



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

**Staff Report: Limited Project Plan Amendment 92005005B, The Galaxy
Limited Site Plan Amendment 82006013B, The Galaxy**

ITEM #: _____

MCPB HEARING DATE: December 3, 2009

REPORT DATE: November 19, 2009

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief
Robert Kronenberg, Supervisor
Development Review Division

FROM: Sandra Pereira, Senior Planner
Development Review Division
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APPLICATION DESCRIPTION: Amendment to reduce the size of the private parking garage by 66 spaces and to revise the phasing of the project; 2.62 acres; CBD-1, Ripley/South Silver Spring Overlay Zone; located on the southeast quadrant of the intersection of 13th Street and Eastern Avenue in south Silver Spring; Silver Spring CBD Master Plan

APPLICANT: RST Development

FILING DATE: September 14, 2009

RECOMMENDATION: Approval with conditions

EXECUTIVE

SUMMARY: The Amendments to both the project and the site plan eliminate part of the G-3 parking level, which reduces the parking spaces being provided by 66, resulting in a total of 368 parking spaces, including 208 private parking spaces and 160 spaces for public use.

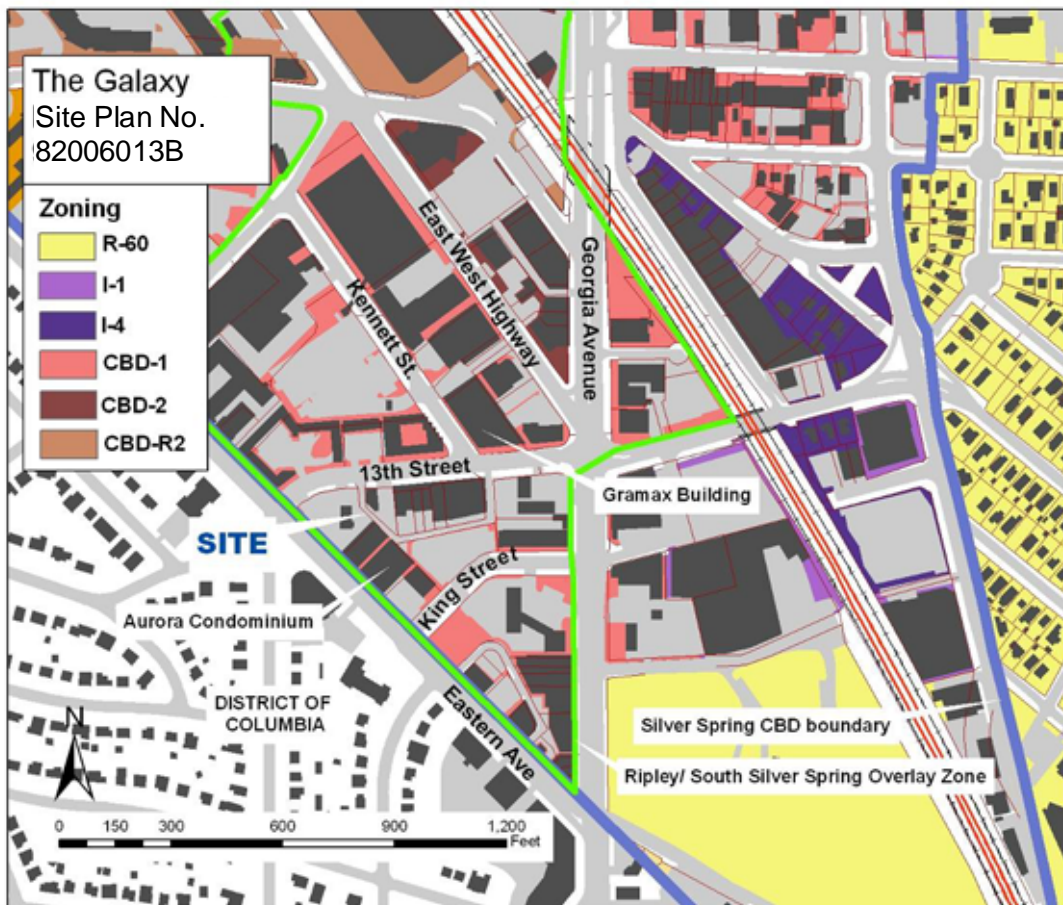
The Amendments also propose 2 phases for the project (as opposed to 1 as previously approved). Phase I includes construction of Building 1 and all related amenities, recreation facilities, public use space, and parking. Phase II includes construction of Building 2 and all related amenities, recreation facilities and public use space.

