



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

**Item #**  
**MCPB 1-24-08**

**MEMORANDUM**

**DATE:** January 10, 2008  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief *RK*  
 Robert A. Kronenberg, Supervisor *RAK*  
 Development Review Division  
**FROM:** Sandra Pereira *SP*  
 Development Review Division  
 (301) 495-2186



**REVIEW TYPE:** **Site Plan Amendment**  
**CASE #:** **82006013A**  
**PROJECT NAME:** The Galaxy  
**APPLYING FOR:** Approval of 241 multi-family dwelling units, including 31 MPDUs, and 3,663 square feet of retail space on 2.62 acres  
**REVIEW BASIS:** Div. 59-D-3 of Montgomery County Zoning Ordinance  
**ZONE:** CBD-1, Ripley/South Silver Spring Overlay Zone  
**LOCATION:** Located on the southeast quadrant of the intersection of 13<sup>th</sup> Street and Eastern Avenue in south Silver Spring  
**MASTER PLAN:** Silver Spring CBD Master Plan  
**APPLICANT:** RST Development  
**FILING DATE:** September 27, 2007  
**HEARING DATE:** January 24, 2008

**STAFF RECOMMENDATION:** Approval of the proposed amendment to Site Plan 820060130 to provide 241 dwelling units, including 31 MPDUs, and 3,663 square feet of retail space on 2.62 acres. All site development elements as shown on The Galaxy plans received and stamped by the M-NCPPC on November 29, 2007, shall be required except as modified by the following conditions:

1. Project Plan Conformance

The proposed development shall comply with the conditions of approval for Project Plan Amendment No. 92005005A, which will be presented to the Planning Board concurrently with the Preliminary Plan Amendment No. 12005089A and the subject application.

2. Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for the Preliminary Plan Amendment No. 12005089A, which will be presented to the Planning Board concurrently with the Project Plan Amendment No. 92005005A and the subject application.

3. Public Use Space

- a. The proposed public use space must be easily and readily accessible to the general public and used for public enjoyment. All streetscape improvements shall be in accordance with the *Silver Spring Streetscape Plan* (April 1992) Technical Manual, or as amended.
- b. The Applicant shall provide 27.03 percent (23,468 sf.) of on-site public use space and 15.15 percent (13,157 sf.) of off-site public use space. Additional off-site improvements (4.76 percent, 4,134 sf.) are being provided along the property frontage within the Eastern Avenue right-of-way, if acceptable to the District of Columbia Public Works Department.

4. Streetscape Improvements

The Applicant shall provide full-width streetscape improvements along the King Street and 13<sup>th</sup> Street frontage using the *Silver Spring Streetscape Plan* (April 1992) Technical Manual, or as amended. The following elements are proposed: stone, poured-in-place concrete, brick pavers, street trees, lighting, and any other details that are necessary, including the undergrounding of utilities along the frontage of the property. Off-site improvements shall include the 13<sup>th</sup> Street right-of-way in front of the Gramax Building.

5. Eastern Avenue Streetscape

The Applicant shall coordinate with the District of Columbia Public Works Department to provide the Silver Spring (Type B) streetscape along the frontage of Eastern Avenue in accordance with the 1992 *Silver Spring Streetscape Plan* Technical Manual, or as amended.

6. Public Art

A public art program shall include opportunities within the public plaza area to reinforce the architecture of the building, provide for pedestrian interaction and involve local artists to display artwork. The Applicant has identified three areas or elements that could be incorporated into the public art component: a public plaza between Buildings 1 and 2, a mosaic wall along the 13<sup>th</sup> Street façade of Building 1, and the new mid-block alley connecting 13<sup>th</sup> Street to King Street on the east side of Building 1. The Applicant shall enlist the services of local artists to provide public art in the public use space on the site.

7. Lighting

- a. Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for mix-use development.

- b. All onsite light fixtures shall be full cut-off fixtures or equipped with shields, refractors or reflectors to negate glare, except for the light display and any up-lighting.
  - c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.
  - d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads.
  - e. The light display shall range in height from 10 feet to 15 feet from the plaza ground level. The metallic light poles shall vary in spacing within the planter.
  - f. Specify a Metal Halide lamp with a minimum of 100 watts for the Washington Globe Street light.
8. Recreation Facilities  
The Applicant shall provide twelve (10) picnic/sitting areas, a tot lot, a pedestrian system, an indoor community space and two indoor fitness facilities.
9. Moderately Priced Dwelling Units (MPDUs)  
a. The Applicant shall provide 31 Moderately Priced Dwelling Units (12.5% of the total number of units) within the building, consistent with Chapter 25A.  
b. The MPDU agreement with DHCA shall be executed prior to the release of the first building permit.
10. Transportation  
The Applicant shall comply with the following conditions of approval from M-NCPPC-Transportation Planning as follows:  
a. Prior to the certified site plan, the Applicant must update the existing Transportation Management Agreement (TMAg) for the project, dated August 1, 2006, to reflect changes in land use and any other pertinent information such as names and contact data. However, the substantive portions of the agreement, which involved considerable negotiations between the applicant, Planning Board staff and Montgomery County Department of Public Works and Transportation (MCDPWT), remain in effect and will not be modified with the minor edits as part of this plan amendment.  
b. The Applicant must provide three super bus shelters and two real-time transit information signs as specified in the TMAg, dated August 1, 2006.  
c. Provide a Class III bikeway (on-road, signed, shared roadway) along the frontage of the property on 13<sup>th</sup> Street.  
d. Provide 20 bike parking spaces, of which 16 shall be bike lockers (each holding one bike) and 2 inverted-U bike racks, one in the front of each retail entrance.  
e. Maintain the pedestrian access route elevation across the driveway.
11. Stormwater Management  
The proposed development is subject to Stormwater Management Concept approval conditions dated May 9, 2007 [Appendix C].
12. Maintenance Responsibility  
Initially, the Applicant, and subsequently, within ninety days of formation, the Condominium Association shall become a member and enter into an agreement with the

Silver Spring Urban District for the purpose of maintaining the on-site public open spaces, including the public art, seating areas, landscaping and lighting and participating in community events.

13. Development Program

Applicant shall construct the proposed development in accordance with the Development Program. The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of certified site plan. The Development Program shall include a phasing schedule as follows:

- a. All site features associated with each building as defined by the site plan drawings dated November 29, 2007 shall be installed no later than six (6) months after the occupancy of the first unit for each building. Applicant shall provide the use and occupancy permits to M-NCPPC staff in order to inspect the site for streetscape within the respective street rights-of-way, including the street trees, street lights and pavers, as well as construction of the public plaza and art, on-site landscaping, lighting, recreation and paver materials.
- b. Offsite street tree planting and landscaping for each building shall progress as construction of each unit is completed, but no later than six (6) months after completion of each building.
- c. The recreation facilities located within each building shall be installed prior to occupancy of the first unit in each building. The seating areas located around the perimeter of Building 1 shall be installed upon completion of Building 1.
- d. The public plaza, including the light display, specialty paving, terraced lawn area and seating, shall be completed and installed upon completion of the Buildings.
- e. The new mid-block alley connecting 13<sup>th</sup> Street to King Street shall be installed upon completion of Building 1.
- f. The commissioned public art components shall be completed and installed upon completion of Building 1.
- g. Landscaping associated with each building shall be completed as construction of each facility is completed.
- h. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- i. Phasing of dedications, stormwater management, sediment/erosion control, public use space, streetscape, recreation, community paths, trip mitigation or other features.

14. Clearing and Grading

Clearing or grading is permitted prior to M-NCPPC approval of the certified site plan.

15. Certified Site Plan

Prior to the certified site plan the following revisions shall be included and/or information provided, subject to staff review and approval:

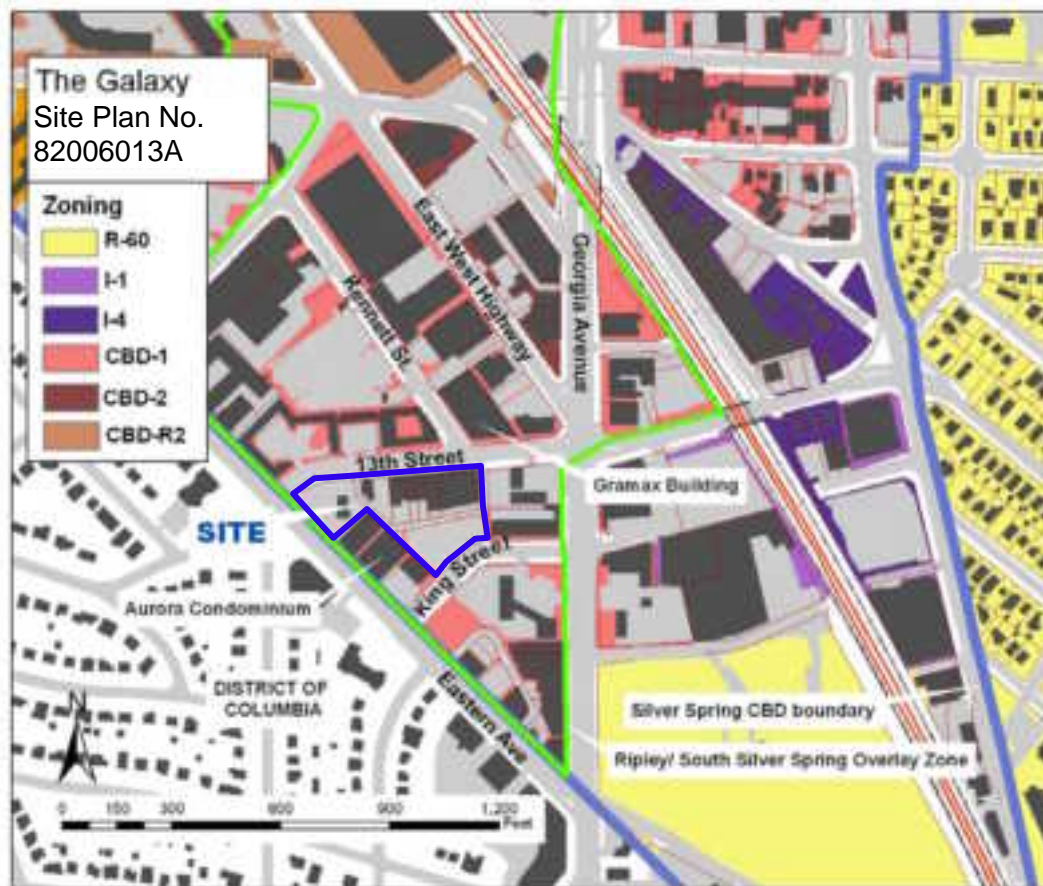
- a. Development program, inspection schedule, and Site Plan Resolution.
- b. Limits of disturbance.
- c. All of the items specified in the site design, landscape, lighting and recreation conditions of approval.
- d. The MPDU unit mix and distribution shall be approved by DHCA.

