 site by itself, as a stand-alone project.
- The 8226 Georgia Ave. property has been renovated relatively recently. New redevelopment is economically unlikely.
- The two properties are separated by a road and public right of way, thereby rendering a unified development effectively impossible.
- Previous efforts to incorporate the 8230 site into adjacent developments were unsuccessful.
- Redevelopment of 8230 Ripley itself is significantly constrained by the Master-Planned right-of-way for Ripley Street between Dixon Avenue and Georgia Avenue. Dedication for Ripley Street would significantly reduce the developable area of the parcel, and particularly affecting the ground plane and footprint for a new development.
- To help facilitate redevelopment of this individual site, the Draft Plan should recommend retaining adequate width through providing a public access easement for any planned expansion of Ripley Street, with the easement specifically allowing structures to extend above and below pedestrian access along Ripley Street at street level. Such an easement would avoid issues with buildings crossing lot lines. Streetscape and other public use facilities along the frontage should also be limited, so as not to reduce the developable area.



# Montgomery Preservation, Inc.

Promoting the Preservation, Protection and Enjoyment of Montgomery County's  
Rich Architectural Heritage and Historic Landscapes

DATE: April 4, 2022

TO: PHED Committee Chair Hans Reimer, Members Will Jawando & Andrew Friedson

District 5 Councilmember Tom Hucker

FROM: Eileen McGuckian, President, Montgomery Preservation, Inc.

RE: Silver Spring Downtown and Adjacent Communities Plan – Plan-wide

Recommendations: Historic Resources, PHED Committee Work Session – April 7, 2022

I am pleased to represent Montgomery Preservation Inc. (MPI), the countywide nonprofit historic preservation organization, to provide comments related to the County Council PHED Committee's work sessions on the Silver Spring Downtown and Adjacent Communities Plan.

Below are topics related to the Committee's discussion of the Historic Resources section of the Plan.

## **Fenton Building, 8551 Fenton Street**

MPI believes the Fenton Building, at the corner of Fenton Street and Colesville Road, deserves comment in the plan. On the County's *Locational Atlas of Historic Sites*, it plays an important role in Silver Spring's history of racial equity, discrimination, and inclusion. As part of the Atlas-listed Silver Spring CBD Historic District, it is a key retail property in what was the region's foremost suburban center for shopping in the mid 1940s into the 1950s – providing residents with a serious alternative to Washington DC shopping.

As big-city stores were starting to expand to the suburbs, the first corner tenant in the prominent new Fenton Building was Morton's Department Store, which opened in 1952. In an era when it was common for department and clothing stores to discriminate against African American customers, Morton's was an exception. Black shoppers could try on clothes at all Morton's branches in the DC area, and use integrated dressing rooms and restrooms. Jewish owner Mortimer Lebowitz hired African Americans for his stores (at equal wages), and Lebowitz himself was a long-time activist in the Civil Rights movement.

MPI is opposed to listing the Fenton Building as an Opportunity Site in the Ellsworth District section of the Silver Spring Plan, and we are aware that Colesville Joint Venture has expressed interest in redeveloping the site for a mixed-use project. MPI submits that instead of assuming demolition of the Fenton Building, it should be mentioned among the historic buildings the Plan identifies as providing a sense of place, particularly as racial equity and social justice is a recurring theme in the Plan.

With its Moderne-style architecture, the Fenton Building's key corner location makes it a prominent visible marker of a significant period in Silver Spring's commercial development and a physical representation of its Civil Rights history.

## **Preservation of Historic Resources**

MPI strongly supports the Plan's listing of several properties as potentially eligible for the National Register of Historic Places, as well as the goal of exploring future evaluation of these properties for listing on the County's Master Plan for Historic Preservation. We welcome the recommendation – long overdue - to study the striking mid-century Weller's drycleaning building for potential Master Plan listing. The Silver Spring Plan describes the building well, and it indeed embodies the "village" in Fenton Village.

In particular, we applaud the proposal for a Garden and Mid-Rise Complex Apartment Historic District and its inclusion in the list of properties as potentially eligible for the National Register. In addition to architectural and historic qualities, these apartments continue to provide affordable housing, with rents significantly lower than in recently constructed high rises in Silver Spring, and without subsidization. They provide diversity of housing types, accommodating those who prefer garden apartments to high rises. They deserve to be recognized and preserved.

MPI welcomes this statement in the Historic Resources section:

*The community's sense of place relies upon historic buildings such as the Silver Spring Shopping Center and Theatre, the Fillmore, Hecht's Building, Canada Dry Building, Dyers and Cleaners Building, and the North Washington Shopping Center.*

We propose that the entire Silver Spring CBD Historic District, now on the *Locational Atlas*, be recognized in the above statement. This district includes the Silver Spring Theatre and Shopping Center and the Fillmore, as well as other individual buildings. There are a number of other downtown Silver Spring buildings that should eventually be studied for potential historic designation.

## **Falklands District**

The Silver Spring Plan states that "The historic Falklands Apartments hold a foundational place in the development of Silver Spring and have provided first homes to generations of residents." This is true for the entire New Deal-era Falkland complex.

MPI is dismayed that the north parcel of the Falkland Apartment complex is excluded from the Garden Apartment District. Maryland Historical Trust considers the entire Falkland complex eligible for listing in the National Register of Historic Places. But unlike the other two parcels of the complex, the Planning Board did not add Falkland North to the County's Master Plan.

Nevertheless, all of Falkland, with its 2- and 3-story buildings, fits the definition of Missing Middle housing that Montgomery Planning correctly argues is sorely needed. Moreover, the Silver Spring Plan cites the need for affordable housing and the goal of preserving *existing* affordable housing. Rents in all of Falkland are more affordable than in recently constructed high-rises. It seems contradictory to allow a portion of Falkland to be demolished, displacing more than 150 working class and middle income households.

MPI asserts that these considerations outweigh Falkland North's proximity to the Silver Spring Metro station and the interest of the owner to redevelop the site.

## **Silver Spring Shopping Center Parking Lot**

The landmark Art Deco shopping center at Georgia and Colesville is an excellent example of 1930s-era “Park and Shop” retail and was added to the Master Plan for Historic Preservation more than 30 years ago and is eligible for the National Register of Historic Places. Essential to its historic context is the parking lot - a highly visible part of the Silver Theatre and Shopping Center complex.

MPI is opposed to any change to the crescent shape of the parking lot. It is important as well for the lot to retain its function as parking; its purpose is not to provide a pathway to Ellsworth Plaza. The Plan’s recommendation to explore adding a single-story commercial building would be acceptable, if similar to the architectural style of the shopping center buildings and similar in size and function to the one-story structure that once stood there.

## **Jesup Blair Park**

MPI and others have testified that the 14.5-acre Jesup Blair Park, listed on the Master Plan for Historic Preservation, should retain its uniqueness and identity as a natural park. We want to clarify that in no way do we intend the park to be a “passive” place. The park already includes a number of opportunities for specific sports activities. In the contemplative zone, we envision visitors enjoying ancient trees, green space, and some recreational activities, but without adding obtrusive hardscape. An example would be to label the trees by species, add native plants, and arrange lectures on the biology of the park. If the Jesup Blair House is eventually occupied by arts and history organizations, outdoor arts and cultural programs could be presented for the public. It is not only necessary but also possible to retain the park’s natural identity that Violet Blair Janin intended when she donated this property to the County in 1933.