SITE DESCRIPTION

Vicinity

The subject site is located in the southeast 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 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 both the CBD-1 and Ripley/South Silver Spring Overlay Zones.

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. 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 one-family detached dwellings within the Shepherd Park Community.



Vicinity Map

Site Analysis

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.



Aerial Photo

PROJECT DESCRIPTION

Previous Approvals

Project Plan

The Planning Board approved Project Plan No. 920050050 with conditions on July 28, 2005 (Resolution dated October 21, 2005) for 328 dwelling units including 41 MPDUs.

Preliminary Plan

The Planning Board approved Preliminary Plan No. 120050890 on July 28, 2005 (Resolution dated 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 Site Plan No. 820060130 on January 12, 2006 (Resolution dated 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 13th Street.

Amendment A

The Planning Board approved Amendments to the Project Plan (92005005A), Preliminary Plan (12005089A), and Site Plan (82006013A) with conditions on January 24, 2008 (Resolutions dated April 24, 2008, March 18, 2008, and April 24, 2008, respectively) [Appendix A]. These amendments reduced the number of multi-family dwelling units to 241 and added 3,663 square feet of retail space.

Proposal

Due to market conditions, the Applicant requests modifications to the parking and phasing of the project, which requires both a Project and Site Plan Amendment because the prior approvals specified the number of parking spaces and the phasing for the project. The following modifications are proposed:

Parking

The Amendment eliminates part of the G-3 parking level that is located beneath Building 2 at the corner of Eastern Avenue and 13th Street. The resulting configuration of level G-3 covers the extent of Building 1 only and is approximately the same size and layout as the G-4 parking level below.

This modification results in a reduction in the private parking provided by 66 spaces. The new total of 368 parking spaces includes 208 in the private parking garage and 160 in the public parking garage. In accordance with the General Development Agreement between the Applicant

and Montgomery County, the number of parking spaces available for public use – 160 spaces – remains unchanged from the prior approval.

Aside from the obligation of the Applicant for 160 public parking spaces, the Applicant is not required to provide the full complement of parking spaces for the private development because the site is located in the Silver Spring Parking Lot District. The Applicant is permitted to minimize the number of spaces provided on-site to take advantage of the existing County facilities. Within the immediate vicinity of the site, there is the Kennett Street garage, approximately 100 feet to the north, and the public garage that is part of this proposal.

At the time of the previous approval, the Applicant had an Option Agreement with 75 residents in the adjacent Aurora Building that gave them the option of purchasing a space in the Galaxy parking garage. This is a private agreement, and therefore, it is not part of Staff's purview. However, Staff understands that the Agreement is still in place and the existing options for the Aurora residents will be honored despite the current amendment to the private parking garage.

Phasing

The amendment proposes that the project be developed in two phases as opposed to one as previously anticipated.

Phase I includes the construction of the following:

- 1) The 201, 954 square foot building to be located along the eastern portion of the property ("Building 1"), including all 31 MPDUs and 3,663 square feet of retail space;
- 2) Recreation facilities related to Building 1 including an indoor fitness facility, indoor community space, seating areas, and tot lot (see Table 1);
- 3) 17,899 square feet of on-site public use space improvements, including the project's main plaza and two pedestrian connections from King Street to 13th Street (see Table 2);
- 4) 11,784 square feet of off-site public amenity space improvements adjacent to Building 1, including streetscaping along 13th street and King Street (see Table 2);
- 5) 1,373 square feet of offsite public amenity space improvements located on the north side of 13th street in front of the Gramax buildings (see Table 2); and
- 6) All parking and loading areas for the project.

Phase II includes the construction of the following:

- 1) The 56,126 square foot building to be located at the corner of Eastern Avenue and 13th Street ("Building 2");
- 2) Recreation facilities related to Building 2 including an indoor fitness facility, and a pedestrian system (see Table 1).
- 3) 5,569 square feet of onsite public use space improvements located adjacent to Building 2 (see Table 2);
- 4) 4,134 square feet of offsite improvements to be located within the Eastern Avenue right-of-way (subject to the jurisdiction of the District of Columbia) (see Table 2).