- e. Identify on all details the brick Belden 470-479 “Silver Spring” according to the 1992 *Silver Spring Streetscape Plan* Technical Manual, or as amended.
- f. Delineate on the planting plan the location and extent of the required amended soil panels (per the 1992 *Silver Spring Streetscape Plan*, or as amended) for all proposed street trees.
- g. Show Diode lighting on lighting plan (sheet L5.01) and on the lighting details (sheet L5.02).
- h. Replace *Zelkova* with *Ulmus parviflora* (Lacebark Elm).
- i. Replace *Picea glauca* (White Spruce) with an evergreen species that is more adapted to Zone 7.

**PROJECT DESCRIPTION:** Surrounding Vicinity

The subject site is located in the northeast quadrant of the intersection of 13th Street and Eastern Avenue in south Silver Spring. This site is at the southwest edge of the Silver Spring CBD, where it borders the District of Columbia, and it is less than one mile from the Silver Spring Metro stop. The area is characterized by mixed building types and diverse commercial uses. This property is subject to the standards of the CBD-1 and Ripley/South Silver Spring Overlay Zone. The Overlay Zone encourages redevelopment by providing more flexibility in the development standards and the range of permitted uses.

In the immediate vicinity of the subject site, there are a variety of uses. A Travelodge hotel and a Days Inn hotel are directly across 13th Street, and a Ramada Inn hotel is directly east of the site on King Street. The renovated 129-foot Gramax Tower apartment building is located across 13th Street at the intersection with Kennett Street. The Aurora Building (Site Plan No. 820040280), a 90-110 foot condominium building, abuts the southeastern boundary of the property and fronts onto Eastern Avenue. The Kennett Street public parking garage is located approximately 100 feet north of the subject site along Kennett Street. A mix of commercial and retail uses, including a car wash, bank and auto-related service buildings, are situated between Georgia Avenue and the subject property. The properties across Eastern Avenue, located within the District of Columbia, are comprised of three churches and one-family detached dwellings within the Shepherd Park Community.



**PROJECT DESCRIPTION:** Site Description

The subject 2.62-acre site, bounded by 13th Street to the north, Eastern Avenue to the west and King Street to the south, was originally comprised of 8 lots and parcels, and a public alley. The Preliminary Plan No. 120050890, approved on July 28, 2005, consolidated the 8 lots and parcels into one lot (the subject site), and subsequently DPWT Docket No. 667 approved the abandonment of the public alley.

The northern portion of the site, along 13th Street, is currently vacant without any vegetation, whereas the southern portion, along King Street, has a surface parking facility (King Street Parking Lot) operated by Montgomery County with 57 parking spaces. On an East-West axis, elevations on the site drop between 10 and 15 feet from the highest point on King Street to the lowest elevation on Eastern Avenue. On a North-South axis, the King Street Parking Lot is approximately five feet above the northern portion of the site. Overhead utilities exist along the property frontage on 13th Street, Eastern Avenue and King Street. The right-of-way for Eastern Avenue is within the District of Columbia.



**PROJECT DESCRIPTION:** Proposal

Pursuant to the original Site Plan approval, the Applicant was entitled to develop the property with a maximum of 321 multi-family residential units (including 41 MPDUs) in three buildings up to 125 feet in height and an associated on-site parking structure containing a maximum of 200 public parking spaces and 449 private parking spaces. Due to current market conditions, the Applicant now seeks to modify these existing entitlements to allow the development of a 2.26 FAR mixed-use project that is smaller in scale and obtains a maximum height of 75 feet. The proposed project provides: a maximum of 241 multi-family residential units, including 31 MPDUs (12.5 percent) in two buildings; 3,663 square feet of street-level retail space; and a parking garage with 160 public parking spaces and 274 private parking spaces. Overall, there is a 25 percent reduction in the number of dwelling units proposed and only a 2 percent reduction in the public use space and amenity proposed with this Amendment.



**Site Plan of The Galaxy**

Similarly to the previous approval, the building program is sensitive to the site's location and vicinity. The massing of the proposed structures closer to the northeastern portion of the site complements the massing of the existing Gramax building and future development near the Georgia Avenue corridor. The scale transitions in height and mass from the northeast to the southwest near the frontage along Eastern Avenue to emphasize a shift from the urban context to the residential character associated with the Shepherd Park community in the District. Thus, Building 1 at 75 feet transitions into Building 2 located on Eastern Avenue with a height of 45 feet.





**South elevation of 13<sup>th</sup> Street depicting Building 1 and Building 2 of The Galaxy.**

Parking consists of 160 spaces included within a new public parking garage under Building 1 that is accessed from 13<sup>th</sup> Street and King Street. The public garage replaces the existing 57 surface parking spaces in the King Street Lot. In addition, a private parking garage with 274 spaces will accommodate parking for the residential and retail tenants of the Galaxy (subject site), and the residents of the Aurora (Site Plan No. 82004028A). The private parking is accessed exclusively from King Street.

The on-site public use space consists of a public plaza, and a new mid-block alley connecting 13<sup>th</sup> Street to King Street. The mid-block alley is an area designated on the Silver Spring Pathways Plan, a conceptual pedestrian pathways plan prepared by the Department of Housing and Community Affairs (DHCA), to provide mid-block connector alleys between King Street and 13<sup>th</sup> Street. This outdoor space will feature commissioned artwork by local artists.

While the minimum required public use space for this project is 17,367 square feet (20 percent of the net lot), the site plan proposes 23,468 square feet of public use space and amenities on-site which equals 27.03 percent of the net lot. This represents a decrease since the last site plan approved, which had a total of 27,000 square feet (31.1 percent of the net lot) of onsite public use space. The Applicant is also proposing an additional 13,157 square feet of off-site streetscape improvements adjacent to the site and in front of the Gramax Building. In total, the Applicant proposes 36,625 square feet of on-site public use space, amenities and off-site improvements or 42.18 percent of the net lot area, which is slightly lower than the previous total (44.3 percent). In addition to the public use space, amenities and off-site improvements, the Applicant proposes 4,134 square feet of streetscape improvements outside the Montgomery County jurisdictional boundaries along the Eastern Avenue frontage. If improvements on Eastern Avenue were credited toward this development, the overall public use space and amenity package would equal 47 percent of the net lot area.



**PROJECT DESCRIPTION:** Prior Approvals

The proposed development is zoned CBD-1 (Central Business District-1). This property consists of four parcels (Parcels N156, N157, N159 and P169), Lots 1, 3 and 4 of the Silver Spring subdivision (Plat Book 158, Page 14), and Lot 5A of Silver Spring subdivision (Plat Book 154, Page 46) recorded in November 1955 and October 1956, respectively.

**Project Plan**

The Planning Board approved the Project Plan No. 920050050 on July 28, 2005, with a dated Opinion of October 21, 2005 for 328 dwelling units including 41 MPDUs.

**Preliminary Plan**

The Planning Board approved the Preliminary Plan No. 120050890 on July 28, 2005, with a dated Opinion of October 21, 2005, for 328 dwelling units including 41 MPDUs, with private and public parking facilities. The preliminary plan consolidated the 8 properties into one lot.

**Site Plan**

The Planning Board approved the Site Plan No. 820060130 with a dated Opinion of February 22, 2006 for 321 dwelling units including 41 MPDUs.

**Alley Abandonment**

Subsequent to the Preliminary Plan No. 120050890, the DPWT Docket No. 667 approved the abandonment of the 20-foot-wide public alley that originally provided access to the businesses on 13<sup>th</sup> Street.

**Concurrent Amendments**

A Project Plan Amendment (92005005A) and a Preliminary Plan Amendment (12005089A) will be presented to the Planning Board concurrently with the Site Plan Amendment.

**ANALYSIS:** Conformance to Development Standards

**PROJECT DATATABLE (CBD-1 & Ripley/South Silver Spring Overlay Zone)**

Development Standard	Zoning Ordinance (Permitted/ Required)	Approved with Site Plan 820060130	Proposed for Approval with Site Plan Amendment 82006013A
Min. Gross Tract Area (sf./ac.):	18,000 (0.41 ac.)	114,310* (2.6242 ac.)	<b>114,310*</b> (2.6242 ac.)
Net Lot Area (sf.):	n/a	86,834	<b>86,834</b>
Permitted Density			
Max. Total Density (FAR)	3.0 (342,930 sf)	3.0	<b>2.26</b> (258,080 sf)
Max. Non-Residential (FAR)	2.0 (228,620 sf)	n/a	<b>0.03</b> (3,663 sf)
Min. Residential (FAR)	1.0 (114,310 sf)		<b>2.25</b> (254,417 sf)

Residential Density (du/ac.):	125	122	<b>92</b>
Max. total Number of Units:	328	321	<b>241</b>
MPDUs (%):	12.5	12.5 41 MPDUs	<b>12.5</b> <b>31 MPDUs</b>
<b>Public Use Space (PUS)</b>			
On-site PUS (sf)	17,367 (20%)	27,000 (31.09%)	<b>23,468 (27.03%)</b>
Off-site PUS adjacent to site (sf)	not specified	10,250 (11.8%)	<b>11,784 (13.57%)</b>
Off-site PUS not adjacent to site (sf)	not specified	1,220 (1.4%)	<b>1,373 (1.58%)</b>
Additional Off-Site Improvements (sf)		<u>3,910 (4.5%)**</u>	<b><u>4,134 (4.76%)**</u></b>
Total On and Off-Site Public Use Space And Improvements (sf):	17,367 (20%)	38,470 (44.3 %)**	<b>36,625 (42.18%)**</b>
<b>Max. Building Height (ft.)</b> <sup>1 (see footnote)</sup>			
For properties fronting on Eastern Ave	45	45	<b>45</b>
For properties fronting 13 <sup>th</sup> St	125	125***	<b>75***</b>
<b>Min. Building Setbacks (ft.)</b>			
<b>Building 1</b>			
<b>Building walls</b>			
South side	not specified		7.5
13 <sup>th</sup> Street R/W	not specified		9
West side	not specified		38
<b>Balconies/canopies</b>			
13 <sup>th</sup> Street R/W	not specified		9
<b>Building 2</b>			
<b>Building walls</b>			
South side	not specified		24
Eastern Ave R/W	not specified		3
13 <sup>th</sup> Street R/W	not specified		9
<b>Parking:</b>			
<b>Residential Uses (Mkt. Rate-Site Plan approved totals)</b>			
1 BR @ 1.25 sp./unit (137 x 1.25) 172 spaces			
2 BR @ 1.50 sp./unit (143 x 1.50) 215 spaces			
<b>Residential Uses (Mkt. Rate-Site Plan Amendment totals)</b>			
<b>1 BR @ 1.25 sp./unit (139 x 1.25) 173.8 spaces</b>			
<b>2 BR @ 1.50 sp./unit (71 x 1.50) 106.5 spaces</b>			
<b>Residential Uses (MPDUs-Site Plan approved totals)</b>			
1 BR @ 0.625 sp./unit (21 x 0.625) 14 spaces			
2 BR @ 0.75 sp./unit (20 x 0.75) 15 spaces			
<b>Residential Uses (MPDUs-Site Plan Amendment totals)</b>			
<b>1 BR @ 0.625 sp./unit (21 x 0.625) 13.1 spaces</b>			
<b>2 BR @ 0.75 sp./unit (10 x 0.75) 7.5 spaces</b>			
(10% credit for residential in CBD 416 x .10 = 42)			
<b>(10% credit for residential in CBD 301 x .10 = 30)</b>			