*MPI urges that as Silver Spring moves forward, its heritage is not forgotten. Without visible components of its history, it risks losing community identity as Silver Spring. “Place-making” need not also be “Place-taking.”*

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### **7980 GEORGIA AVE. -- SSDAC PLAN**

- The existing community garden on the western edge of the property is private property/privately owned, not public property or publicly owned. The Draft Plan should be careful to recognize this ownership structure and its effect on recommendations.
- The existing community garden area is operated under a year-to-year sublease from 7-Eleven, the lessee of the larger parcel. The property owner does not control the lease from 7-Eleven for the garden use. Although erroneously identified as “existing open space” on Map 2, the area is leased for a limited term and is not generally open to the public. Maps and diagrams should not indicate that this area is public open space.
- Figure 21 should revise the notation “preserve the community garden” to “relocate the community garden.”
- Under Map 21, Proposed Park Locations Approach Diagram, remove recommendation to retain community garden (F3) and delete the discussion of F3 on page 114.
- To better provide a more permanent opportunity for the community garden function to remain in this area of Silver Spring, the Draft Plan should recommend and facilitate relocating the community garden to a nearby publicly owned property. To that end, the property at 1110 East-West Highway, recently purchased for parks use, would seem a particularly appropriate location. An alternative would be to designate space in the redevelopment of Jessup Blair Park for this purpose.
- In support of Map 6, the Urban Design Illustrative Diagram, alterations to the Draft Plan should be made to make redevelopment feasible, tie the open space to the Georgia Ave corridor, and connect to the protected crossing and Jessup Blair Park:
  - Remove the northern protected crossing and focus on one crossing from the southeast corner of the property where a through block connection can emerge (also on Map 23),
  - Remove the community garden as an open space and instead provide a publicly accessible, urban, and activated open space at the new crossing in the southeast corner,

- Reorient the internal through-block connection to split the block across the longer southwestern frontage rather than along King Street, thereby preserving a larger continuous development site and
  - Allow for flexible building typology that can accommodate parking and amenity spaces in wrapped product.
- Revise recommendation to allow for a building envelope that can accommodate plan goals, such as step-backs from Georgia and creation of publicly accessible open space.
- The Master Plan is the perfect time and opportunity to examine the area around the site of the temporary community garden to identify a publicly owned site to which the garden can be relocated. In the immediate vicinity are both the recently acquired 1110 East-West Highway property and Jessup Blair Park. The community garden would function as a positive activating use at either location.
- Improve connections in this area of South Silver Spring by creating a through-block connection at this site from Eastern Avenue to Georgia Avenue.



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March 22, 2022

**VIA EMAIL DELIVERY**

The Honorable Hans Riemer, Chair  
and Members of the Planning, Housing and Economic Development Committee  
Montgomery County Council  
100 Maryland Avenue  
Rockville, Maryland 20850

Re: Silver Spring Extra Space LLC's Supplemental Comments to the Planning Board Draft of the Silver Spring Downtown and Adjacent Communities Plan (the "Draft Sector Plan")

Dear Chair Riemer and Members of the PHED Committee:

On behalf of Silver Spring Extra Space LLC (the "8001 Newell Owners"), the owner and operator of the self-storage facility located at 8001 Newell Street (the "Property"), we are submitting these supplemental comments to the Draft Sector Plan. The Property includes approximately 41,245 square feet of net lot area and is located at the northeast corner of Newell Street and Eastern Avenue in the South Silver Spring District. The Property is improved with a 1-story warehouse that was originally built in 1950's and subsequently retrofitted to a self-storage facility in 2002 by the 8001 Newell Owners. The 8001 Newell Owners are comprised of several local business leaders who have an agreement with Extra Space to manage the self-storage facility.

The 8001 Newell Owners respectfully request that the Draft Sector Plan recommendations for the Property be modified to allow for an incremental expansion of the self-storage uses that will be market responsive and deliver public benefits and/or amenities prioritized in the Draft Sector Plan for the following reasons:

- Reliable studies relating to supply/demand for self-storage at this location reflect a gross shortage of supply in Silver Spring. More specifically, there is approximately 600,000 square feet of self-storage within a 3-mile radius of the Property, but there is demand from residents

**Selzer Gurvitch Rabin Wertheimer & Polott, P.C.**

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and businesses for between 1.6 million to 3 million square feet of self-storage uses. Market data supporting these conclusions are attached as Exhibit “1”.

- Expansion of the existing self-storage building with up to a maximum of four (4) stories of self-storage uses would allow for enhanced building design and other site improvements. As illustrated on Exhibit “2”, the building architecture and associated site improvements realized through a four (4) story expansion would allow for a more compatible and aesthetically appealing project.
- We have requested that the Sector Plan expressly acknowledge and recognize the potential for an incremental expansion of the existing self-storage facility, with the specific development standards and public benefit/amenities defined through the ZTA that will follow and implement several Sector Plan recommendations.
- The implementing ZTA will be necessary to create the Building Height Incentive Zone (BHIZ) and to create flexible development opportunities for additional density through financial contributions to the Connectivity and Infrastructure Fund (CIF) or Housing Initiative Fund (HIF). Alternatively, the expansion of the self-storage uses at the Property could include the provision of some community-oriented space at the ground-floor of the self-storage facility (e.g., an internal community meeting space).
- While the details of such requirements can be determined during the ZTA to follow adoption of the Sector Plan, we are respectfully requesting support for the following revised land use recommendations for the property through the Sector Plan. The proposed changes underlined and in bold below; *See Planning Board draft, page 57*:

**8001 Newell Street (Self-Storage):** The Plan recommends that redevelopment of this site transition in height to the garden apartment buildings across Newell Street and the single-family homes across Eastern Avenue Northwest in D.C. **To provide flexible development opportunities and allow future development to better adapt to market conditions, the Plan supports expansion of the existing self-storage facility with a maximum of four (4) stories of building height if public benefits and/or amenities are provided through redevelopment. Such public benefits and/or amenities should be defined through a subsequent zoning text amendment that implements various Plan recommendations.**

The requested revisions will allow for an expansion opportunity that is both market-responsive and consistent with the Draft Sector Plan recommendation that there be a compatible transition from the single-family community across Eastern Avenue. The proposed expansion of the self-storage facility will enhance the County’s commercial tax base and help to fulfil the storage needs of residents and businesses in the community, while also delivering priority public benefits or amenities. Thank you for consideration of the 8001 Newell Owners’ supplemental comments, and if you have any questions or require any additional information, please do not hesitate to contact us.



Mr. Hans Riemer, Chair  
and Members of the PHED Committee  
March 22, 2022  
Page 3

Very truly yours,

**Selzer Gurvitch Rabin Wertheimer & Polott, P.C.**

*C. Robert Dalrymple*

C. Robert Dalrymple

*Matthew M. Gordon*

Matthew Gordon

cc: Councilmember Tom Hucker  
Planning Board  
Pam Dunn  
Atara Margolies  
Harvey B. Maisel

00419595;2

# Exhibit 1

## Market Demand

	1 mile	3 mile	5 mile	10 min drive	CBSA
Demand @ 3ft <sup>2</sup> / person	105,120	689,718	1,939,146	649,881	18,550,245
Demand @ 4ft <sup>2</sup> / person	140,160	919,624	2,585,528	866,508	24,733,660
Demand @ 5ft <sup>2</sup> / person	175,200	1,149,530	3,231,910	1,083,135	30,917,075
Demand @ 6ft <sup>2</sup> / person	210,240	1,379,436	3,878,292	1,299,762	37,100,490
Demand @ 7ft <sup>2</sup> / person	245,280	1,609,342	4,524,674	1,516,389	43,283,905
Demand @ 8ft <sup>2</sup> / person	280,320	1,839,248	5,171,056	1,733,016	49,467,320
Demand @ 9ft <sup>2</sup> / person	315,360	2,069,154	5,817,438	1,949,643	55,650,735
Demand @ 10ft <sup>2</sup> / person	350,400	2,299,060	6,463,820	2,166,270	61,834,150