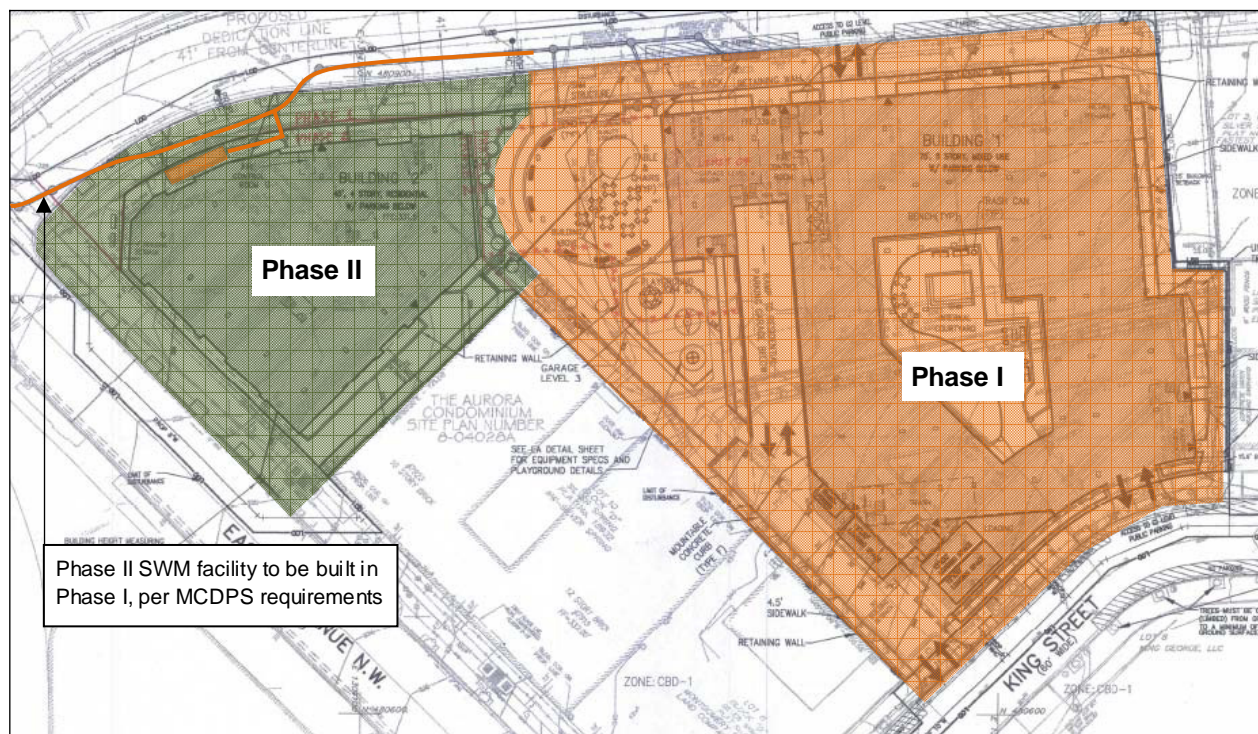
Table 1 – Proposed phasing of the Recreation Facilities

Recreation Facilities	Phase I	Phase II	Total approved w/ 82006013A
Indoor fitness room	1	1	2
Community space	1	0	1
Seating areas	10	0	10
Tot lot	1	0	1
Pedestrian system	0.5	0.5	1

Table 2 – Proposed phasing of the PUS and Off-site Amenities

Public Use Space (PUS) and Off-site Amenities (square feet)	Phase I	Phase II	Total approved w/ 82006013A
On-site PUS	17,899	5,569	23,468
Off-site PUS adjacent to site	11,784	0	11,784
Eastern Ave PUS *	0	4,134	4,134
Off-site PUS (in front of Gramax Bldg)	1,373	0	1,373
Total *	31,056	5,569	36,625

* The off-site improvements within the Eastern Avenue public right-of-way fall in the District of Columbia boundary, and therefore, the Applicant 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.



Phasing Plan

PROJECT ANALYSIS

Master Plan

The proposed amendment continues to conform with the general and site-specific recommendations in the 2000 Approved and Adopted Silver Spring Central Business District Sector Plan. 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. 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 Sector Plan envisions the creation of a pedestrian-friendly downtown, which is accomplished in this project through the streetscape treatment and other amenities along 13th Street and King Street, the public spaces with public art, and building entrances along the public streets. The proposal will be implemented under the optional method of development, which creates opportunities for larger public use spaces, better amenities and off-site streetscape improvements.

