



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #11
01/11/07

DATE: December 21, 2006
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review
Ralph Wilson, Acting Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To confirm that signs not authorized by the Zoning Ordinance are prohibited; to confirm the applicability of the "off-site" sign prohibition; to delete regulations related to holiday signs; to establish standards for signs in an Urban Renewal Area in an Arts and Entertainment District

TEXT AMENDMENT: No. 06-25
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmembers Floreen and Ervin
INTRODUCED DATE: December 12, 2006

PLANNING BOARD REVIEW: January 11, 2006
PUBLIC HEARING: January 16, 2007; 1:30pm

STAFF RECOMMENDATION: APPROVAL

PURPOSE OF THE TEXT AMENDMENT

To confirm that signs not authorized by the Zoning Ordinance are prohibited; to confirm the applicability of the "off-site" sign prohibition; to delete regulations related to holiday signs; to establish standards for signs in an Urban Renewal Area in an Arts and Entertainment District

BACKGROUND/ANALYSIS

The text amendment would amend the sign provisions of the Zoning Ordinance to clarify that any sign not authorized is prohibited and that off-site signs are prohibited. The ZTA also adds definitions to Section 59-F of the Ordinance as follows:

DIVISION 59-F-2. DEFINITIONS.

* * *

Inflatable device: *A sign that is cold air inflated made of flexible fabric, resting on the ground or attached to a structure and equipped with a portable blower motor that provides a constant flow of air into the device. Inflatable devices may be restrained, attached, or held in place by a cord, rope, cable or similar method. An inflatable device is not an object that contains helium, hot air or lighter-than-air substance.*

* * *

Off-site sign: *A sign that identifies or refers to a location, person, entity, product, business, message, or activity that is not connected with a use that is lawfully occurring on the Property where the sign is located.*

* * *

Property: *A parcel of land, including a building, under common control, operation, or ownership, or land subject to a project plan, site plan, or combined urban renewal project plan.*

The more significant inclusion above pertains to a new definition for an inflatable device. This device is basically a stationary balloon, either attached to a building or located on the ground and specifically does not include hot air, helium or lighter than air substances. As discussed in a new Section 59-F-13 below (Regulations for Signs in Urban Renewal areas that are within an Arts and Entertainment District), this device is proposed for temporary use of 30 days or less in an urban renewal area within an Arts and Entertainment District.

Under the “exempt signs” category, holiday signs are proposed to be removed from the list of exempt signs since recent Court decisions prohibit sign provisions that are based on the content of the sign (must be “content neutral”). In any case, these types of signs are inclusive in the exemptions for adornment and decorative signs.

New Section 59-F-13

The proposed legislation includes a new section for sign regulations as follows:

**DIVISION 59-F-13. REGULATIONS FOR SIGNS IN URBAN RENEWAL AREAS
THAT ARE WITHIN AN ARTS AND ENTERTAINMENT DISTRICT**

59-F-13.1. Regulations.

A sign or inflatable device that:

- (a) is located in an urban renewal area that is within an arts and entertainment district;
- (b) promotes an entertainment event conducted by an entity located within the urban renewal area of an arts and entertainment district;
- (c) is erected for no longer than thirty (30) days; and
- (d) includes more than 1,500 square feet of surface area.

is exempt from the following:

- 1) the prohibition on animal forms in Section 59-F-4.1(f)(2);
- 2) the size, height, and area limitations in Article 59-F;
- 3) the prohibition on roof signs in Section 59-F-7.1(b); and
- 4) the prohibition on signs in the public right of way in Section 59-F-7.1(f) if constructed 20 feet or more above the public right of way.

The proposed regulations provide exemptions from size, height and area limitations and from the prohibition of encroachment into the public right-of-way (if the structure is at least 20 feet above the public right-of-way) for a large (more than 1,500 square feet) temporary sign or inflatable device (as defined in Section 59-F-2) located in an urban renewal area that is within an Arts and Entertainment District.

Applicability

Currently, the Central Business District (CBD) in Silver Spring contains the only urban renewal area within an Arts and Entertainment District in Montgomery County. The Arts and Entertainment District in Silver Spring is co-terminus with the CBD boundary. The Urban Renewal Area is a portion of the Core of the CBD (See Attachment 2).