## Existing Supply

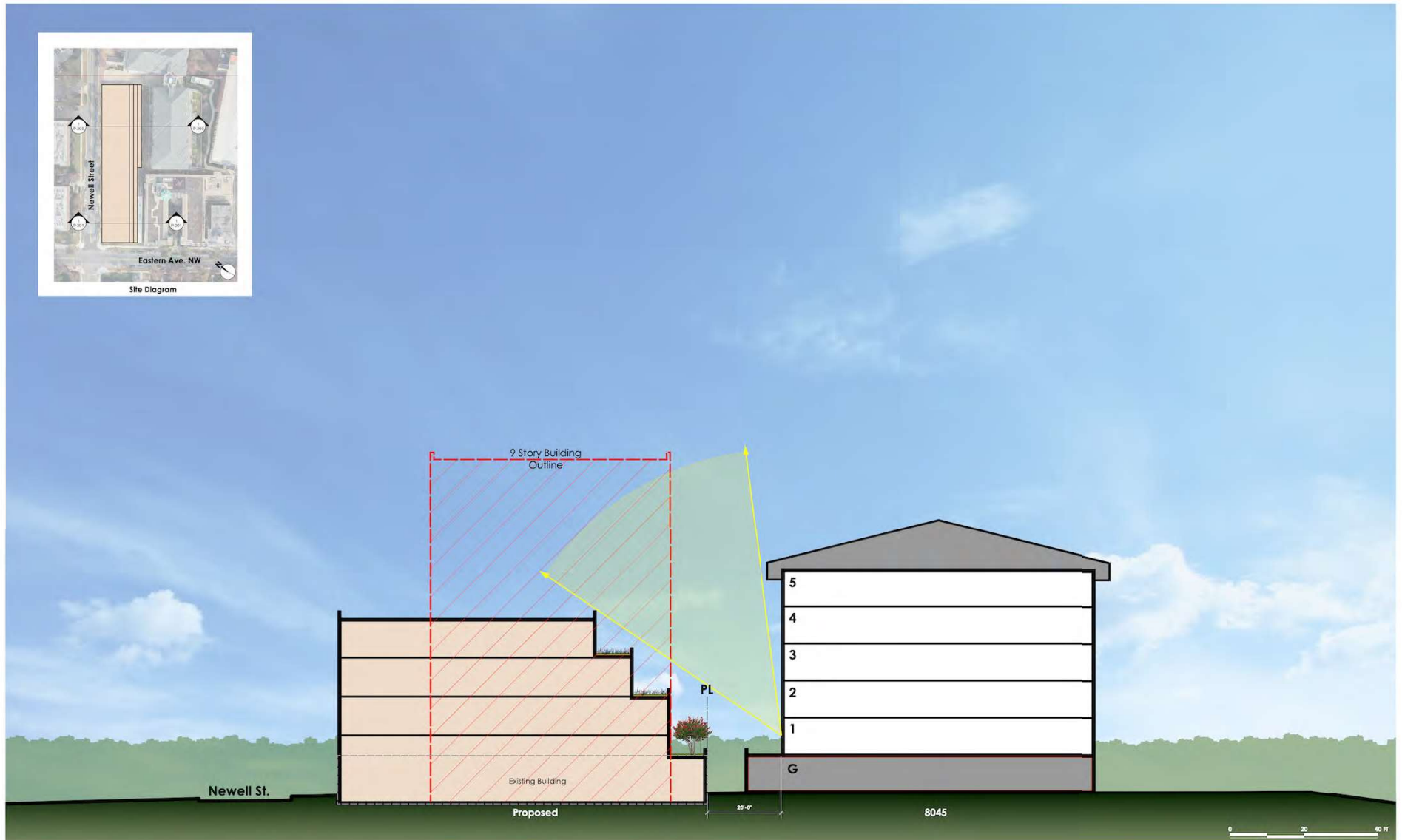
	1-mile	3-mile	5-mile	10 min drive	CBSA
Number of facilities	3	8	28	11	477
Net rentable ft <sup>2</sup>	169,938	579,206	2,050,495	763,462	28,808,225
Net rentable ft <sup>2</sup> / person	4.8	2.5	3.2	3.5	4.7
Net rentable ft <sup>2</sup> / house	10.3	7.1	8.5	9.7	12.2

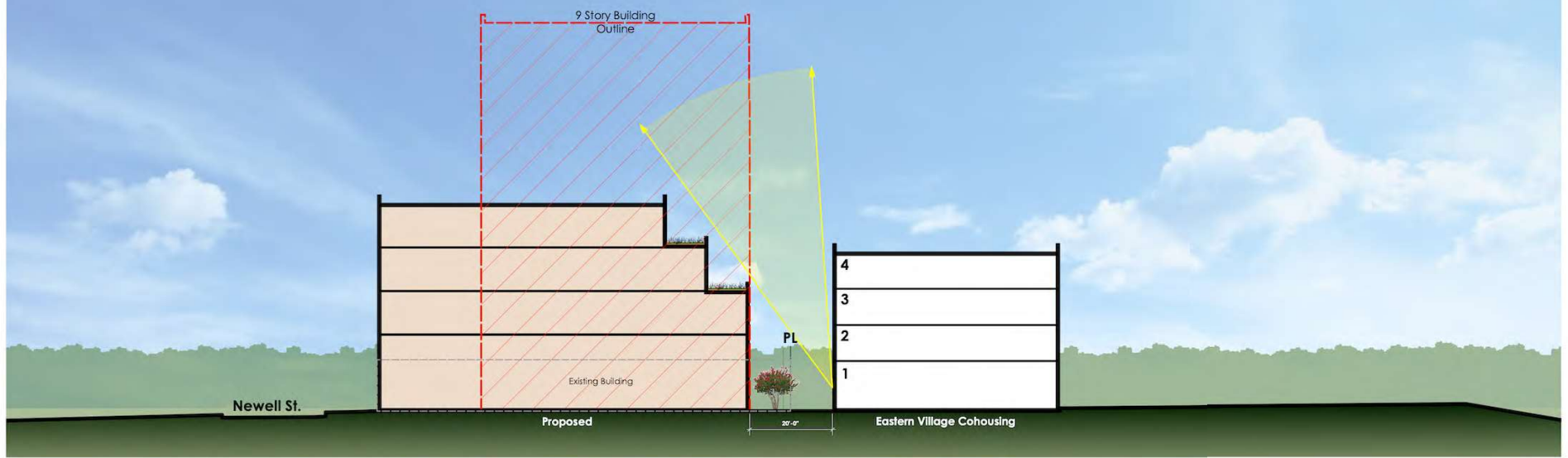
## Supply/Demand Analysis - Existing Supply

	1-mile	3-mile	5-mile	10 min drive	CBSA
Under supply @ 3	64,818	110,512	111,349	113,581	10,257,980
Under supply @ 4	-29,778	340,418	535,033	103,046	-4,074,565
Under supply @ 5	5,262	570,324	1,181,415	319,673	2,108,850
Under supply @ 6	40,302	800,230	1,827,797	536,300	8,292,265
Under supply @ 7	75,342	1,030,136	2,474,179	752,927	14,475,680
Under supply @ 8	110,382	1,260,042	3,120,561	969,554	20,659,095
Under supply @ 9	145,422	1,489,948	3,766,943	1,186,181	26,842,510
Under supply @ 10	180,462	1,719,854	4,413,325	1,402,808	33,025,925

Negative values indicate oversupply

Exhibit 2













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April 11, 2022

Mr. Gabe Albornoz, President,  
And Montgomery County Councilmembers  
100 Maryland Avenue, 4<sup>th</sup> Floor  
Rockville, Maryland 20850

Re: *Silver Spring Downtown and Adjacent Communities Plan* – 8700 1<sup>st</sup> Avenue, Silver Spring, MD 20910

Dear Mr. Albornoz and County Councilmembers:

On behalf of our client, Outlier Capital (“Outlier”), the contract purchaser of 8700 1<sup>st</sup> Avenue, located in the northwest quadrant of 1<sup>st</sup> Avenue and Fenwick Lane in Silver Spring (“Property”), the purpose of this letter is to request a change to the Planning Board’s recommended zoning for the Property contained in the draft *Silver Spring Downtown and Adjacent Communities Plan* (“Plan”). As discussed more fully below, this request is aimed at making the recommended zoning consistent with that recommended for neighboring properties.

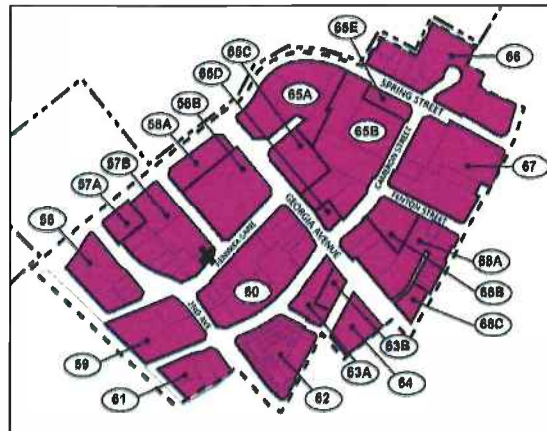
By way of background, the Property, which is currently zoned CR-3.0, C-2.0, R-2.75, H-90 T, is improved with a vacant, two-story house. Outlier plans to redevelop the Property with affordable, “co-living” apartments in which residents have their own bedrooms, but share cooking and living facilities with other residents. This results in a more communal and social form of living that has the added benefit of being more affordable than traditional apartments. Outlier looks forward to bringing this unique form of housing to downtown Silver Spring.