Transportation and Circulation

The proposed changes have minimal impacts on vehicular circulation. Access to the two below-grade stories of the garage remains unchanged at King Street. This garage will provide parking for the residential and retail tenants of the Galaxy, as well as for some residents of the Aurora condominiums. The public garage, located in two levels above grade in Building 1, will continue to have access from 13th Street and King Street. Vehicular circulation is modified within the parking garage as a result of the reduction of spaces on the G-3 level.

As part of the previous approvals, the Applicant has entered into a Traffic Mitigation Agreement (TMA) with the Planning Board to help the Project achieve the non-driver commuting goal for development in the Silver Spring CBD. As part of the TMA, the Applicant will construct three “super bus shelters,” two of which will be equipped with real-time transit information signs. The project is still within the APF validity period.

Environment

As mentioned in the Site Analysis, there are not many environmental features on the subject site. 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.

On-site stormwater management will not change except for the phasing of when the structures will be installed. [Appendix B]

Development Standards

The subject site is zoned CBD-1 and lies within the 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. The proposed development meets the purpose and requirements of the zone.

The following data table indicates the proposed development's compliance with the Zoning Ordinance. Only the standards that are affected by the proposed amendment are listed; a comprehensive modified data table is included on the certified site plan.

Project Data Table for the CBD-1 and Ripley/South Silver Spring Overlay Zone

Development Standard	Permitted/Required	Approved w/ Site Plan Amendment 82006013A	Proposed for Approval & Binding on the Applicant
Automobile Parking (spaces)			
Private			
- Residential subtotal	271	257	191
- Commercial subtotal	17	17	17
Public (County Parking Garage)	160	160	160
Total Automobile Parking	448*	434	368*
Bicycle Parking (spaces)			
Bike lockers	n/a	16	16
Inverted-U bike racks	n/a	4	4
Total bicycle parking	18	20	20
Motorcycle parking (spaces)			
	7	9	10

* The development is within the Silver Spring Parking District and is not required to provide any parking onsite; 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.

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff has not received correspondence on this matter.

FINDINGS FOR PROJECT PLAN

According to Section 59-D-2.43 of the Montgomery County Zoning Ordinance, in reaching its determination on a project plan the Planning Board must consider the following:

- (a) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures, and its consistency with an urban renewal plan approved under chapter 56.
- (b) Whether the open spaces, including developed open space, would serve as convenient areas for recreation, relaxation and social activities for the residents and patrons of the

development and are planned, designed and situated to function as necessary physical and aesthetic open areas among and between individuals structures and groups of structures, and whether the setbacks, yards and related walkways are located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation and necessary vehicular access.

(c) Whether the vehicular circulation system, including access and off-street parking and loading, is designed to provide an efficient, safe and convenient transportation system.

(d) Whether the pedestrian circulation system is located, designed and of sufficient size to conveniently handle pedestrian traffic efficiently and without congestion; the extent to which the pedestrian circulation system is separated from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and whether the pedestrian circulation system provides efficient, convenient and adequate linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities.

(e) The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type of use and neighborhood.

(f) The adequacy of provisions for construction of moderately priced dwelling units in accordance with chapter 25a if that chapter applies.

(g) The staging program and schedule of development.

(h) The adequacy of forest conservation measures proposed to meet any requirements under chapter 22a.

(i) The adequacy of water resource protection measures proposed to meet any requirements under chapter 19.

As the following Findings demonstrate, the subject Project Plan Amendment adequately addresses each of these considerations, as conditioned by the Staff Recommendation.

Section 59-D-2.42 of the Zoning Ordinance establishes the findings that must be made by the Planning Board and in concert with the considerations enumerated above form the basis for the Board's consideration of approval. In accordance herewith, Staff recommends the following:

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

Intents and Purposes of the CBD Zones

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

(1) "To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an

increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal project plan is approved on review by the Planning Board.”

The amendment does not propose any modifications to the density, height, or intensity approved with Project Plan Amendment No. 92005005A. The proposed amendment continues to conform with the general and site-specific recommendations in the 2000 Approved and Adopted Silver Spring Central Business District Sector Plan.