Residential Subtotal (Approved Site Plan)	321 spaces		
<b>Residential Subtotal (Site Plan Amendment)</b>	<b>271 spaces</b>		<b>257 spaces</b>
<b>Commercial Uses</b>			
3,663 sf @ 5 sp/1000 GLS	18.32 spaces		
(10% credit for retail in CBD)	(-1.83 spaces)		
<b>Subtotal</b>	<b>17 spaces</b>		
<b>Total Private parking</b>	<b>288 spaces</b>	<b>449 spaces</b>	<b>274 spaces</b>
Parking for County Parking Garage for Parking Lot District	<u>160 spaces</u>	<u>200 spaces</u>	<u>160 spaces</u>
Total Parking Spaces	750 spaces (Site Plan) 448 spaces (Amendment)	666 spaces	a minimum of <b>434 spaces****</b>

- \* Includes previous street dedication (approximately 22,301 sf on King Street and 13<sup>th</sup> Street) and approximately 5,176 sf for the proposed 13th Street right-of-way dedication.
- \*\* Applicant is proposing off-site improvements within the Eastern Avenue public right-of-way, which is in the District of Columbia boundary. Applicant will coordinate with the DC Department of Public Works to improve the streetscape on Eastern Avenue right-of-way but is not given credit toward off-site public use space due to lack of regulatory control within a public right-of-way in another jurisdiction.
- \*\*\* Applicant is providing the 45-foot building height for Building 2 from Eastern Avenue and 75-foot building height for Building 1 from 13<sup>th</sup> Street<sup>1</sup>. Building 1 conforms to the definition of height as described in the Montgomery County Zoning Ordinance for through lots. The measurement for the building is being taken from the highest point on 13<sup>th</sup> Street, which slopes down to Eastern Avenue.
- \*\*\*\* The proposed development is within the Silver Spring Parking District and is not required to provide any parking on site; however, the project is subject to the Parking District Tax. The Applicant has an agreement to provide 160 spaces to the Parking Lot District as part of their General Development Agreement.

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<sup>1</sup> Section 59-C-18.20. Ripley/South Silver Spring Overlay Zone.  
59-C-18.202. Regulations.

- (b) Development Standards. The development standards are the same as those in the underlying zones, except:
  - (1) Building height in the Overlay Zone along Newell Street and Eastern Avenue that confronts a residential zone in the District of Columbia must not exceed a height of 45 feet. However, this building height may be increased to: (i) a maximum of 90 feet for any building or portion of a building that is set back at least 60 feet from the street, or as allowed in 59-C-18.204(b), Transfer of Development Credits; or (ii) a maximum of 125 feet for residential development that is set back at least 100 feet from Eastern Avenue and Newell Street, and that includes a public parking garage constructed under a General Development Agreement with Montgomery County, Maryland.

## RECREATION CALCULATIONS

	Tots	Children	Teens	Adults	Seniors
Demand Points					
Demand per 100 d.u.					
Garden (46)	5.1	6.4	5.5	54.3	7.4
<u>High-Rise (195)</u>	<u>7.8</u>	<u>7.8</u>	<u>7.8</u>	<u>150.2</u>	<u>89.7</u>
Total Required Points	12.9	14.2	13.3	204.4	97.1

\*Housing type : Garden (Up to 4-story), High Rise (>5 story)

	Tots	Children	Teens	Adults	Seniors
Supply Points					
Tot lot (1)	9.0	2.0	0.0	4.0	1.0
Sitting Area (10)	10.0	10.0	15.0	50.0	20.0
Pedestrian System (1)	1.3	2.9	2.7	92.0	43.7
Indoor Community Space (1)	1.3	2.1	4.0	61.3	38.8
<u>Indoor Fitness Facility (2)</u>	<u>0.0</u>	<u>2.8</u>	<u>2.7</u>	<u>81.8</u>	<u>29.1</u>
Total Supply Points	22.4	31.6	44.8	462.7	243.7
% of demand met on-site	168	139	183	141	137

Note: Recreation demand is met on site. No credit is being taken for off-site recreation facilities.

### **ANALYSIS:**

#### Conformance to Master Plan

The approved CBD Sector Plan recommends the CBD-1 zoning for this site, which was applied through the Sectional Map Amendment (SMA) adopted July 18, 2000, consistent with County Council Resolution 14-600. The property is within the Ripley/South Silver Spring Overlay Zone, which provides for flexibility of development standards to encourage innovative design solutions.

The proposed mixed-use development is comprised of 3,663 square feet of retail space, and 241 residential units with private structured parking and a public parking garage. The maximum density allowed on this site is 3.0 FAR. High-rise multi-family units are permitted uses under the CBD-1 Zone. The proposal will be implemented under the optional method of development.

While the minimum required public use space for this project is 17,367 square feet (20 percent of the net lot), the Applicant is proposing 23,468 square feet of onsite public use space and amenities, which equals to 27.03 percent of the net lot. In addition, the Applicant proposes 13,157 square feet of off-site streetscape improvements. In total, the Applicant proposes 36,625 square feet of on-site public use space, amenities and off-site improvements or 42.18 percent of the net lot area. In addition to the public use space, amenities and off-site improvements, the Applicant proposes 4,134 square feet of streetscape improvements outside the Montgomery County jurisdictional boundaries along the Eastern Avenue frontage.

## **Sector Plan Conformance:**

The Silver Spring Central Business District and Vicinity Sector Plan, approved by the County Council on February 1, 2000, outlines six themes, which articulate the shared goals and vision for a revitalized Silver Spring. Three of these themes: Residential downtown, Green downtown, and Pedestrian-friendly downtown, apply to this proposed project. The Sector Plan encourages housing as an important component of the revitalization efforts and specifically identifies a portion of the proposed project site as a potential housing site. This project is being developed under the optional method of development and proposes new opportunities for landscaped public open spaces, public art and streetscapes. This project encourages the development of active urban streets by providing building entrances along the public streets and easily accessible public spaces with public art components as activity generators. This proposal improves the quality of the pedestrian environment by providing the optional method streetscape treatment and other amenities along 13th Street and King Street.

- A. **Sector Plan Street Rights-of-Way:** The original Preliminary Plan (No.120050050) approved an additional 41 feet of dedication as measured from the centerline of 13th Street. King Street already contained the full-width dedication and Eastern Avenue is within the boundaries and jurisdiction of the District of Columbia. The former public alley connecting to 13th Street at two points has been approved for abandonment in accordance with County Council Resolution No. 15-1360.
- B. **Sector Plan Bikeways:** The Sector Plan recommends a Class II or III bikeway (on-road, bike lanes or signed shared roadway) along the south side of 13th Street. Staff recommends a Class III bikeway (on-road, signed shared roadway) along 13th Street.
- C. **Streetscape:** The Applicant proposes to improve the 13th Street and King Street frontages with the Type “B” streetscape treatment. The streetscape and public amenities for the proposed project should be in accordance with the standards of the *Silver Spring Streetscape* technical manual or as modified to include the bikeway. The Eastern Avenue frontage will be improved using elements from the Type “B” streetscape treatment subject to approval by the District of Columbia.

## Local Area Transportation Review

The Galaxy development submitted a traffic impact study in accordance with LATR guidelines because of the vehicular trips anticipated during peak hours. The study indicated that the development as proposed would exceed the minimum threshold of 30 vehicular trips.

As part of the analysis, three intersections were studied and included: Georgia Avenue (US 29) at Eastern Avenue/Blair Road, Georgia Avenue (US 29) at East-West Highway (MD 410)/Burlington Avenue/13<sup>th</sup> Street and 13<sup>th</sup> Street, at Eastern Avenue. According to the studies, the second intersection will exceed the threshold and requires mitigation at this location. The studies took into account the construction of nearby developments.

The Applicant must update its existing TMAg for the project, dated August 1, 2006, to reflect

changes in land use and any other pertinent information such as names and contact data. However, the substantive portions of the agreement, which involved considerable negotiations between the applicant, Planning Board staff and Montgomery County Department of Public Works and Transportation (MCDPWT), remain in effect and will not be modified with the minor edits as part of this plan amendment. As part of the TMAg, the Applicant will construct three “super bus shelters,” two of which will be equipped with real-time transit information signs.

**FINDINGS:** For Site Plan Review

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The proposed development is consistent with the Project Plan Amendment (92005005A), with respect to land use, density, location, building height and development guidelines.

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the CBD-1 Zone and the Ripley/South Silver Spring Overlay Zone as demonstrated in the project Data Table on page 10.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a. **Buildings**

The proposal envisions two separate buildings, instead of the three buildings previously approved, situated atop a below-grade parking structure that spans the majority of the lot. Similarly to the previous approval, the building program is sensitive to the site's location and vicinity. The massing of the proposed structures closer to the northeastern portion of the site complements the massing of the existing Gramax building and future development near the Georgia Avenue corridor.

The scale transitions in height and mass from the northeast to the southwest near the frontage along Eastern Avenue to emphasize a shift from the urban context to the residential character associated with the Shepherd Park community in the District. The building mass steps down from the northeast boundary of the site at 75 feet to 45 feet along Eastern Avenue. The proposed building height is lower than the previously approved (125 feet), and still within the heights of the existing Gramax building (129 feet) across 13th Street and the Aurora building (90-110 feet) along Eastern Avenue.

Building 1 creates a distinct urban edge along the northern and eastern property boundary, adjacent to 13th Street and the new mid-block alley, respectively. Building 1 is a five-story building, with 195 residential units and street-level retail space, located above four stories of parking and with a landscaped court at its center. On 13th Street, the two stories of above grade parking garage will be screened with the 'art wall' that consists of a mosaic panel depicting planets, orbital patterns, and other celestial bodies on a grand scale.