The Plan currently recommends that the Property be zoned CR-3.0, C-3.0, R-3.0, H-110.<sup>1</sup> However, this designation is inconsistent with the zoning recommended for neighboring properties, which are recommended for significantly more height and density, as shown on the map and chart excerpted from the Plan below (the Property is part of Map Number 57B identified with a black “x” on the map):

---

<sup>1</sup> The Property’s recommended zoning appears to be a strict translation of its current zoning that eliminates the “T” distinction and balances the commercial and residential density allowed.





Map Number	Existing Zoning	Proposed Zoning	Justification
56	CR-3.0 C-2.0 R-2.75 H-90 T	CR-3.0 C-3.0 R-3.0 H-110	Increase flexibility for future mixed-use development.
57A	CR-3.0 C-1.25 R-3.0 H-145 T	CR-3.0 C-3.0 R-3.0 H-175	Increase flexibility for future mixed-use development.
57B	CR-3.0 C-2.0 R-2.75 H-90 T	CR-3.0 C-3.0 R-3.0 H-110	Increase flexibility for future mixed-use development.
58A	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
58B	CR-5.0 C-4.0 R-4.75 H-145 T	CR-6.75 C-6.75 R-6.75 H-175	Adjust zoning to bring parcel into conformance.
59	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
60	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.

Recommending CR-5.0, C-5.0, R-5.0, H-175 zoning for the Property makes good sense from a planning perspective and would be consistent with other pertinent recommendations of the Plan. Specifically, in the Downtown North District where the Property is located, a key goal is to: “Encourage redevelopment of under-utilized parcels [. . .] by increasing zoning flexibility and incentivizing additional height and FAR where appropriate.” Plan p. 62. The Property is underutilized in that it is improved with a single-family house, despite being located in close proximity to transit, employment, retail, and service uses, including the future South County Regional Recreation and Aquatic Center. The Property’s location within a six-minute walk of the Silver Spring Transit Center makes it an ideal spot for significant residential use, such as the affordable housing project contemplated by Outlier. Additionally, the Property is identified in the Plan as an “opportunity site,” which we believe warrants the allocation of greater density and height to further incentivize desirable redevelopment, consistent with the goals of the Downtown North District.



Mr. Gabe Albornoz, President  
And Montgomery County Councilmembers  
April 11, 2022  
Page 3



Thank you for your time and attention to this request. We look forward to working with the Council and its staff as the Plan progresses.

Very truly yours,

**MILES & STOCKBRIDGE P.C.**

  
Erin E. Girard

  
Laura M. Tallerico

cc: Pamela Dunn  
Livhu Ndou  
Peter Stuart  
Morgan Fleischman

March 6, 2022

**Via Electronic Mail**

The Honorable Gabe Alborno, President  
Montgomery County Council  
Stella B. Werner Council Office Building  
100 Maryland Avenue, 4th Floor  
Rockville, Maryland 20850

Re: Silver Spring Downtown and Adjacent Communities Plan

Dear Council President Alborno and Members of Council:

On behalf of United Therapeutics Corporation ("United Therapeutics"), a public benefit corporation, this letter represents our written testimony concerning the Planning Board Draft of the Silver Spring Downtown and Adjacent Communities Plan (the "Plan").

As we previously conveyed to the Planning Board during its public hearing on December 2, 2021, and in our subsequent letter dated December 22, 2021, United Therapeutics shares the Planning Board's and the Planning Department's passion and enthusiasm for Silver Spring. We genuinely appreciate the efforts that have gone into updating the Plan's recommendations for the community that has served as our home since our founding. Our business relies on our ability to attract the best and brightest minds of the biopharma world. We can imagine a future in which the economic vibrancy and amenity rich fabric of Silver Spring are an asset in this effort.

Unfortunately, "vibrancy" has not always been our experience in the Central Business District or Downtown over our many years in the area. The almost total absence of commercial office development in the last decade (except for the United Therapeutics campus), the departure of Discovery and other major businesses, and the ever-shrinking footprint of government facilities, has only exacerbated a historic problem of a lack of daytime commercial activity.

Combined with the challenges of the County's regulatory process (*i.e.*, its timing, complexity, uncertainty, inconsistency, and cost), we are concerned that several elements of the Plan could work against potential future growth and reinvestment in the broader Silver Spring market, whether by United Therapeutics or others. More specifically, the Plan proposes:

- (1) To add new development procedures and reviews in Silver Spring, thereby increasing the time, expense and effort associated with entitlements;
- (2) To increase right of way demands that nibble away land from already constrained urban sites;

- (3) To impose costs in order to increase insufficient mapped zoning heights, rather than mapping appropriate heights at the outset; and
- (4) To reduce previously available public benefit elements that help facilitate development related to transit and encourage hiding vehicles in parking structures.

How these recommendations will further the Plan's objective to incentivize a 50% growth in jobs in Silver Spring in the coming years is unclear, and we fear they may serve only to further disincentivize commercial development in an already challenging market.

We strongly suggest that the Plan be used as an opportunity to facilitate and accelerate economic growth. As a result, we note particular concerns with the following Plan recommendations (which may be contrary to those objectives):

- Green Loop Route and Required Elements. Certainly, pedestrian and bicycle-friendly infrastructure can bring certain benefits to a community, and we support the general concepts for them identified in the Plan. However, as with many issues, the devil is in the details. We are particularly concerned that the frontage improvements necessary to implement the Green Loop in the Downtown North District will negatively affect our facilities, operations, and safety.

Our business, like others in the Silver Spring Downtown, requires safe, accessible, and functional access for parking, loading, and deliveries. Yet, being located in an urban area, there are limits to our ability to provide additional roadway, streetscape, and landscape elements on our sites while also ensuring that drivers can get in and out of our facilities safely and efficiently. Implementing the Green Loop in the Downtown North District, in close proximity to our buildings, can be foreseen to create a significant risk of pedestrian and vehicle conflicts, while further eating away at our already constrained spaces.

Avoiding what we experienced with the implementation of the existing Spring Street bike lanes is critical to United Therapeutics. The original installation was not coordinated with approved, adjacent site plans, and this created dangerous conditions. While changes ultimately were made to mitigate these dangerous conditions, these only occurred after several months of coordinated advocacy. We would like to work with your staff to identify an alternative route that achieves the infrastructure goals of the Plan, without negatively impacting our company and the safety of those around us or those who visit us.

- Exclusion of Public Benefit Options. The optional method of development in the County's Commercial/Residential Zones is predicated on the concept that public amenities must be provided to support higher densities at locations where the County has

determined growth to be appropriate. As reflected in the Zoning Ordinance, the County Council has legislatively determined the amount of public benefits that will be required for development based on applicable zoning and tract size or maximum density, but not the type of benefits to be provided from applicable categories. Rather, applicants are free to select public benefits from a menu of approved options that the County Council has already determined to be desirable and worthy to serve as incentives.

Despite the established public policy embodied in those benefits, the Plan proposes to exclude two currently approved public benefit options – Transit Proximity and Structured Parking – from the list of possible benefits for which projects in Silver Spring can be awarded public benefits points. Using the Master Plan to override the Council's prior legislative determinations about public amenities that can qualify for public benefits points is not appropriate, and we oppose this recommendation. If a project qualifies for public benefit points by virtue of providing such elements, it does so in accordance with the Council's original determination that such elements are desirable and should be incentivized at the location where the zone is applied. As they have been applied in Silver Spring since the CR zones were mapped in 2014, and have helped achieve development since that time in locations proximate to transit and with vehicle parking hidden.

Furthermore, removing potential public benefit options in Silver Spring – where market conditions already present significant challenges for growth and reinvestment – takes away potential incentives that might otherwise serve to attract new development to the area. A better approach would be for the Plan to allow for the full range of public benefit options for Silver Spring projects, thereby ensuring that every potential tool for growth remains available for utilization in this community.

- **BHIZ Boundaries in Downtown North District.** Given the anticipated long life of the Plan, it is not inconceivable that a future redevelopment opportunity could emerge for the block bounded by Georgia Avenue, Spring Street, and Cameron Street in the immediate vicinity of the United Therapeutics campus. However, this block is not included in the proposed Building Height Incentive Zone ("BHIZ"), nor is the proposed mapped zoning uniform as one approaches Spring Street. For example, the Plan recommends that our property at 1110 Spring Street receive a different mapped zoning designation than the immediately adjacent County public parking garage.