Policy Basis

The proposed exemptions to permit large inflatable devices for 30 days or less are intended to provide flexibility in promoting arts and entertainment within areas of the County that are also designated for urban renewal. As such, providing methods for stimulating and/or maintaining the economic viability of these locations is a major goal of both the Arts and Entertainment Districts legislation and the Urban Renewal Program. The limited nature of the subject text amendment would have minimal impact on the surrounding vicinity in the central business district of Silver Spring. Staff recommends approval of the subject text amendment.

RECOMMENDATION

The staff supports the proposed text amendment to confirm that signs not authorized by the Zoning Ordinance are prohibited; to confirm the applicability of the “off-site” sign prohibition;

to delete regulations related to holiday signs; to establish standards for signs in an Urban Renewal Area in an Arts and Entertainment District. The proposed text amendment language is included as Attachment 1.

GR

Attachments

1. Proposed Text Amendment 06-25
2. Map of the Urban Renewal Area and Arts and Entertainment Boundary in the Silver Spring CBD

ATTACHMENT 1

Zoning Text Amendment No: 06-25
Concerning: Signs-Generally and Arts
Districts
Draft No. & Date: 1 – 12/12/06
Introduced: December 12, 2006
Public Hearing: 1/16/07; 1:30 p.m.
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Floreen and Ervin

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- confirming that signs not authorized by the Zoning Ordinance are prohibited;
- confirming that the prohibition on “Off-site” signs applies to signs that refer to a location, person, entity, product, business, message, or activity that is not connected with the property where the sign is located;
- deleting regulations related to holiday signs;
- establishing standards for signs in an Urban Renewal Area located in an Arts and Entertainment District; and
- generally amending sign requirements.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

ARTICLE 59-F	“SIGNS”
Section 59-F-1.3	“General”
DIVISION 59-F-2	“DEFINITIONS”
DIVISION 59-F-7	“PROHIBITED SIGNS”
Section 59-F-7.1	“Unlawful to erect or retain”
DIVISION 59-F-8	“EXEMPT SIGNS”
Section 59-F-8.1	“Exempt”

Add the following new Division:

DIVISION 59-F-13 “REGULATIONS FOR SIGNS IN URBAN RENEWAL AREAS
THAT ARE WITHIN AN ARTS AND ENTERTAINMENT DISTRICT”
Section 59-F-13.1 “Regulations”

*EXPLANATION: **Boldface** indicates a heading or a defined term.*

Underlining indicates text that is added to existing laws by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec 1. ARTICLE 59-F is amended as follows:

ARTICLE 59-F. SIGNS.

* * *

Sec. 59-F-1.3. General.

* * *

(d) Any sign not authorized by the Zoning Ordinance is prohibited.

Sec. 2. DIVISION 59-F-2 is amended as follows:

DIVISION 59-F-2. DEFINITIONS.

* * *

Inflatable device: A sign that is cold air inflated made of flexible fabric, resting on the ground or attached to a structure and equipped with a portable blower motor that provides a constant flow of air into the device. Inflatable devices may be restrained, attached, or held in place by a cord, rope, cable or similar method. An inflatable device is not an object that contains helium, hot air or lighter-than-air substance.

* * *

Off-site sign: A sign that identifies or refers to a location, person, entity, product, business, message, or activity that is not connected with a use that is lawfully occurring on the Property where the sign is located.

* * *

Property: A parcel of land, including a building, under common control, operation, or ownership, or land subject to a project plan, site plan, or combined urban renewal project plan.

* * *

Sec. 3. DIVISION 59-F-7 is amended as follows:

DIVISION 59-F-7. PROHIBITED SIGNS.

Sec. 59-F-7.1. Unlawful to erect or retain.

28 * * *

29 (i) **Off-site sign.** [Except if approved pursuant to Section 59-F-10.2(b)(1)(H) as
 30 part of a sign concept plan for an optional method development project
 31 within an approved urban renewal area and, except for signs permitted by
 32 this ordinance, a sign must not be used to identify a site other than the site
 33 where the sign is erected. Signs or structures that were lawful on July 28,
 34 1986 or were lawfully constructed, structurally altered, or relocated after
 35 July 28, 1986 may be continued for a period of 5 years from July 13, 1992.
 36 At the end of this amortization period, the signs or structures must be
 37 removed within 90 days at the owner's expense.] Off-site signs are
 38 prohibited.