Building 2 is a four-story building with 46 residential units located above 1 level of sub-surface parking. The massing and scale of this building is less than Building 1 and the adjacent Aurora building, which increases compatibility with the one-family residential neighborhoods across Eastern Avenue. The materials of Building 1 and 2 will match and provide a consistent urban visual fabric for this entire development.

The location of buildings and structures is adequate, safe, and efficient.

b. Open Spaces

The on-site public use space consists of two separate and distinct outdoor areas, designed to promote the type of recreational activities and community space needed to enhance the vitality of the south Silver Spring urban community. The concept of light, which relates to the name of the development, is used as the unifying element throughout the design and features in the public use spaces. Although unified by a common theme, the open spaces proposed are diverse in character and serve different purposes ranging from gathering and recreation to circulation routes for pedestrians.

The first and most prominent outdoor public space is the new urban plaza located on 13th Street between Buildings 1 and 2. This plaza anchors the onsite public use space and radiates out towards Eastern Avenue and King Street. The plaza has a circular geometry focused towards an offset central feature located under the canopy overhang of Building 1. The plaza incorporates art and it provides benches, and movable tables and chairs that relate to the retail uses at the northwestern corner of Building 1.

Intimately connected to the plaza to the south is an area programmed for active child recreation with three play structures. This area incorporates seating and its location is adequately buffered from the street to avoid safety hazards. This urban plaza as a whole is intended to function as a destination for gathering and recreation, as well as a circulation route for pedestrians.

The second area of public use space is the new mid-block alley connecting 13<sup>th</sup> Street to King Street. This is an area designated on the Silver Spring Pathways Plan, a conceptual pedestrian pathways plan prepared by the Department of Housing and Community Affairs (DHCA) to provide mid-block connector alleys between King Street and 13th Street. This outdoor space will feature rotating artwork exhibits by local artists. The ground plane will consist of a band of the decorative “Galaxy aggregate,” ornamental landscaping in terraced planters next to the building façade, and lighting.

On the 13th Street façade, Building 1 proposes a commissioned mosaic panel that will feature galactic bodies and stars and will help activate that side of the building. This panel is intended to screen the above grade parking garage façade.

While the minimum required public use space for this project is 17,367 square feet (20 percent of the net lot), the project plan proposes 23,468 square feet of public use space and amenities provided on-site which equals 27.03 percent of the net lot. The Applicant is also proposing an additional 13,157 square feet of off-site streetscape improvements adjacent to the site and in front of the Gramax Building. In total, the Applicant proposes 36,625 square feet of on-site public use space, amenities and off-site improvements or 42.18 percent of the net lot area. In addition to the public use space, amenities and off-site improvements, the Applicant proposes 4,134 square feet of streetscape improvements outside the Montgomery County jurisdictional boundaries along the Eastern Avenue frontage. If improvements on Eastern Avenue were credited toward this development, the overall public use space and amenity package would equal 47 percent of the net lot area.

The open space proposed is adequate, safe and efficient, and to an extent, it applies principles of Crime Prevention Through Environmental Design (CPTED). Natural surveillance of the public plaza and playground area is achieved by having them centrally located in between the two buildings and abutting a public street. The access point for the retail space is located in the plaza; and the fitness center, community room, and building windows overlook the plaza, which maximizes visibility of this prominent public space. Passing vehicular traffic and the lighting design are also surveillance assets for this public use space and the sidewalks.

c. Landscaping and Lighting

The proposed landscaping on-site consists of a series of terraced planters at the base of the two buildings, which contain ornamental plantings such as shrubs and ornamental grasses, and function as seating walls. The public plaza between Buildings 1 and 2 is partly encircled by a terraced lawn area and a children's play area. Flowering trees are used in the plaza and in the pedestrian connector linking the plaza to Eastern Avenue as accent and to emphasize the pedestrian scale of these environments.

Seating areas within the plaza are lined with light display fixtures that intend to simulate the varying extent of the stars within the galaxy. The light display fixtures range in height from 10 feet to 15 feet from the top of the raised planter. The lights are designed as 1.5" diameter clear acrylic rods in metal housings on a 2" pole base. The display of lights adds interest to the public plaza and to the sense of security. Additional lighting in the public plaza includes step lights installed on the seat walls of the terraced lawn area, accent uplights at the base of each flowering tree, and 'column scones' at the base of each column of the

overhang canopy. Specialty lighting of the mosaic wall takes into account reflection at different times of the day, and lighting of the new mid-block alley connecting 13<sup>th</sup> Street to King Street emphasizes each art piece.

The diverse types of lighting proposed are adequate, safe and efficient in bringing a contextual relationship between the various elements of the public space and the architectural elements of the building.

The implementation of the Silver Spring Streetscape standards on 13<sup>th</sup> Street, King Street and Eastern Avenue will add consistency to the appearance of South Spring and promote this area's connections to the major roadways. The Silver Spring streetscape standards include planting London Plane trees in the standard 5' x 8' tree pits with the amended soil panels to encourage growth in an urban setting, as well as using the Washington Globe light fixtures and the Beldon brick.

The proposed landscape and lighting are adequate, safe and efficient.

d. Recreation

Recreation demand is satisfied onsite as shown in the recreation calculations table above. The Applicant is providing ten sitting areas, a tot lot, an interactive pedestrian system, two indoor fitness facilities and an indoor community space. Both buildings include a fitness facility, and in addition Building 1 includes a community room. The perimeter of the buildings includes seating areas on the raised planter walls linked by a pedestrian system that provides mid-block connections from the three public roads. The public plaza includes additional seating areas and a tot lot.

e. Vehicular and Pedestrian Circulation

Vehicular circulation is enhanced with improved right-of-way along the south side of 13<sup>th</sup> Street and north side of King Street. Additional area was dedicated with the Preliminary Plan No. 120050890 on the south side of 13<sup>th</sup> Street totaling 71 feet of right-of-way (41 feet from the center line). The full width 60-foot right-of-way has already been dedicated on King Street. The dedication and proposed streetscape improvements will ensure complete accommodation of the optional method streetscape treatment on the Applicant's side of 13<sup>th</sup> Street and King Street.

The streetscape on Eastern Avenue is located within the District of Columbia right-of-way and will require the District's approval for streetscape improvements along the frontage of the property. The Applicant is committed to coordinating with the District to implement the Silver Spring streetscape standards along Eastern Avenue. Additional off-site streetscape improvements are proposed with this application, directly in front of the Gramax building on 13<sup>th</sup> Street.

The site is located in the Silver Spring Parking Lot District, and therefore the Applicant is not required to provide any on-site parking. Nonetheless, this site plan provides a total of 434 parking spaces, of which 160 are in the public parking garage, and 274 are in the private parking garage. The public garage, located in the two levels above grade of the parking structure in Building 1 and accessed from 13th Street and King Street, replaces the existing 57 surface parking spaces in the King Street Lot. The two below-grade stories of the garage, accessed exclusively from King Street, will provide parking for the residential and retail tenants of the Galaxy, as well as for some residents of the Aurora condominiums (Site Plan No. 82004028A).

The Applicant previously committed to providing 145 parking spaces to the residents in the adjacent Aurora Building; however, with this proposed amendment, the Applicant has chosen to decrease the number of dwelling units in the proposed development and the number of parking spaces available for the residents in the proposed Galaxy Buildings and the existing Aurora Building. In addition to the reduction of parking spaces for the private residential and non-residential development, the Applicant renegotiated their agreement with the County for the number of public parking spaces due to the reduction in number of units from 328 to 241. The number of public parking spaces was reduced from 200 to 160. Aside from the obligation of the Applicant for the number of public parking spaces, the site is located in the Parking Lot District and is not required to provide the full complement of parking spaces for the private development.

Pedestrian circulation is enhanced through the full streetscape improvements along the south side of King Street that will complete a portion of the block stretching from Eastern Avenue to Georgia Avenue. The additional partial streetscape improvements by the Applicant in front of the Gramax building will further encourage pedestrian circulation towards Georgia Avenue. Within the site, pedestrian circulation is encouraged through high-quality public use spaces that function as destinations as well as mid-block connectors. Similarly, the new mid-block alley connecting 13<sup>th</sup> Street to King Street will facilitate the Arts and Entertainment theme for Silver Spring and further activate pedestrian circulation through the site. Streetscape improvements will be made on all public streets to provide for adequate, safe and efficient pedestrian circulation.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed mixed-use development is adjacent to the Aurora (Williams & Wilste, Site Plan No. 82004028A) condominium buildings (9 and 11 stories), a 1-story bank to the west, the 6-story Ramada Inn and a car wash to the east. The Days Inn hotel (2 stories) and the Gramax Tower apartment building (14 stories) are located across 13th Street from the proposed development. A Seven-Eleven convenience store and a vacant lot are located across King Street to the south.

The proposed mixed use development is compatible with the surrounding neighborhood and potential development within the Georgia Avenue and Eastern Avenue corridors. The proposed buildings are in scale with the adjacent Aurora building, and complement the surrounding community. The height and mass of the buildings from Eastern Avenue are less intense to complement the residential character within the Eastern Avenue corridor. The proposed residential uses will be less intensive than the remaining non-residential uses in the existing block and within the surrounding area.

The buildings have been sensitively designed to ensure compatibility with the surrounding development and the general neighborhood. The building fronting on Eastern Avenue will be 45 feet in height, significantly less than the 90-110-foot Aurora building. The buildings transition in height from the 45 feet along Eastern Avenue to 75 feet, as permitted by the zone. The project includes two separate buildings, which softens the impact of a fairly large project upon the surrounding community.

Building height in the Ripley/South Silver Spring Overlay Zone along Eastern Avenue that confronts a residential zone in the District of Columbia must not exceed a height of 45 feet. However, this building height may be increased to a maximum of 125 feet for residential development that is set back at least 100 feet from Eastern Avenue and includes a public parking garage constructed under a General Development Agreement with Montgomery County, Maryland.

The two buildings proposed on the property include a progressive transition in height and massing from Eastern Avenue toward the Gramax Building at the intersection of 13<sup>th</sup> and Kennett Streets. The proposed building fronting on Eastern Avenue (Building 2) measures 45 feet in height from Eastern Avenue. Building 1 fronts onto 13<sup>th</sup> Street with a height of 75 feet as measured from 13<sup>th</sup> Street and is set back a minimum of 100 feet from Eastern Avenue. The proposed development meets the intent of the Sector Plan and the zoning ordinance in terms of building height, intensity and use and will not adversely affect surrounding properties.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #4-05144) was approved on March 21, 2005. The Applicant has met the Forest Conservation requirements through credit for street trees planted within the property boundaries.