To the extent that the Plan encourages redevelopment of underutilized parcels in the Downtown North District (including existing public parking garages) and seeks to incentivize additional height and density at strategic locations, we believe that the BHIZ should be extended in this block at least to Planning Place (if not to Spring Street). The Plan should also recommend mapped densities and heights for properties adjacent to the garage site that are equivalent to that of the garage site. These changes could be

meaningful in facilitating a broader range of possibilities for assemblage and redevelopment of this block, should future opportunities emerge.

- Green Cover. In seeking to address urban heat islands, the Plan recommends that Optional Method projects strive for 35% green cover. This would be achieved by an intense green roof or tree canopy cover on the ground floor, or a combination of both. This is a laudable goal, given the tree-less character of many urban redevelopment sites. But again, the devil is in the details, and balance must be exercised.

Urban redevelopment that seeks to cure past ills of narrow sidewalks and lack of stormwater management, coupled with setbacks to allow adequate glazing for light and views, places a premium for intense usage of the remaining land area. Assuming green cover is achieved solely through canopy at ground level, an additional 35% of the property gets removed from the potential building envelope, thus further compressing the footprint and necessitating movement upward to achieve intended density. If doing so requires use of the BHIZ process, that adds to the cost of a project. In any event, the building configuration becomes captive of the canopy area.

The Plan may intend to address this dilemma of physical conflicts by making achievement of 35% permissive rather than mandatory. But to assure that the permissive intent is understood over the life of the Plan, the language needs to be strengthened, so as to clearly make the goal an aspirational effort, not a compulsory minimum for reviewers to competitively exceed. The Plan recommendation states on p. 147:

"Encourage a minimum of 35% green cover on Optional Method Development projects ....." (Emphasis added.)

The term "encourage" establishes an aspirational target that must be adjusted to project circumstances. "Encourage" does not imply an inflexible minimum requirement to be achieved in every instance. The intent of the former needs to be clear, so as to avoid evolving into the latter.

- Future Amendments. We note that the Plan is being advanced at a time of tremendous social, economic, and political uncertainty, when the long-term impacts of the pandemic on our community's future are not yet fully understood. Given that the Plan applies to one of the County's major commercial centers and likely will have a very long life (potentially for decades), we believe that it is vitally important for the Plan to build in a means to correct course if its recommendations do not bear fruit. This could be accomplished by including specific provisions to support future amendments, should circumstances warrant. The Plan could also recommend establishing a program for the ongoing monitoring of development and growth metrics, with periodic evaluations by the Planning Department and the Planning Board to ensure that outcomes are unfolding as



- anticipated. We would be pleased to discuss ideas for such measures in more detail with Planning Department staff, if that would be useful.

We thank you for your consideration of our views in this letter and in our oral remarks. We look forward to continued participation in the Plan review and approval process. Please do not hesitate to let us know if you have any questions.

Sincerely,



Avi Halpert  
Vice President  
Corporate Real Estate

cc: The Honorable Evan Glass  
The Honorable Andrew Friedson  
The Honorable Tom Hucker  
The Honorable Will Jawando  
The Honorable Sidney Katz  
The Honorable Nancy Navarro  
The Honorable Craig Rice  
The Honorable Hans Reimer  
Ms. Pamela Dunn  
Ms. Atara Margolies



March 23, 2022

Via Email ([county.council@montgomerycountymd.gov](mailto:county.council@montgomerycountymd.gov))

Montgomery County Council  
Council Office Building  
100 Maryland Avenue, Fourth Floor  
Rockville, MD 20850

Re: Comments to the Planning Board Draft of the Silver Spring Downtown and Adjacent Communities Plan, for March 28, 2022, Montgomery County Council Public Hearing

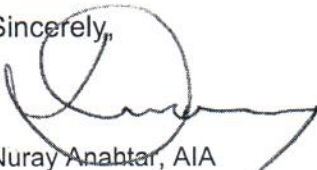
Dear Council President Alborno and Members of the Montgomery County Council:

On behalf of my clients, Ramakrishnan and Jhansi Ganesan, we are submitting this letter to comment on the Planning Board Draft of the Silver Spring Downtown and Adjacent Communities Plan, for the Montgomery County Council's consideration at its public hearing on March 28, 2022. They are the owners of a property within the Adjacent Communities District located at 8808 Colesville Road. They have lived there since purchasing the property in 1997. Their home is within the shadow of an eleven-story apartment building currently zoned EOF-3.0 H-100 and their property is currently zoned R-60 with a maximum height of 35 feet. The current zoning does not provide any building height or density transition between these properties.

We note that the draft plan would change the zoning category of the adjacent property to Commercial/Residential CR-3.0 C-3.0 R-3.0 H-100 while maintaining the current zoning of their property (R-60). Under the draft plan, the current lack of building height and density transition is maintained contrary to sound planning principals. We believe that a transition zone would be appropriate for their property and the other properties along South Noyes Drive such as R-20.

We would ask that the County Council consider changing the recommendations of the Planning Board Draft of the Silver Spring Downtown and Adjacent Communities Plan in this location to zone their property R-20.

Sincerely,



Nuray Anahat, AIA



Ramakrishnan and Jhansi Ganesan





Montgomery Planning

# Silver Spring Downtown & Adjacent Communities Plan

## Garden Apartments Analysis





# Preservation of Affordable Housing Approach in SSDAC

- Preservation of existing market-rate affordable housing through retention of existing zones.
- Plan wide Housing recommendation to “Preserve existing, market-rate affordable housing where possible, striving for no net loss of affordable housing.”

(33)

# Precedents

- **Forest Glen/Montgomery Hills Sector Plan**

- **Fields of Silver Spring**

- Existing LIHTC property with subsidies expiring in about 20 years
    - Reconfirmed the existing R-10 zone with a recommendation to support a future application for a CRT floating zone, roughly equivalent to CRT-2.0, C-0.25, R-2.0, H-75
    - 15% MPDUs, 5% market-rate affordable units through DHCA Rental Agreements
    - 221 existing units, recommended floating zone allows for around 586

- **Belvedere Apartments**

- Rezoned from R-10 to CRT-2.0, C-0.25, R-2.0, H-75 given the lack of regulated affordable units today and the high probability of redevelopment in the next 20-30 years
    - 15% MPDUs
    - A minimum of 25% of the units should be 2-bedroom units
    - 93 existing units, new zoning allows for around 233

(34)

# Precedents

- **Veirs Mill Corridor Master Plan**
  - **Rock Creek Woods**, aging multifamily facility with infrastructure/utilities issues that make redevelopment highly likely
    - Rezoned from R-20 to CRT-1.25, C-0.25, R-1.25, H-85
    - 269 existing units, new zoning allows for around 525
    - 15% MPDUs, 5% market-rate affordable units for 30 years
    - With redevelopment, a minimum of 20% of the units should be 2-bedroom units and 5% of the units should be 3-bedroom units
    - Priority should be given to existing residents for the 2- and 3-bedroom units and the market-rate affordable units

(35)