39 * * *

40 **Sec. 4. DIVISION 59-F-8 is amended as follows:**

41 **DIVISION 59-F-8. EXEMPT SIGNS**

42 **Sec. 59-F-8.1. Exempt.**

43 * * *

44 (c) **Regardless of Size.** * * *

45 [(7) **Holidays.** A sign, including lighting in accordance with the electrical
 46 requirements of Chapter 17 of this Code, displayed in connection with the
 47 observance of any holiday, provided that it must be removed within 10 days
 48 following the end of the holiday.]

49 [(8)] (7) **Adornments and Decorations.** Any adornments or seasonal
 50 decorations.

51 * * *

52

Sec. 5. DIVISION 59-F-13 is added as follows:

**DIVISION 59-F-13. REGULATIONS FOR SIGNS IN URBAN RENEWAL
AREAS THAT ARE WITHIN AN ARTS AND ENTERTAINMENT
DISTRICT**

59-F-13.1. Regulations.

A sign or inflatable device that:

- (a) is located in an urban renewal area that is within an arts and entertainment district;
- (b) promotes an entertainment event conducted by an entity located within the urban renewal area of an arts and entertainment district;
- (c) is erected for no longer than thirty (30) days; and
- (d) includes more than 1,500 square feet of surface area,

is exempt from the following:

- 1) the prohibition on animal forms in Section 59-F-4.1(f)(2);
- 2) the size, height, and area limitations in Article 59-F;
- 3) the prohibition on roof signs in Section 59-F-7.1(b); and
- 4) the prohibition on signs in the public right of way in Section 59-F-7.1(f) if constructed 20 feet or more above the public right of way.

Sec. 6. Amortization

Signs or structures that were lawful on July 28, 1986 or were lawfully constructed, structurally altered, or relocated after July 28, 1986 may be continued for a period of 5 years from July 13, 1992. At the end of this amortization period, the signs or structures must be removed within 90 days at the owner's expense.

75 **Sec. 7. Effective date.** This ordinance becomes effective 20 days after the
76 date of Council adoption.