The proposed stormwater management concept, approved on January 7, 2008, consists of partial on-site water quality control via two proprietary filters and possibly by using green roof technology. Onsite recharge is not required because this is a redevelopment site. Channel protection volume is waived due to location in the CBD. A partial waiver of water quality requirements is also granted for a very small area [Appendix C].

## APPENDICES

- A. Planning Board Resolution for Site Plan No. 820060130
- B. Memorandums from agencies

## **APPENDIX A**

Date of Mailing: FEB 22 2006**MONTGOMERY COUNTY PLANNING BOARD  
OPINION**

Site Plan No.: 820060130  
Project: The Galaxy  
Date of Hearing: January 12, 2006

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**Action:** **APPROVAL SUBJECT TO CONDITIONS.** *(Motion to approve was made by Commissioner Wellington; duly seconded by Commissioner Bryant; with a vote of 4-0, Commissioners Robinson, Wellington, Berlage, Bryant voting in favor. Commissioner Perdue was necessarily absent.)*

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The date of this written opinion is FEB 22 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State). This site plan shall remain valid as provided in Section 59-D-3.8.

**INTRODUCTION**

On January 12, 2006, Site Plan No. 820060130 (Site Plan) was brought before the Montgomery County Planning Board for a public hearing. RST Development (Applicant) proposed the development of 321 dwelling units, including 41 MPDUs, on 2.62 acres of CBD-1-zoned land located within the Silver Spring Business District. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

**THE SUBJECT PROPERTY**

The 2.62-acre site (Subject Property or Property) is comprised of 8 lots and parcels and a public alley within the Ripley/South Silver Spring Overlay Zone. The Subject Property is bounded by 13<sup>th</sup> Street to the north, Eastern Avenue to the west and King Street to the south. The right-of-way for Eastern Avenue is within the District of Columbia. The properties bounded by the public alley and King Street are controlled by Montgomery County and include a surface parking facility containing 57 parking spaces (King Street



Parking Lot). The properties within the site are currently improved with individual two-story commercial buildings that consist of a variety of uses, including a dog grooming business, plumbing business, and a carry-out restaurant. Elevations on the site vary by 10-15 feet from the highest point on King Street to lower elevation on Eastern Avenue. The King Street Parking Lot is approximately five feet above the uses that are bounded by the public alley. Overhead utilities exist along the property frontage on 13<sup>th</sup> Street, Eastern Avenue and King Street. Additional above- and belowground utilities serve the existing buildings.

The surrounding vicinity consists of a Travelodge hotel and a Days Inn hotel directly across 13<sup>th</sup> Street and a Ramada Inn hotel directly east of the site on King Street. The newly renovated 129-foot Gramax Tower apartment building is located across 13<sup>th</sup> Street at the intersection with Kennett Street. The Aurora building (Site Plan No. 82004028A), a 90-110-foot condominium building, abuts the southeastern boundary of the property and fronts onto Eastern Avenue. The Kennett Street public parking garage is located approximately 100 feet north of the subject site along Kennett Street. A mix of commercial and retail uses, including a car wash, bank and auto-related service buildings, are situated between Georgia Avenue and the Subject Property. The properties across Eastern Avenue, located within the District of Columbia, are comprised of three churches and numerous one-family detached dwellings within the Shepherd Park Community.

The proposed development is zoned CBD-1 (Central Business District-1). The Property consists of four parcels (Parcels N156, N157, N159 and P169), Lots 1, 3 and 4 of the Silver Spring subdivision (Plat Book 158, Page 14), and Lot 5A of Silver Spring subdivision (Plat Book 154, Page 46) recorded in November 1955 and October 1956, respectively.

## **BACKGROUND**

The Applicant seeks to develop three separate buildings and provide 321 dwelling units, including 41 MPDUs, on 2.62 acres in south Silver Spring. The three buildings will be sited on top of a 3-level below-grade parking structure that spans the majority of the lot. The garage will accommodate public and private parking spaces. The original Project Plan (No. 920050050) was approved for 328 dwelling units and 41 MPDUs. The building locations, design and overall context of the site have not changed from the Project Plan approval.

The building has been designed to blend curvilinear forms, highlighting features from the surrounding buildings, to accent prominent architectural elements and activate the public use spaces. The building program is intended to provide the massing of the proposed structures closer to the northeastern portion of the site to complement the proportion, height and massing of the existing Gramax building and future development near the Georgia Avenue corridor. The scale transitions in height and mass from the northeast to the southwest near the frontage along Eastern Avenue to emphasize a move from the urban context to the pedestrian and residential character associated with the Shepherd Park community in the District.

The building mass steps down from the northeast boundary of the site at 125 feet to 45 feet along Eastern Avenue. Building 'B' will step down in height from 125 feet to approximately 90 feet before transitioning to the 45-foot height in Building 'C'. The 125-foot height corresponds to the existing Gramax building (129 feet) across 13<sup>th</sup> Street and the Aurora building (90-110 feet) along Eastern Avenue.

The on-site public use space consists of three separate and distinct outdoor areas on the site, including the "Public Park", the "Art Walk", and the covered glass walkway connecting 13<sup>th</sup> Street and the public parking garage. The latter outdoor space is located between Buildings 'A' and 'B' and is intended to provide an art component and a pedestrian link from 13<sup>th</sup> Street to the public parking garage.

The Site Plan proposes 27,000 square feet of public use space and amenities provided on-site, which equals 31.09% of the net lot. The 27,000 square feet is an increase of 80 square feet from the Project Plan. The minimum required public use space for this project is 17,367 square feet (20% of the net lot). The Applicant is also proposing an additional 11,470 square feet of off-site streetscape improvements. In total, the Applicant proposes 38,470 square feet of on-site public use space, amenities and off-site improvements or 44.2% of the net lot area. In addition to the public use space, amenities and off-site improvements, the Applicant proposes 3,910 square feet of streetscape improvements outside the Montgomery County jurisdictional boundaries along the Eastern Avenue frontage. If improvements on Eastern Avenue were credited toward this development, the overall public use space and amenity package would equal 48 percent of the net lot area.

The "Art Walk" is an area designated on the Silver Spring Pathways Plan, a conceptual pedestrian pathways plan prepared by the Department of Housing and Community Affairs (DHCA) to provide mid-block connector alleys between King Street and 13<sup>th</sup> Street. This outdoor space and the covered glass walkway will feature commissioned artwork by local artists, including Martha Jackson-Jarvis and Judy Sutton Moore. The entry to the walk will consist of an outdoor plaza, also serving as the entry to Building 'A' from 13<sup>th</sup> Street, and a trellis and seating area marking the entry from King Street. The ground plane will consist of specialty pavers, ornamental landscaping in terraced planters, and lighting to reinforce the theme in the public park. The eastern boundary of the Art Walk will contain a metallic fence, artistic in nature, to provide a physical and visual buffer from the adjacent property.

Parking consists of 200 spaces included within a new public parking garage accessed at the northern end of the property, under Building 'A', directly from 13<sup>th</sup> Street.

The public garage replaces the existing 57 surface parking spaces in the King Street Parking Lot. The private parking garage will accommodate parking for the residents of the Aurora and the Subject Property. Three separate access points are provided to the private garage from 13<sup>th</sup> Street and King Street.

### **SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD**

At the public hearing, the Planning Board's expert technical staff (Staff) recommended approval of the proposed Site Plan in accordance with the analysis and recommendations set forth in its memorandum to the Planning Board dated December 30, 2005 (Staff Report). Using GIS maps, aerial photographs, and oblique angle aerial photography, along with rendered analytical plans, Staff described the proposed Site Plan and reviewed development data and zoning conformance, prior approvals, existing site conditions, surrounding development, and road alignments. Staff testified that the proposed Site Plan was consistent with the findings in the Staff Report and the prior Project Plan.

The Applicant, represented by legal counsel, concurred in the Staff's recommendations and findings. The Applicant pointed out, however, that the 679 parking spaces proposed for approval exceeded the Applicant's commitment to maintain a minimum ratio of one parking space per unit. Based on this fact, and to allow for flexibility in accommodating potential construction challenges, the Applicant requested a condition that would preserve the ratio by requiring the Applicant to provide a minimum of 666 spaces. After discussion with the Applicant and Legal Staff, Commissioner Wellington asserted that she favored such a minimum requirement. Rather than adding a condition to such effect, however, the Board agreed instead to revise the Project Data Table (see below).

Ms. Jourdinia Brown, District of Columbia Ward 4 ANC Commissioner for the Shepherd Park area, testified as to her general support of the project. Ms. Brown expressed concern, however, over the building material proposed for Building 'C', which fronts onto Eastern Avenue and faces the Shepherd Park neighborhood. She requested that masonry (brick) material, preferably red in color, be employed on all sides of the building. While the Applicant admitted that he was considering the use of brick, the Applicant refused to commit to Ms. Brown's request at the present time as it was still in the process of developing the building's architecture. The Board, in turn, declined to impose such a condition.

Ms. Brown also cited the risk of increased light pollution from the proposed development, stating that she had received complaints from several constituents regarding light pollution from existing adjacent storage facilities. The Board informed Ms. Brown that it would cooperate with her on the matter, but that the County Department of Public Works and Transportation (DPWT) could handle the issue more appropriately. In addition, Ms. Brown stated her preference for the higher number of parking spaces initially proposed by the Applicant and sought assurance that the Applicant would maintain the ratio to which it committed.

The record contains at least one citizen letter containing suggestions for improving the architecture of the proposed buildings and altering the project into a mixed-use development. No other testimony was received on the application and the record contains no other correspondence or other evidence submitted in opposition to the application.