# Precedents

- **Veirs Mill Corridor Master Plan**

- **Halpine View**

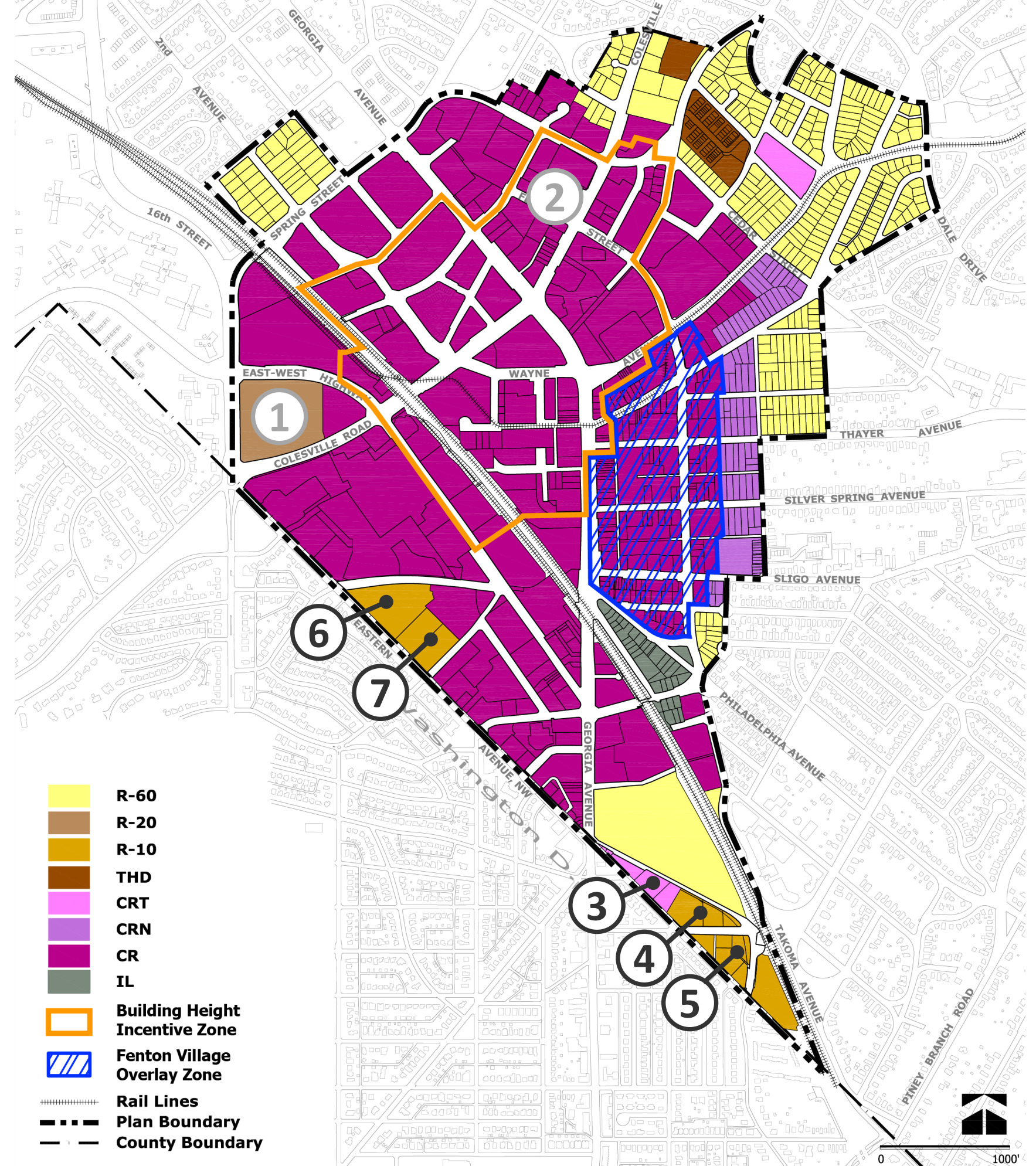
- Rezoned from R-30 to CRT 1.25, C-0.25, R-1.25, H-85
    - 564 existing units, yield of around 1,880 under new zoning
    - 15% MPDUs, 10% market-rate affordable/DHCA Rental Agreement
    - Each phase of development should provide a number of affordable units (MPDUs plus market-rate affordable units under rental agreement) equal to the number of units being removed
    - With redevelopment, a minimum of 20% of all units must be 2-bedroom units and 5% of all units must be provided as three-bedroom units
    - Priority should be given to existing residents for the 2- and 3- bedroom units and the units under market-affordable rental agreements
    - Master Plan supports the return of the Aspen Hill Road extension to the Halpine View property through Montgomery County's disposition process in exchange for the requirement to provide a minimum of 30% of the dwelling units attributable to the density of the 1.9-acre parcel in the form of MPDUs

(36)



# SSDAC Gardens Zoning Map

- 1 – Falklands
- 2 – Montgomery Arms
- 3 – Blair Park Apartments
- 4 – Blair Park Gardens
- 5 – Eastern Avenue Apartments
- 6 – Rock Creek Springs
- 7 – Spring Garden Apartments



(37)



# Blair Park

Number of Existing Dwelling Units	# of Family Sized Units (2 & 3 bedrooms)	# of Affordable Housing Units	Current Zoning	Yield Under Current Zoning	Proposed Zoning	Yield Under Proposed Zoning	2-Bedroom Effective Rent	2-Bedroom Effective Rent AMI
53	9 (17.3%)	27	R-10	31	CRT-3 C-0 R-3 H-75	94	\$1,312	49%

- 7719-7725 Eastern Avenue
- Built 1937
- South Silver Spring District
- Owned by MHP
- **Recommended to be rezoned through the SSDAC plan to allow flexibility to support future affordable housing redevelopment**

(38)





# Blair Park Gardens

Number of Existing Dwelling Units	# of Family Sized Units (2 & 3 bedrooms)	# of Affordable Housing Units	Current Zoning	Yield Under Current Zoning	2-Bedroom Effective Rent	2-Bedroom Effective Rent AMI
74	36 (48.7%)	0	R-10	56	\$1,425	53%

- 7701-7705 Eastern Avenue; 805-809 Juniper Street; 7700-7705 Blair Road
- Built 1938
- South Silver Spring District



(39)



# Eastern Avenue Apartments

Number of Existing Dwelling Units	# of Family Sized Units (2 & 3 bedrooms)	# of Affordable Housing Units	Current Zoning	Yield Under Current Zoning	2-Bedroom Effective Rent	2-Bedroom Effective Rent AMI
35	12 (34.9%)	0	R-10	59	\$1,211	45%

- 7603-7615 Eastern Avenue
- Built 1937
- South Silver Spring District



(40)



# Rock Creek Springs

Number of Existing Dwelling Units	# of Family Sized Units (2 & 3 bedrooms)	# of Affordable Housing Units	Current Zoning	Yield Under Current Zoning	2-Bedroom Effective Rent	2-Bedroom Effective Rent AMI
216	59 (27.3%)	0	R-10	155	\$1,975	74%

- 8000-8012 Eastern Drive; 8001-8009 Eastern Drive; 8033- 8039 Eastern Avenue; 8000-8004 Blair Mill Road; 1300-1302 Blair Mill Road
- Built 1943
- South Silver Spring District
- Has a condo parcel cut out from entirety of parcel

(41)





# Spring Garden Apartments

Number of Existing Dwelling Units	# of Family Sized Units (2 & 3 bedrooms)	# of Affordable Housing Units	Current Zoning	Yield Under Current Zoning	2-Bedroom Effective Rent	2-Bedroom Effective Rent AMI
169	41 (24.4%)	57	R-10	123	\$1,550	58%

- 8001-8031 Eastern Avenue
- Built 1941
- South Silver Spring District
- Two parcels – HOC owns one parcel
- Listed in the *Locational Atlas and Index of Historic Sites*

(42)



# Options

Option 1	Option 2	Option 3
Retain existing R-10 zoning, as proposed currently in SSDAC	Add language to support a future Local Map Amendment application for a CRT Floating Zone as long as affordability or no net loss conditions are met  At time of application, historic value can be evaluated.	Rezone specific garden apartments with additional density and increased unit yields (roughly 3x what exists today) and add language to strive for no net loss or high affordability targets (20%?)

- Option 2 allows for site flexibility and the ability to maximize the affordable housing yield, but also allows a more detailed analysis of site's constraints and development context at time of application

(43)



**MEMORANDUM**

April 19, 2022

TO: Planning, Housing, and Economic Development (PHED) Committee

FROM: Pamela Dunn, Senior Legislative Analyst  
Livhu Ndou, Legislative Attorney

SUBJECT: Silver Spring Downtown and Adjacent Communities Plan

PURPOSE: Addendum to the staff report for Worksession #7

**PROPERTY-SPECIFIC REQUESTS**

*Downtown North District*

On April 13, the Council staff report for the last worksession on the Silver Spring Downtown and Adjacent Communities Plan was posted. Shortly thereafter, Council Staff received the attached letter from the Montgomery County Department of Transportation Director, Mr. Conklin regarding the proposed zoning for Public Parking Garage No. 2.

Montgomery County Public Parking Garage No. 2 (Garage 2) and Public Parking Lot No. 2 (Public Lot 2), a small surface parking area adjacent to Garage 2, are located at 1200 Spring Street. Garage 2 utilizes a major portion of the property. The remainder is used for Public Lot 2 and the Parking Lot District's (PLD) Maintenance Building. The land adjacent to the property is the former location of the Maryland-National Capital Park and Planning Commission ("M-NCPPC") Headquarters building and its associated parking area.