77

78 This is a correct copy of Council action.

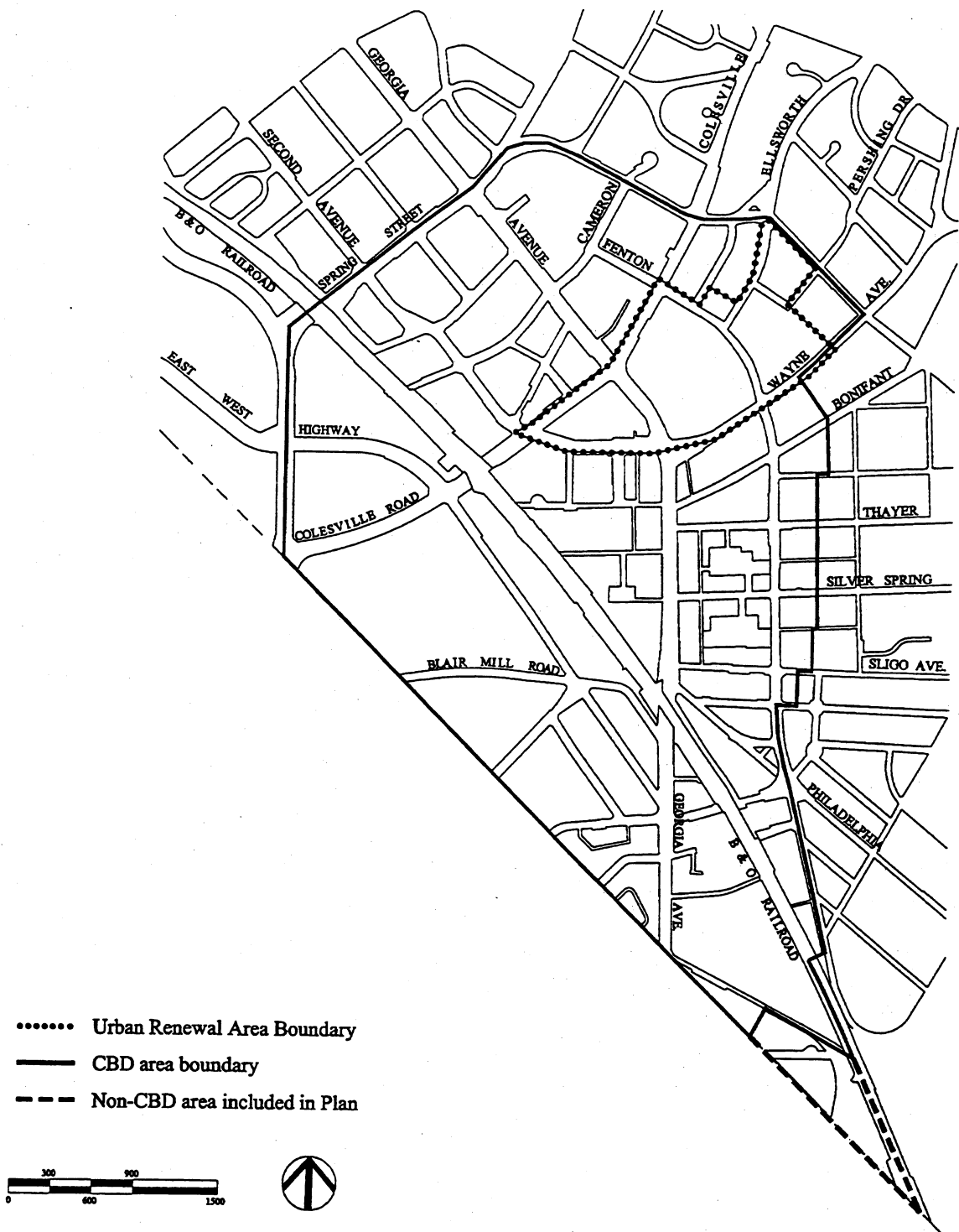
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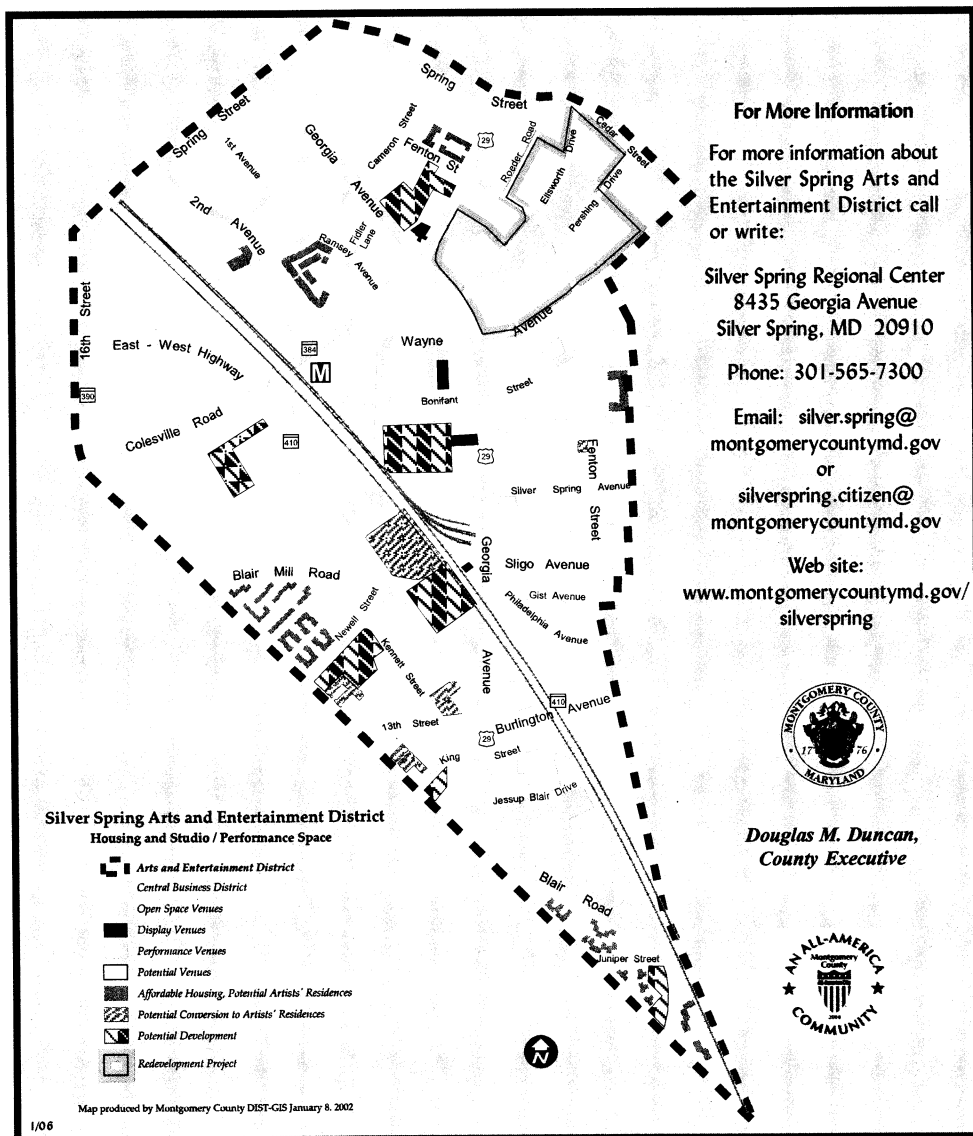
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81 _____