**FINDINGS**

Having given full consideration to Staff's recommendations and findings, including those contained in the Staff Report, and all of the testimony and evidence presented and included in the record of the application, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds:

1. *The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required.*

The proposed development is consistent with the approved Project Plan in land use, density, location, building height, and development guidelines.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Site Plan meets all of the requirements of the CBD-1 Zone and the Ripley/ South Silver Spring Overlay Zone as demonstrated in the Project Data Table below:

**PROJECT DATA TABLE (CBD-1)**

	Zoning Ordinance Development Standard	Approved with Project Plan 920050050	Approved by PB and binding on Applicant with Site Plan 820060130
Gross Tract Area (sf./ac.):	22,000 (0.51 ac.)	114,310* (2.6242 ac.)	114,310* (2.6242 ac.)
Net Lot Area (sf.):		86,834	86,834
Residential Density (du/ac.):	125	125	122
Total Number of Units:	328	328	321
MPDUs (%):	12.5 41 MPDUs	12.5 41 MPDUs	12.5 41 MPDUs
On-site Public Use Space (sf):	17,367 (20%)	26,920 (31.0%)	27,000 (31.09%)
Off-site Public Use Space (sf):		11,470 (13.2%)	11,470 (13.2%)
Additional Off-Site Improvements (sf):		<u>3,910 (4.5%)**</u>	<u>3,910 (4.5%)**</u>
Total On and Off-Site Public Use Space And Improvements (sf):	17,367 (20%)	42,300 (48.7%)**	42,380 (48.8%)**
Max. Building Height (ft.) (see p. 7, n. 1 below)			
For properties fronting on Eastern Ave.	45	45	45
For properties fronting on 13 <sup>th</sup> St. and King St.	125	125***	125***

Zoning Ordinance  
 Development Standard

Approved with  
 Project Plan  
 920050050

Approved by  
 PB and binding  
 on Applicant  
 with Site Plan  
 820060130

Parking:

(Parking for Galaxy Project)

Residential Uses (Mkt. Rate-Project Plan totals)

1 BR @ 1.25 sp./unit (118 x 1.25) 146 spaces  
 2 BR @ 1.50 sp./unit (166 x 1.50) 249 spaces  
 3 BR @ 2.00 sp./unit (3 x 2.00) 6 spaces

Residential Uses (Mkt. Rate-Site Plan totals)

1 BR @ 1.25 sp./unit (137 x 1.25) 172 spaces  
 2 BR @ 1.50 sp./unit (143 x 1.50) 215 spaces

Residential Uses (MPDUs-Project Plan totals)

1 BR @ 0.625 sp./unit (27 x 0.625) 17 spaces  
 2 BR @ 0.75 sp./unit (14 x 0.75) 11 spaces  
 (10% credit for residential in CBD  
 431 x .10 = 43)

Residential Uses (MPDUs-Site Plan totals)

1 BR @ 0.625 sp./unit (21 x 0.625) 14 spaces  
 2 BR @ 0.75 sp./unit (20 x 0.75) 15 spaces  
 (10% credit for residential in CBD  
 416 x .10 = 42)

Residential subtotal for	388 spaces (Proj. Plan)		
Galaxy Project:	<b>374 spaces (Site Plan)</b>	334 spaces	<b>321 spaces</b>
(total include 328 units in Project Plan and 321 units in Site Plan based upon changes to unit mix)			

(Parking for Aurora Building #8-04028A)

Residential Uses (Mkt. Rate)

1 BR @ 1.25 sp./unit (23 x 1.25) 29 spaces  
 2 BR @ 1.50 sp./unit (103 x 1.50) 155 spaces

Residential Uses (MPDUs)

1 BR @ 0.625 sp./unit (19 x 0.625) 12 spaces  
 (10% credit for residential in CBD  
 196 x .10 = 20)

Residential subtotal for the Aurora Project:	176 spaces	145 spaces	<b>145 spaces</b>
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Residential totals for

combined projects:	564 spaces (Proj. Plan)	479 spaces	<b>466 spaces</b>
	<b>550 spaces (Site Plan)</b>		

Parking for County Parking Garage

for Parking Lot District	<u>200 spaces</u>	<u>200 spaces</u>	<u>200 spaces</u>
Total Parking Spaces:	764 spaces (Proj. Plan)	679 spaces****	A minimum of <b>666 spaces****</b>
	<b>750 spaces (Site Plan)</b>		

\* Includes previous street dedication (approximately 22,301 sf on King Street and 13<sup>th</sup> Street) and approximately 5,176 sf for the proposed 13th Street right-of-way dedication.

\*\* Applicant is proposing off-site improvements within the Eastern Avenue public right-of-way, which is in the District of Columbia boundary. Applicant will coordinate with the DC Department of Public

Works to improve the streetscape on Eastern Avenue right-of-way but is not given credit toward off-site public use space due to lack of regulatory control within a public right-of-way in another jurisdiction.

\*\*\* The 45-foot building height for Building 'C' is measured from Eastern Avenue while the 125-foot building heights for Buildings 'A' and 'B' are measured from King Street and 13<sup>th</sup> Street, respectively.<sup>1</sup> Because the Subject Property constitutes a through lot, all of the building heights could be calculated from one point as per the Montgomery County Zoning Ordinance. To maintain compatibility, however, the height of the front of each building is calculated from the closest street. Thus, the height of Building 'A', which fronts on both King Street and 13<sup>th</sup> Street, is measured from the highest point on King Street, the height of Building 'B' is measured from 13<sup>th</sup> Street, and so on. This method proves effective considering that 13<sup>th</sup> Street is 7 feet lower than King Street. If King Street served as the reference point for the building height of Building 'B', the structure actually would exceed 125 feet.

\*\*\*\* As revised by the Planning Board at the public hearing (see "Summary of Testimony and Evidence in Record" above), Applicant shall provide a minimum of 666 total parking spaces, which amount is based on a ratio of one space per unit in the Galaxy and Aurora (Site Plan No. 82004028A) Projects plus an additional 200 spaces in the proposed County Parking Garage. Because the proposed development is within the Silver Spring Parking District, Applicant is not required to provide any parking on-site; however, the project is subject to the Parking District Tax. As described above, Applicant has agreed to provide 200 spaces to the Parking Lot District as part of their General Development Agreement and approximately 145 spaces (1 space per unit) for the Aurora Project.

3. *The locations of the buildings and structures, the open spaces, the landscaping, the recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings

The proposal envisions three separate buildings situated atop a 3-level below-grade parking structure that spans the majority of the lot. The building design is a modern architectural approach that blends curvilinear forms with the surrounding buildings to accent prominent features and activate the public use spaces. The building program is intended to provide the massing of the proposed structures closer to the northeastern portion of the site to complement the massing of the existing Gramax building and future development near the Georgia Avenue corridor. The scale transitions in height and mass from the northeast to the southwest near the frontage along

<sup>1</sup> See Montgomery County Zoning Ordinance, Sec. 59-C-18.202(b), "Ripley/South Silver Spring Overlay Zone - Regulations - Development standards".

The development standards are the same as those in the underlying zones, except:

(1) Building height in the Overlay Zone along Newell Street and Eastern Avenue that confronts a residential zone in the District of Columbia must not exceed a height of 45 feet. However, this building height may be increased to: (i) a maximum of 90 feet for any building or portion of a building that is set back at least 60 feet from the street, or as allowed in 59-C-18.204(b), Transfer of Development Credits; or (ii) a maximum of 125 feet for residential development that is set back at least 100 feet from Eastern Avenue and Newell Street, and that includes a public parking garage constructed under a General Development Agreement with Montgomery County, Maryland.

Eastern Avenue to emphasize a move from the urban context to the pedestrian and residential character associated with the Shepherd Park community in the District.

Building 'A' creates a distinct urban edge along the northern and eastern property boundary, adjacent to 13<sup>th</sup> Street and the "Art Walk", which connects King Street to the south. Two-story maisonette units (possible live-work units) are envisioned along the "Art Walk" promenade to frame the environment, create an intimate atmosphere and provide a forum for local artists. Building 'B' has a two-story masonry base with floor lines expressed in exposed concrete, mixed with glass and steel. Building 'C' will be constructed of masonry and glass to complement the surrounding buildings under construction and the existing architecture in the neighboring communities.

Building height in the Ripley/South Silver Spring Overlay Zone along Eastern Avenue that confronts a residential zone in the District of Columbia, must not exceed a height of 45 feet. However, this building height may be increased to a maximum of 125 feet for residential development that is set back at least 100 feet from Eastern Avenue and includes a public parking garage constructed under a General Development Agreement with Montgomery County, Maryland, both of which apply to this development.

Staff recommends that the building fronting on Eastern Avenue (Building 'C') not exceed 45 feet as measured from Eastern Avenue and that the building fronting on 13<sup>th</sup> Street (Building 'B') not exceed 125 feet measured from 13<sup>th</sup> Street. Building A has frontage on both 13<sup>th</sup> Street and King Street and should not exceed 125 feet as measured from King Street. Both Buildings 'A' and 'B' shall be setback a minimum of 100 feet from Eastern Avenue. Building 'B' will be measured from 13<sup>th</sup> Street using the applicable standards for height in the zoning ordinance. Staff believes that the proposed development as conditioned, will not adversely affect surrounding properties.

The building mass steps down from the northeast boundary of the site at 125 feet to 45 feet along Eastern Avenue. Building 'B' will step down in height from the 125 feet to approximately 90 feet before transitioning to the 45-foot height in Building 'C'. The 125-foot height corresponds to the existing Gramax building (129 feet) across 13<sup>th</sup> Street and the Aurora building (90-110 feet) along Eastern Avenue.

b. Open Spaces

The on-site public use space consist of three separate and distinct outdoor areas on the site, designed to promote the type of recreational activities needed to enhance the vitality of the south Silver Spring urban community.

The "galaxy" theme is represented throughout the public use areas by repeating patterns of light, landscaping, architectural features and paving treatments. The most prominent outdoor public space is the "Public Park", followed by the "Art Walk" and the covered glass walkway connecting 13<sup>th</sup> Street and the public parking garage. The latter outdoor space is located between Buildings 'A' and 'B' and is intended to provide artistic enjoyment through selected features while protecting pedestrians from the elements. The art component labeled "Moon Dance", designed by Martha Jackson-Jarvis is proposed within this area.

The site plan is proposing 27,000 square feet of public use space and amenities provided on-site which equals 31.9% of the net lot area. The minimum required public use space for this project is 17,367 square feet (20% of the net lot area). The Applicant is also proposing an additional 11,470 square feet of off-site streetscape improvements. In total, the Applicant proposes 38,470 square feet of on-site public use space, amenities and off-site improvements or 44.2% of the net lot area. In addition to the public use space, amenities and off-site improvements, the Applicant proposes 3,910 square feet of streetscape improvements outside the Montgomery County jurisdictional boundaries along the Eastern Avenue frontage. If improvements on Eastern Avenue were credited toward this development, the overall public use space and amenity package would equal 48 percent of the net lot area.

The proposed stormwater management concept approved on July 19, 2005 consists of (1) partial on-site water quality control via stormfilters. On-site recharge is not required because this is a redevelopment site.

c. Landscaping and Lighting

The proposed landscape and lighting is adequate, safe and efficient.

The proposed landscaping on the site consists of a series of terraced planters at the base of the three buildings, which contain ornamental plantings such as shrubs, ornamental grasses and groundcover. The perimeters of the buildings are accented with flowering trees to highlight entrances and access to public areas. The public park area between Buildings 'B' and 'C' contains a series of terraced lawn areas with a central focal feature that entails a misting system surrounded by seating areas and raised planters with light display fixtures. The intent is to simulate the varying extent of the stars within the galaxy. The light displays are repeated throughout the site to bring a contextual relationship to the buildings and public components on the site.