Under the previous Central Business District ("CBD") zones, the property was split-zoned with Garage 2 zoned CBD-2, and the Public Lot 2 and PLD Building portion zoned CBD- 1. According to the letter, when and why the original split-zoning occurred, and whether it was intentional or merely an error, is not clear from currently available records. The split-zoning continued under the District Map Amendment (DMA), approved to implement the 2014 Zoning Ordinance Rewrite. The Garage 2 portion became CR-5.0, C-4.0, R-4.75, H-145T, while Public Lot 2 and the PLD Building became CR-3.0, C-2.0, R-2.75, H-90T.

As has been mentioned in previous staff reports, it is not uncommon for split-zoned properties to be re-zoned under one zone as part of the master plan process. To resolve this case, MCDOT is requesting the entire property be re-zoned consistent with the plan-recommended zoning for Garage 2, CR-5.0, C-5.0, R-5.0, H-175. The former M-NCPPC Headquarters and M-NCPPC surface parking lot would remain identified under Map Number 65A with Plan-proposed zoning of CR-3.0, C-3.0, R-3.0 H-110 and the MCDOT property would be drawn within the boundary for Map Number 65B with plan-proposed zoning of CR-5.0, C-5.0, R-5.0, H-175.

In addition to applying a consistent zone across the entire MCDOT property, Mr. Conklin requests the height be increased from 175 feet to 200 feet and the property be included in the Building Height Incentive Zone area. At the last worksession, the Committee agreed (3-0) to expand the boundary of the Building Height Incentive Zone area such that it coincides with the MCDOT property line thus including Garage 2, Public Lot 2 and the PLD Building within the Height Incentive area. At an earlier worksession, the Committee also agreed (3-0) to recommend the heights proposed within the height incentive area be mapped. This would result in a mapped height for the MCDOT property of 262 feet.

**Council staff suggests the Committee recommend resolving the split-zoned property by applying the plan-proposed zoning for Garage 2 to the entire MCDOT property. Given that the abutting property is outside the height incentive area and has a plan-proposed height of 110 feet, Council staff suggests the Committee retain the plan-proposed height for Garage 2 which will ultimately be mapped at 262 feet as a result of the Committee's recommendation to map heights in the height incentive area at 1.5 times the plan-proposed height.**



Marc Elrich  
*County Executive*

Christopher R. Conklin  
*Director*

DEPARTMENT OF TRANSPORTATION

April 13, 2022

The Honorable Hans Riemer  
Montgomery County Council  
Chair, Planning, Housing, Economic Development ("PHED") Committee  
100 Maryland Avenue  
Rockville, MD 20902

Re: Silver Spring Downtown and Adjacent Communities Master Plan; Public Parking  
Garage No. 2 and Related Property – Revision to Proposed Zoning and Height

Dear Chair Riemer and Members of the PHED Committee:

I have reviewed the Planning Board Draft of the Silver Spring and Adjacent Communities Master Plan ("SSDAC Plan" or "Draft Plan") in detail and would like to bring to your attention two important zoning issues involving the property for Public Parking Garage No. 2 ("Garage 2"), and Public Parking Lot No. 2, a small surface parking area adjacent to Garage 2 ("Public Lot 2"). All of these County facilities are located at 1200 Spring Street, Silver Spring, Maryland (collectively "Property").

The first issue relates to the proposed boundary line of the zoning of the Property. The second issue relates to the proposed height for the zone to be mapped on the Property and used for any future redevelopment.

I. Boundary Line Issue

The Property contains approximately 146,674 square feet of land and is shown as Parcel "C", Block "C", on Record Plat No. 21574. (Copy of Plat 21574 is attached as Attachment "1".) Montgomery County Public Parking Garage No. 2 utilizes the major portion of the Property. The remainder is used for Public Lot No. 2, a small surface public parking lot, and the Parking Lot District's Maintenance Building. The land adjacent to the Property is the former location of the Maryland-National Capital Park and Planning Commission ("M-NCPPC") Headquarters building and its associated parking area.

Office of the Director

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101 Monroe Street, 10<sup>th</sup> Floor, Rockville, MD 20850 • 240-777-7170 • 240-777-7178 Fax  
[www.montgomerycountymd.gov/mcdot](http://www.montgomerycountymd.gov/mcdot)

[montgomerycountymd.gov/311](http://montgomerycountymd.gov/311)



301-251-4850 TTY

For many years, the surface parking spaces for M-NCPPC and the surface spaces in Public Lot No. 2, appeared and functioned as if they were all part of a single, larger public parking facility. However, the surface spaces were under separate ownerships, *i.e.*, some under the ownership of M-NCPPC and some under the ownership of the Parking Lot District ("PLD").

Under the previous Central Business District ("CBD") zones, the Property was split-zoned. Garage 2 was zoned CBD-2, while the Parking Lot 2 and PLD Building portions were zoned CBD-1 (like the M-NCPPC parking). When and why the original split-zoning occurred, and whether it was intentional or merely an error, is not clear from currently available records.

The split-zoning continued with the direct translation of zones pursuant to the District Map Amendment G-956 (the "DMA") to implement the 2014 Zoning Ordinance Rewrite. The Garage 2 portion (CBD-2) became CR-5.0, C-4.0, R-4.75, H-145T, while Parking Lot 2 and the PLD Building became CR-3.0, C-2.0, R-2.75, H-90T, as they remain today. (Copy of Zoning Sheet Comparing Zoning Changes in County attached as Attachment "3".)

There appears to be no substantive reason for the split-zoning. The entire Property (Parcel "C" on Plat 21574) should be recommended for, and rezoned consistent with Garage 2 – CR-5.0, C-5.0, R-5.0, H-200. In short, I recommend that the zoning line should match the property and ownership line.

The properties in question are shown on Map 12 on page 65 of the Draft Plan. Garage 2 is identified as Parcel 65B, and the combined former M-NCPPC Headquarters, M-NCPPC surface lot, Public Lot 2, and the PLD Building are collectively identified as Parcel 65A. (Copy of Map 12 attached as Attachment "4".) The recommended proposed zones for each are shown in Table 6 on page 66. (Copy of Table 6 attached as Attachment "5".) The boundary between the Parcels 65A and 65B is the dark black line with an inexplicable zigzag. Instead, the zoning boundary should move to the property line that divides the two ownerships, aligning with the western boundary of Parcel "C," as shown on Plat 21574, so that the zoning classification is uniform for the entirety of each ownership.

Based on the information above, I do not believe that there is any reason to retain the current split-zoning. Instead, the appropriate zone for the entire Property in the Draft Plan should be CR-5.0, C-5.0, R-5.0, H-200, like the balance of Parcel "C." I respectfully request the PHED Committee eliminate the split-zoning on the Property by recommending the rezoning of the entire Property in the Draft Plan to CR-5.0, C-5.0, R-5.0, H-200, and implement the recommendations in the Sectional Map Amendment.

## II. Appropriate Height For the Property

Garage 2 is approximately 45 years old, is five (5) stories high, with an actual height that ranges from approximately 52 to 57 feet. There currently are a total of over 1,300 parking spaces in the Garage, including long-term spaces, short-term spaces, bicycle spaces, and motorcycle spaces. I do not think that the height component of the existing zoning, recommended at 175 feet

in the Draft Plan, will be adequate to provide sufficient flexibility to encourage future redevelopment.

I believe that the height component of the zoning should be changed from 175 feet to 200 feet, resulting in a zone of CR-5.0, C-5.0, R-5.0, H-200, to provide the most flexibility for future redevelopment. A mapped height of 200 feet would provide certainty about the potential height, and flexibility in design, thereby making the Property more attractive to potential developers, investors, and/or owners in any future public/private partnership offerings for redevelopment of the Property. As you know, public/private partnerships have been successful in retaining replacement parking and, at the same time, providing exciting new development opportunities.

In addition, the Property should be placed in the area covered by the Building Height Incentive Zone ("BHIZ"). This will provide an additional element of flexibility for potential redevelopment, and the opportunity for a unique building statement in this quadrant of Silver Spring, as an attraction for additional redevelopment. The potential for added height can help accommodate open space and other elements on the ground plane, such as possible public facilities, while retaining the ability to achieve meaningful density. There are already numerous high-rise buildings in the area, such as the adjacent Cameron Apartments and the hotel fronting Georgia Avenue, that will help provide variation and interest in the skyline. The redevelopment of Garage 2 will thereby be able to respond to ever-changing market needs.