82 Linda M. Lauer, Clerk of the Council

Map 9 Urban Renewal Area





For More Information

For more information about the Silver Spring Arts and Entertainment District call or write:

Silver Spring Regional Center
8435 Georgia Avenue
Silver Spring, MD 20910

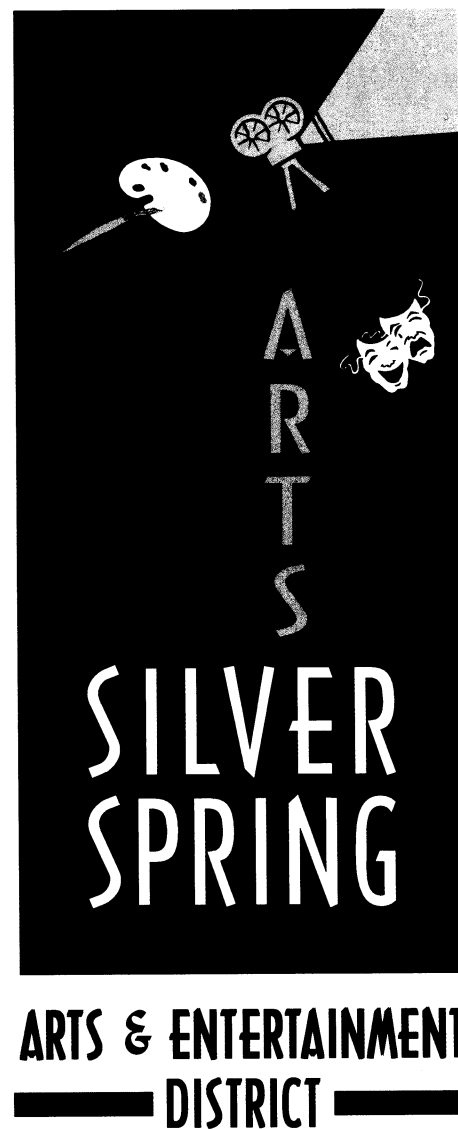
Phone: 301-565-7300

Email: silver.spring@montgomerycountymd.gov
or
silverspring.citizen@montgomerycountymd.gov

Web site:
www.montgomerycountymd.gov/silverspring



Douglas M. Duncan,
County Executive



neighborhood, compatibility issues have been raised. Compatibility issues can be mitigated through better code enforcement, design, etc., techniques this Plan strongly supports. The industrial area, which abuts the railroad tracks, is not considered a good location for housing.