The light display fixtures range in height from 6 feet to 15 feet from the top of the raised planter. The lights are designed as 1.5" diameter clear acrylic rods in metal housings on a 2" pole base. The display of lights adds to security and safety concerns for the public spaces, especially during the winter seasons when the proposed buildings will cast shadows over the public use areas.

The streetscape improvements to 13<sup>th</sup> Street, King Street and Eastern Avenue will greatly enhance the appearance of south Silver Spring and complement the overall connections to the major roadways through the implementation of the Silver Spring Streetscape standards. The streetscape includes the London Plane trees in the standard 5' x 8' tree pits with the amended soil panels to encourage growth in an urban setting, as well as the Washington Globe light fixtures and the Beldon brick identified in the Silver Spring Streetscape standards.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table above. The Applicant is providing (12) picnic/sitting areas, an open play area, an interactive pedestrian system, two indoor community spaces and two indoor fitness facilities. Buildings 'A' and 'B' will include a fitness facility and community room on the second floor. The perimeter of all three buildings will include seating areas linked by a pedestrian system that provides mid-block connections from the public roads. The open play area is the terraced lawn and public park located between Buildings 'B' and 'C' with direct access from 13<sup>th</sup> Street.

e. Vehicular and Pedestrian Circulation

Vehicular and pedestrian circulation is safe, adequate and efficient.

Vehicular circulation is enhanced with improved right-of-way along the south side of 13<sup>th</sup> Street and north side of King Street. Additional area was dedicated with the Preliminary Plan (No. 120050890) on the south side of 13<sup>th</sup> Street totaling 71 feet of right-of-way. The full width 60-foot right-of-way has already been dedicated on King Street. The dedication and proposed streetscape improvements will ensure complete accommodation of the optional method streetscape treatment on the Applicant's side of 13<sup>th</sup> Street and King Street.

Eastern Avenue is within the District of Columbia right-of-way and will require the District's approval for streetscape improvements along the frontage of the property. The Applicant is committed to coordinating with the District to implement the Silver Spring streetscape standards along Eastern

Avenue. Additional off-site streetscape improvements are proposed with this application, directly in front of the Gramax building on 13<sup>th</sup> Street and Kennett Street. 13<sup>th</sup> Street contains an improved streetscape on the north side.

The spaces included within the public parking garage will gain access at the northern end of the property, on 13<sup>th</sup> Street, under Building 'A'. The private parking garage will accommodate parking for the residents of the Aurora and the Subject Property. Three access points are provided to the private garage under Building 'B' from 13<sup>th</sup> Street and under Building 'A' from the service drive off of King Street. The parking garage is a 2 to 3-level below grade structure planned to accommodate 200 public parking spaces and 449 spaces for use by the residents of the Subject Property and the adjoining Aurora site. Signs indicating traffic circulation in and out of the garage will promote safety for pedestrian activity in the public use space. Additionally, a public access easement is provided from 13<sup>th</sup> Street and King Street to the public parking garage for continuous circulation.

The full streetscape improvements along the south side of King Street will complete a portion of the block that stretches from Eastern Avenue to Georgia Avenue. The additional partial streetscape improvements by the Applicant in front of the Gramax building will promote pedestrian circulation toward Georgia Avenue.

The "Art Walk", a mid-block connection from 13<sup>th</sup> Street to King Street will facilitate the Arts and Entertainment theme for Silver Spring and further activate pedestrian circulation through the site.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed mixed-use development is adjacent to the Aurora (Site Plan No. 82004028A) condominium buildings (9 and 11 stories), a one-story bank to the west, the 6-story Ramada Inn, and a car wash to the east. The Days Inn hotel (2 stories) and the Gramax Tower apartment building (14 stories) are located across 13th Street from the proposed development. A Seven-Eleven convenience store and a vacant lot are located across King Street to the south.

The proposed residential use is compatible with the surrounding neighborhood and potential development within the Georgia Avenue and Eastern Avenue corridors. The proposed buildings are in scale with the adjacent Aurora building, currently under construction, and are sympathetic to the surrounding community. The height and mass of the buildings from Eastern Avenue are less intense to emphasize the residential and community characteristics within the Eastern Avenue corridor. The

proposed residential uses will be less intensive than the remaining non-residential uses in the existing block and within the surrounding area.

The buildings have been sensitively designed to ensure compatibility with the surrounding development and the general neighborhood. The building fronting on Eastern Avenue will be 45 feet in height, significantly less than the 90-110-foot Aurora building. The buildings transition in height from the 45 feet along Eastern Avenue to 125 feet, as permitted by the zone. The project includes three separate buildings, which softens the impact of a fairly large project upon the surrounding community. The base of the buildings emphasizes traditional masonry, typically associated with residential uses.

Building height in the Ripley/South Silver Spring Overlay Zone along Eastern Avenue that confronts a residential zone in the District of Columbia must not exceed a height of 45 feet. However, this building height may be increased to a maximum of 125 feet for residential development that is set back at least 100 feet from Eastern Avenue and includes a public parking garage constructed under a General Development Agreement with Montgomery County, Maryland.

The three buildings proposed on the property include a progressive transition in height and massing from Eastern Avenue toward the Gramax Building at the intersection of 13<sup>th</sup> and Kennett Streets. The proposed building fronting on Eastern Avenue (Building 'C') measures 45 feet in height from Eastern Avenue. Building 'B' is located on 13<sup>th</sup> Street with a varying height of 80-125 feet. Building 'A' has frontage on both 13th Street and King Street and measures 125 feet in height from each street. Both Buildings 'A' and 'B' are set back a minimum of 100 feet from Eastern Avenue. The proposed development, as conditioned, meets the intent of the Sector Plan and the zoning ordinance in terms of building height, intensity and use and will not adversely affect surrounding properties.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.*

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #4-05144) was approved on March 21, 2005. The Applicant has met the Forest Conservation requirements through credit for street trees planted within the property boundaries.

### **PLANNING BOARD ACTION AND CONDITIONS**

The Montgomery County Planning Board APPROVES Site Plan Review No. 820060130 for 321 dwelling units, including 41 MPDUs, on 2.62 gross acres in the CBD-1 Zone. All site development elements as shown on The Galaxy plans received and stamped by the M-NCPPC on December 13, 2005 shall be required except as modified by the following conditions:

1. Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan No. 120050890 as listed in the Planning Board opinion dated October 21, 2005.

2. Project Plan Conformance

The proposed development shall comply with the conditions of approval for Project Plan No. 920050050 as listed in the Planning Board opinion dated October 21, 2005.

a. Public Use Space

The proposed public use space must be easily and readily accessible to the general public and used for public enjoyment. All streetscape improvements shall be in accordance with the *Silver Spring Streetscape Plan (April 1992)* Technical Manual or as amended.

The Applicant shall provide 31.09 percent (27,000 sf.) of on-site public use space and 11.8 percent (10,250 sf.) of off-site public use space. Additional off-site improvements (4.5 percent, 3,910 sf.) are being provided along the property frontage within the Eastern Avenue right-of-way, if acceptable to the District of Columbia Public Works Department.

b. Streetscape Improvements

The Applicant shall provide the full streetscape improvements along the King Street and 13<sup>th</sup> Street frontage using the *Silver Spring Streetscape Plan (April 1992)* Technical Manual. The following elements are proposed: stone, precast concrete, brick pavers, street trees, lighting, and any other details that are necessary, including the under grounding of utilities along the frontage of the property. Off-site improvements shall be provided within the 13<sup>th</sup> Street and Kennett Street rights-of-way, in front of the Gramax Building.

c. Eastern Avenue Streetscape

The Applicant shall coordinate with the District of Columbia Public Works Department to provide the Silver Spring (Type B) streetscape along the frontage of Eastern Avenue in accordance with the *Silver Spring Streetscape Plan (April 1992)* Technical Manual, as amended.

d. Public Art

A public art program shall be developed to include opportunities within the public plaza area to reinforce the architecture of the building, provide for pedestrian interaction, and involve local artists by displaying their artwork. The Applicant has identified three areas or elements that could be incorporated into the public art component: a covered walkway to the public parking garage between Buildings 'A' and 'B', and both entry points to the "Art Walk" that connects 13<sup>th</sup> Street and King Street on the east side of Building 'A'. The Applicant has enlisted the services of two local artists for the three commissioned art pieces within the public use space on the site.

3. Lighting

Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development.

- a. All light fixtures shall be full cut-off fixtures or equipped with shields, refractors or reflectors to negate glare.
- b. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.
- c. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads.
- d. Provide detailed specifications of the lighting elements being proposed within the public use areas.
- e. The up-lighting for the free standing art component at the southeast corner of the site (King Street) and the artwork under the canopy of Building 'A' shall be allowed lateral flexibility within a foot of the approved site plans to permit final movement, location and design of the art element.
- f. The light display shall range in height from 6 feet to 15 feet from the top of the raised planters. The metallic light poles shall vary in spacing within the planter.

4. Pedestrian Circulation

Provide a public access easement (PAE) to the public garage from 13<sup>th</sup> Street and King Street prior to record plat approval.

5. Recreation Facilities

- a. The Applicant shall provide twelve (12) picnic/sitting areas, an open play area, an interactive pedestrian system, two indoor community spaces and two indoor fitness facilities.
- b. Provide the square footage requirements for all of the applicable proposed recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.

6. Moderately Priced Dwelling Units (MPDUs)

- a. The Applicant shall provide 41 Moderately Priced Dwelling Units (12.5% of the total number of units) within the building, consistent with Chapter 25A.
- b. The MPDU agreement shall be executed prior to the release of the first building permit.

7. Transportation

The Applicant shall comply with the following conditions of approval from M-NCPPC Transportation Planning in the memorandum dated December 30, 2005:

- a. The Applicant shall provide full width streetscape improvements on 13<sup>th</sup> Street and King Street in conformance with the Silver Spring Streetscape standards.
- b. The Applicant shall enter into a Traffic Mitigation Agreement with the Planning Board and the Montgomery County Department of Public Works and Transportation (DPW&T) to participate in the Silver Spring Transportation Management District. The Traffic Mitigation Agreement must be signed and executed by all parties prior to record plat.
- c. Obtain written confirmation of agreement between the Applicant and DPW&T to locate and construct the three "super" bus shelters and two real-time transit information signs prior to record plat.
- d. Provide a Class III bikeway (shared lane) along the frontage of the property on 13<sup>th</sup> Street.

8. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated July 19, 2005.

9. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 (Covenant). Applicant shall provide verification to M-NCPPC staff prior to issuance of the 1st building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

10. Maintenance Responsibility

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

11. Development Program

Applicant shall construct the proposed development in accordance with the Development Program. The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of signature set of site plan. The Development Program shall include a phasing schedule as follows:

- a. All site features associated with each building as defined by the site plan dated December 13, 2005 shall be installed prior to occupancy of the units, but no later than twelve (12) months after the occupancy of the first unit for each building, whichever comes first. Applicant shall provide the use and occupancy permits to M-NCPPC staff in order to inspect the site for streetscape within the respective street rights-of-way, including the street trees, street lights and pavers, as well as construction of the public plaza and art, on-site landscaping, lighting, recreation and paver materials.
- b. Street tree planting and landscaping for each building shall progress as construction of each unit is completed, but no later than six months after completion of the units adjacent to those streets.
- c. The recreation facilities located within each building shall be installed prior to occupancy for the first unit of each building. The seating areas located around the perimeter of Building 'A' shall be installed upon completion of Building 'A'.
- d. The public park, including the misting section, light display, terraced lawn area and seating, shall be completed and installed upon completion of Building 'B'.

- e. The "Arts Walk" from 13<sup>th</sup> Street to King Street shall be installed upon completion of Building 'A'.
- f. The three commissioned public art components shall be completed and installed upon completion of Building 'A'.
- g. Landscaping associated with each building shall be completed as construction of each facility is completed.
- h. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- i. Phasing of dedications, stormwater management, sediment/erosion control, public use space, streetscape, recreation, community paths, trip mitigation or other features.

12. Clearing and Grading


Clearing or grading is permitted prior to M-NCPPC approval of signature set of plans.

13. Signature Set

Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, and Site Plan Opinion.
- b. Limits of disturbance.
- c. Provide additional details of the two art components (*Star Rhythms* and *Andromeda's Spiral*) designed by Judy Sutton Moore. The design shall be presented to the Art Review Panel for final review and comment.
- d. All of the items specified in the site design, landscape, lighting and recreation conditions of approval.
- e. Location of bus shelters.

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[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

  
\_\_\_\_\_  
Approval of sufficiency  
M-NCPPC Chief General Counsel



**CERTIFICATION OF BOARD VOTE ADOPTING OPINION**

At its regular meeting, held on **Thursday, February 16, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission by unanimous consent, **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Site Plan No. 820060130, The Galaxy.**



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Certification As To Vote of Adoption  
M. Clara Moise, Technical Writer

## **APPENDIX B**



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

December 27, 2007

MEMORANDUM

TO: Sandra Pereira, Senior Planner  
Development Review Division

VIA: Glenn Kreger, Team Leader, Silver Spring/Takoma Park Team *AK*  
Community-Based Planning Division

FROM: John Marcolin, ASLA, Planner Coordinator *JM*  
Community-Based Planning Division

SUBJECT: Project Plan #92005005A and Site Plan #82006013A  
Galaxy II

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The Community-Based Planning staff has reviewed the above referenced Site Plan for conformance with the Silver Spring Central Business District and Vicinity Sector Plan (approved February 2000), including the recommendations for the Ripley/South Silver Spring Overlay Zone. The subject property is bounded by 13<sup>th</sup> street on the north, Eastern Avenue on the west, and King Street on the south. The corner of Eastern Avenue and King Street is occupied by the Aurora Condominiums and another building owned by Montgomery Land Company, LLC, that is not part of this project. Community-Based Planning recommends the approval of the proposed Project Plan and Site Plan with the following conditions needed to ensure consistency with the approved CBD Sector Plan and the approved streetscape guidelines:

- 1) Streetscape and Public Use Space:
  - a. The brick to be used, Belden 470-479 "Silver Spring," should be clearly identified on all details.
  - b. The planting plan must delineate the location and extent of the required amended soil panels (per the *Silver Spring Streetscape Plan*) for all the proposed street trees. Please show in plan-view on the planting plan.
  - c. Clearly indicate where the specialty 'Galaxy Concrete' will be installed and where regular, scored concrete will be installed.
  
- 2) Lighting:
  - a. For Washington Globe Street light specify a Metal Halide lamp with a minimum of 100 watts.
  - b. Specifications should indicate house-side shields and louvers or optics that direct light downwards.
  - c. Indicate Diode lighting on lighting plan, sheet L5.01, and on the lighting details, sheet L5.02.

- 3) Play Area:
  - a. Clearly identify on the plans the location and extent of play surface materials and 'low maintenance' lawn, where they meet and how the transition between the two materials is handled.
  - b. Clearly show design of seat walls adjacent to the play area. It is not clear if there are two tiered seat walls with lawn in between, or if there is only one level of seat wall.
  
- 4) Planting Plan:
  - a. Replace proposed Zelkova with another street tree, such as 'Lacebark' elm (*Ulmus parviflora*).
  - b. The proposed evergreen, White Spruce (*Picea glauca*) is not adapted to Zone 7. Please review and replace with a more adapted species.
  
- 5) Miscellaneous: See attached comments from Development Review regarding parking agreements and calculations as well as number of proposed MPDU's.

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cc: Robert Kronenberg, Development Review Supervisor

Attachment

## Marcolin, John

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**From:** Pereira, Sandra  
**Sent:** Wednesday, December 26, 2007 1:05 PM  
**To:** 'Meredith Byer'  
**Cc:** Kronenberg, Robert; Marcolin, John; Kreger, Glenn; 'chris.ruhlen@hklaw.com'  
**Subject:** The Galaxy :: comments

Meredith,

A few comments on The Galaxy have come up that we need your assistance and clarification.

- On the parking calculations for the retail area, which parking ratio was used? It appears that the ratio for 'general retail' rather than 'restaurant or similar place dispensing food, drink or refreshments' was used, however we thought that this project proposed the latter category. Please clarify.
- As a follow-up to our DRC comments, we still need to document the parking agreement with the Aurora residents. Please provide the latest written agreement describing the parking commitment to those residents. From our discussions we understand there is an agreement with some Aurora residents that gives them the option of purchasing parking at the Galaxy project. It is important to understand the exact language of the latest agreement and the total number of residents that the agreement applies to.
- As mentioned to Chris Ruhlen last week, the MPDU numbers are not shown consistently on the plans. On C-2, under building tabulations, there are a total of 34 proposed, whereas on site tabulations there are 31 proposed. Also, please verify the MPDU numbers on AP-104 and AP-105. Please let us know the correct number.

Thank you,  
Sandra

Sandra Pereira  
**Senior Planner**

M-NCPPC Montgomery County Planning Department  
Development Review Division  
8787 Georgia Avenue, Silver Spring, MD 20910  
phone (301) 495-2186 :: fax (301) 495-1306  
[sandra.pereira@mncppc-mc.org](mailto:sandra.pereira@mncppc-mc.org)



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett  
County Executive

Richard Y. Nelson, Jr.  
Director

December 28, 2007

Meredith L. Byer, RLA  
Project Manager  
VIKA, Inc.  
20251 Century Blvd., Suite 400  
Germantown, MD 20874

**Re: The Galaxy –  
Site Plan No. 82006013A**

Dear Ms. Byer:

Thank you for your letter of November 29, 2007, in which you responded to comments by the Department of Housing and Community Affairs (DHCA) on the above project. As I told you over the phone, I have reviewed the revised plans for the project and have the following additional comments:

- The site tabulations on sheet C-2 of the Site Plan Set, as well as the floor plans in the architectural drawings, show that 31 MPDUs (the required 12.5 percent of the 241 total units) are provided in the two residential buildings. However, the Building Tabulations and Required Parking Tabulations on sheet C-2, as well as the tables provided on the architectural drawings for the floor plans of the two buildings, show 34 MPDUs. The tables need to be corrected to match the site tabulations and floor plans.
- The proportion of one- and two-bedroom MPDUs shown on the floor plans is in compliance with Section 25A-5(b)(3) of the Montgomery County Code, which states:

*"In multi-family dwelling unit subdivisions, the number of efficiency and one-bedroom MPDUs each must not exceed the ratio that market-rate efficiency and one-bedroom units respectively bear to the total number of market-rate units in the subdivision."*

- The MPDUs are reasonably distributed among the residential floors.

Division of Housing and Code Enforcement

Code Enforcement FAX 240-777-3701	Moderately Priced Dwelling Unit FAX 240-777-3709	Housing Development and Loan Programs FAX 240-777-3691	Landlord-Tenant Affairs FAX 240-777-3691
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Ms. Meredith L. Byer  
December 28, 2007  
Page 2

If you need further information, please contact me at 240-777-3786.

Sincerely,



Lisa S. Schwartz  
Senior Planning Specialist

cc: Scott Copeland, RST Development  
Sandra Pereira, M-NCPPC ✓  
Tedi Osias, HOC  
Douglas Lohmeyer, Montgomery Consulting (for HOC)  
Sharon Suarez, M-NCPPC  
Richard Y. Nelson, Jr., DHCA  
Scott Reilly, DHCA  
Joseph Giloley, DHCA  
Christopher Anderson, DHCA  
Essayas Ababu, DHCA

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## FIRE MARSHAL COMMENTS

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**DATE:** DECEMBER 17, 2007  
**TO:** MEREDITH BYER - VIKI  
**FROM:** TYLER MOSMAN  
**RE:** THE GALAXY, 9-2005005A, 8-2006013A, 1-2005089A

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### **PLAN APPROVED.**

1. Review based only upon information contained on the plan submitted **12-17-07**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

cc: Department of Permitting Services

MNCPPC-MC





DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Carla Reid Joyner  
Director

January 7, 2008

JAN - 7 2008

Mr. Jason Evans  
Vika, Inc.  
20251 Century Boulevard, Suite 400  
Germantown, MD 20874

Re: Stormwater Management **CONCEPT REVISION**  
Request for The Galaxy  
Preliminary Plan #: 1-05089  
SM File #: 217680  
Tract Size/Zone: 2.0 Ac./CBD-1  
Total Concept Area: 2.0 Ac  
Lots/Block: 11/D  
Watershed: Lower Rock Creek

Dear Mr. Evans:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of partial on-site water quality control via two proprietary filters and possibly by using green roof technology. Onsite recharge is not required since this is redevelopment. Channel protection volume is waived due to location in the CBD. A partial waiver of water quality requirements is also granted for a very small area.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Provide standard MCDPS external flow splitters, if possible.
6. The stormwater management structures must be moved out of the PIE if MCDPW&T does not accept the proposed locations.
7. Please submit architecture plans to verify areas for green roof.
8. Documentation of infeasibility must be submitted to DPS if green roof technology is not used. Also, the water quality structures must be designed as volume based.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,  


Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB:dm CN217680 Revision The Galaxy.DWK

cc: C. Conlon  
S. Federline  
SM File # 217680

ON - Waived; Acres: 2.0  
OL - Onsite/Waived; Acres: 1.790.21  
Recharge is not provided