The additional flexibility provided by the change to the height component and inclusion in the BHIZ, would serve to somewhat level the playing field and provide an opportunity for a signature project in this area of Silver Spring.

Thank you for your consideration of this request.

Yours truly,

  
for Christopher Conklin  
Director

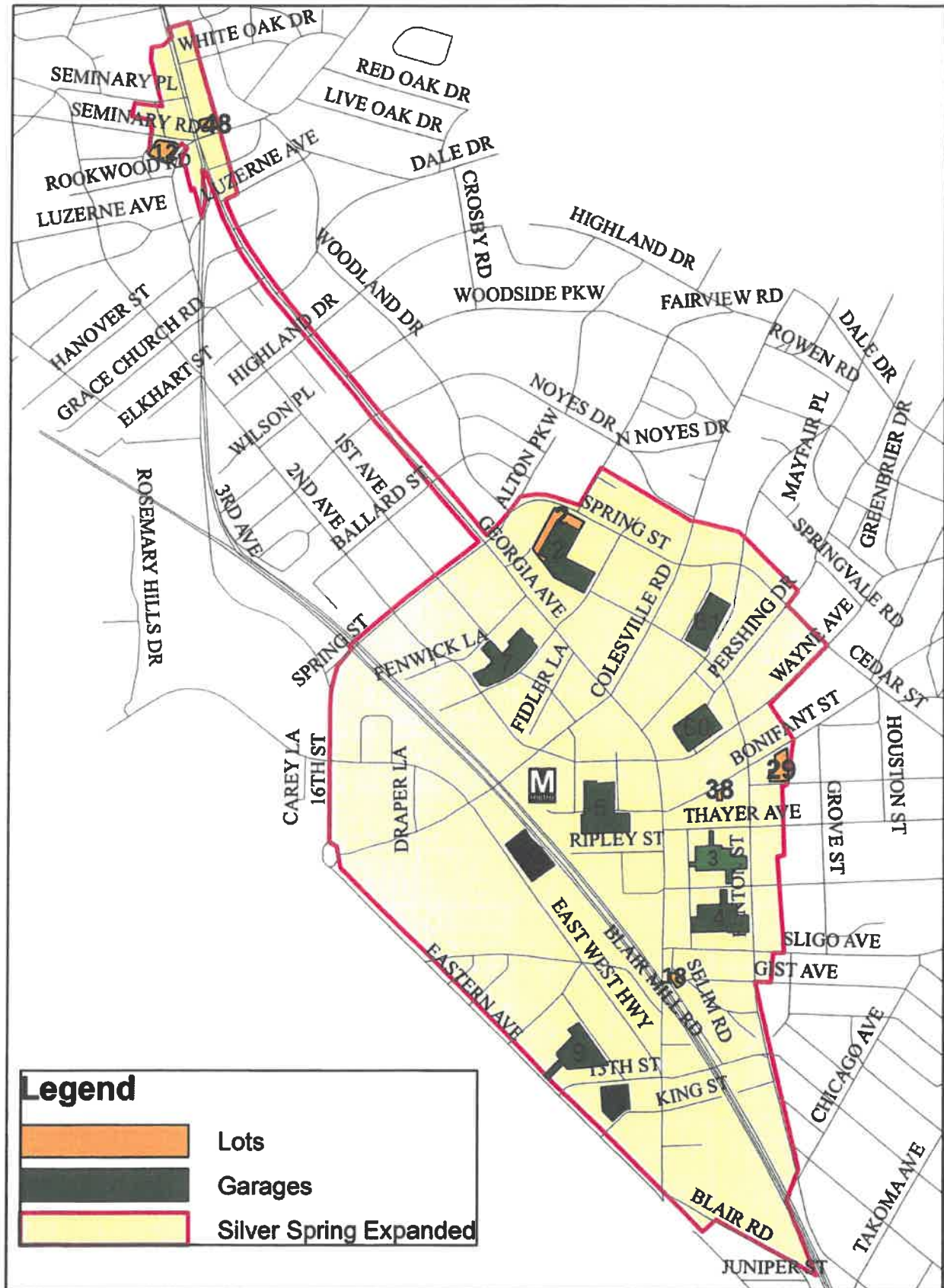
#### Attachments

cc: The Honorable Gabe Albornoz  
The Honorable Andrew Friedson  
The Honorable Will Jawando  
Mr. Casey Anderson  
Ms. Pamela Dunn  
Ms. Gwen Wright  
Ms. Atara Margolis  
Mr. Emil Wolanin





# Silver Spring Parking Lot District



Montgomery County, Maryland  
Parking Management Division

0 375 750 1,500 2,250 3,000 Feet



4/12/22, 10:57 AM

Zoning on October 29, 2014



Comparing Zoning Change in the County

Zoning on October 30, 2014



Navigate to a location by typing an address, town or subdivision name into the search box at the top. Then hit ENTER.  
Ex. 8787 Georgia Ave  
Ex. Woodside

Zoom in or out with a mouse-wheel or the + / - buttons at the top right.  
To see the full zoning formula you MUST zoom all the way in.

Click a zone to display development standards for both the existing and proposed zone at that location.

This map shows the zoning on October 30, 2014 which resulted from the District Map Amendment G-956 (adopted modified by Sectional Map Amendment G-965 and Corrective Map Amendments G-967 through G-973.

Attachment "3"



**Map 12. Proposed Downtown North Zoning**

Note: Overlay Zones are not shown on district zoning maps for clarity; see Map 16 Proposed Zoning.

Table 6. Proposed Downtown North Zoning

Map Number	Existing Zoning	Proposed Zoning	Justification
56	CR-3.0 C-2.0 R-2.75 H-90 T	CR-3.0 C-3.0 R-3.0 H-110	Increase flexibility for future mixed-use development.
57A	CR-3.0 C-1.25 R-3.0 H-145 T	CR-3.0 C-3.0 R-3.0 H-175	Increase flexibility for future mixed-use development.
57B	CR-3.0 C-2.0 R-2.75 H-90 T	CR-3.0 C-3.0 R-3.0 H-110	Increase flexibility for future mixed-use development.
58A	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
58B	CR-5.0 C-4.0 R-4.75 H-145 T	CR-6.75 C-6.75 R-6.75 H-175	Adjust zoning to bring parcel into conformance.
59	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
60	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
61	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
62	CR-5.0 C-1.0 R-5.0 H-200 T	CR-5.0 C-5.0 R-5.0 H-240	Increase flexibility for future mixed-use development.
63A	CR-5.0 C-1.0 R-5.0 H-200 T	CR-5.0 C-5.0 R-5.0 H-240	Increase flexibility for future mixed-use development.
63B	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
64	CR-8.0 C-6.0 R-7.5 H-200 T	CR-8.0 C-8.0 R-8.0 H-240	Increase flexibility for future mixed-use development.
65A	CR-3.0 C-2.0 R-2.75 H-90 T	CR-3.0 C-3.0 R-3.0 H-110	Increase flexibility for future mixed-use development.
65B	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
65C	CR-5.0 C-4.0 R-4.75 H-145 T	CR-6.0 C-6.0 R-6.0 H-175	Adjust zoning to bring parcel into conformance.
65D	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
65E	CR-3.0 C-2.0 R-2.75 H-90 T	CR-3.0 C-3.0 R-3.0 H-110	Increase flexibility for future mixed-use development.
66	EOF-3.0 H-100	CR-3.0 C-3.0 R-3.0 H-100	Update to CR zone from pre-2014 EOF zone.
67	CR-3.0 C-0.75 R-3.0 H-145 T	CR-3.0 C-3.0 R-3.0 H-175	Increase flexibility for future mixed-use development.
68A	CR-5.0 C-4.0 R-4.75 H-145 T	CR-5.0 C-5.0 R-5.0 H-175	Increase flexibility for future mixed-use development.
68B	CR-5.0 C-4.0 R-4.75 H-145 T	CR-6.0 C-6.0 R-6.0 H-175	Adjust zoning to bring parcel into conformance.
68C	CR-8.0 C-6.0 R-7.5 H-200 T	CR-8.0 C-8.0 R-8.0 H-240	Increase flexibility for future mixed-use development.