Recommendations

The Plan's land use and zoning recommendations focus the densest development in the Core and around the Transit Center, and provide a diversity of retails, residential, office, hotel, civic, and park uses. Zoning and other plan recommendations are intended to provide additional development incentives and ensure that development projects in the Core contribute to the Plan's vision for downtown Silver Spring.

CORE

The Core will be rejuvenated as Silver Spring's varied and active town center, with housing, office, and retail development in a pedestrian-friendly environment, enhanced with parks and open spaces.

VISION

Prompted by redevelopment proposed by the Downtown Silver Spring Project, the Core will be reborn as the commercial, civic, and entertainment center of Silver Spring and its surrounding neighborhoods. Development on the Urban Renewal site will be in a pedestrian-friendly, town center pattern with stores and streetscape that encourage people to walk. A mix of public and private uses, special events, and daily shopping, will serve the community and its visitors. This repositioning of the Core with new uses in a well-integrated, pedestrian-friendly environment will be the catalyst for redevelopment throughout the CBD as existing businesses upgrade and new businesses are drawn to the CBD. Combined with public investment, Silver Spring will become a downtown for the future (Maps 8, 9, 10, 11, and 12).

Objective:

- Recreate the Core as the active center of downtown Silver Spring, ensuring that development contributes to the Plan's vision for downtown Silver Spring.

Analysis of Existing Conditions

The CBD's Core is centered on the intersection of Georgia Avenue and Colesville Road and includes the traditional retail center of Silver Spring. The Core is the focus of transportation, commercial, and retail activity. It has the most varied and intensive uses, as well as a concentration of historic buildings. The Core also has an important residential component: high-rise apartments that offer convenience and housing choices.

Particular features include the 14-acre Urban Renewal Area being developed as a mixed use retail, entertainment, hotel, and office development; the existing MARC, Metrorail, and bus stations; the site of the proposed Discovery Communications corporate offices; the townhouses underway at Cameron Hill; the historic Silver Spring Shopping Center; and the Silver Theatre, being redeveloped by the American Film Institute.

Rather than seeking one large project to remake and define the CBD, a number of projects will reshape downtown. The proposed Discovery Communications corporate headquarters, combined with the Downtown Silver Spring project will refocus downtown around mixed restaurant and retail development that includes a pedestrian-oriented main street and includes indoor and outdoor civic spaces. Some features of the development, such as the American Film Institute (AFI) at the Silver Theatre, will appeal to the regional market, but are also scaled to the community and use Silver Spring's unique resources.

While there is general consensus that the development proposed on the Urban Renewal site is the correct scale, density, and mix of uses, this plan must ensure that the project encourages spin-off development by making connections to surrounding downtown neighborhoods and to transit.

This Plan also ensures that development surrounding the Urban Renewal site contributes to the complete downtown environment. This Plan must address the public realm: the CBD's roads, parks, and other community and transportation infrastructure should be enriched and designed to create a strong foundation for continued downtown economic success.

RECOMMENDATIONS

The Plan's land use and zoning recommendations focus the densest development in the Core and around the Transit Center, and provide a diversity of uses—retail, residential, office, hotel, civic, and park uses. Zoning and other plan recommendations are intended to provide additional development incentives and ensure that development projects in the Core contribute to the Plan's vision for downtown Silver Spring.

This Plan reconfirms the zoning applied to all parcels in the Core and sites outside the revitalization areas with the following exceptions.

- Rezone the parcels on the northwest corner of Colesville Road and Georgia Avenue from C-2 to CBD-2.

These parcels were rezoned from CBD-3 to C-2 in 1993 to reflect the existing commercial service uses (gas station) and to limit redevelopment. A change in zone would provide this site with additional development flexibility and permit development that is more consistent with the vision for the Core and the development on adjoining parcels.

- Rezone the block bounded by Fenton Street, Colesville Road, Cedar Street, and Roeder Road from CBD-1 to CBD-2.

Rezoning to CBD-2 will reflect existing development that now exceeds the standards of the CBD-1 zone. Additionally, zoning that reflects existing structures encourages property owners to re-invest in their properties, and alleviates difficulties with lenders and insurers who may view properties that do not conform to existing zoning as a risk regardless of "grandfathering" clauses that make such properties conforming.

Map 8 Core Revitalization Area