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

The amendment does not propose any modifications to the land uses approved with Project Plan Amendment No. 92005005A. However, in response to market conditions, the proposal is reducing the size of the private parking garage by 66 spaces and revising the phasing for the project from one to two phases. Both of these modifications are discussed below in findings (d) and (c), respectively, in greater detail.

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

The amendment does not propose any modifications to the design of the individual buildings, the relationship between the buildings and the circulation system, and between the CBD and adjacent areas, as approved with Project Plan Amendment No. 92005005A.

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

The proposed reduction in the number of private parking spaces combined with the proximity to the Silver Spring Metro Station could further encourage the use of transit facilities in the CBD and pedestrian access thereto. While the proposal is eliminating a portion of the underground parking garage on level G-3, which results in the loss of 66 parking spaces; it is maintaining all public amenities, artwork, and streetscape improvements, which enhances the pedestrian realm and encourages pedestrian circulation.

(5) *“To improve pedestrian and vehicular circulation.”*

The amendment does not propose any modifications to the pedestrian circulation system approved with Project Plan Amendment No. 92005005A. The vehicular circulation has not changed either except for minor adjustments within the private parking garage that resulted from the elimination of portion of Level G-3. The revised vehicular circulation

does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board for the originally approved project plan.

Access to the two below-grade stories of the garage remains unchanged at King Street. This garage 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 public garage, located in the two levels above grade of the parking structure in Building 1, will continue to have access from 13th Street and King Street.

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

The amendment continues to provide 31 MPDUs, which is 12.5 percent of the total number of units, in the same 1 and 2-bedroom mix as approved with Project Plan Amendment No. 92005005A. However, due to the proposed phasing, all 31 MPDUs are now located in Building 1, which the Department of Housing and Community Affairs (DHCA) has approved because Building 1 will be built in the first phase of the project [Appendix B]. Building 1 is a five-story building with a total of 195 residential units. Building 2, a four-story building with 46 residential units and no MPDUs, will be constructed as part of Phase II. The final location of the MPDUs within Building 1 will be decided by DHCA during the building permit application.

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

The amendment does not propose any modifications to the land assembly resulting in the current lot that was approved by Preliminary Plan No. 120050890 and discussed in Project Plan Amendment No. 92005005A.

Requirements of the CBD-1 and Ripley/South Silver Spring Overlay Zone

The table on page 8 of the staff report demonstrates the conformance of the project plan amendment with the development standards under the optional method of development. Only the standards that are affected by the proposed amendment are listed, including the phasing and number of parking spaces and revisions to the bicycle and motorcycle parking. Because the site is located in the Silver Spring Parking lot district, the Applicant is not required to provide the full number of parking spaces as required by the Ordinance for the proposed uses.

According to the Zoning Ordinance (59-C-6.215(b)) a further requirement of optional method projects is the provision of additional public amenities:

“Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted.”

To this end, the proposed amendment is proffering the same package of amenities and public facilities, but in two phases. Tables 1 and 2 on page 6 illustrate the proposed phasing of the recreation facilities and public use space.

(b) *The proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.*

The proposed amendment continues to conform with the general and site-specific recommendations in the 2000 Approved and Adopted Silver Spring Central Business District Sector Plan. The Project Plan Amendment accomplishes important Sector Plan objectives by providing a residential component within Ripley/South Silver Spring, including MPDUs, new commercial space, promoting redevelopment, upgrading the physical environment and enhancing pedestrian circulation. The proposed mixed-use development will contribute to a pedestrian-friendly downtown through the streetscape treatment and other amenities along 13th Street and King Street, the public spaces with artwork, and building entrances along the public streets.

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

The amendment does not propose any modifications to the location, size, intensity, design, and operational characteristics of the development as approved with Project Plan Amendment No. 92005005A. The proposed phasing, consisting of two phases, is compatible with existing development in the general neighborhood. During Phase I, the larger building with 195 residential units, including all 31 MPDUs, retail space and all parking for the project, will be constructed as well as the main plaza and pedestrian connections from King Street to 13th Street.

Phase I includes the construction of the following:

- 1) The 201, 954 square foot building to be located along the eastern portion of the property (“Building 1”), including all 31 MPDUs and 3,663 square feet of retail space;
- 2) Recreation facilities related to Building 1 including an indoor fitness facility, indoor community space, seating areas, and tot lot (see Table 1);
- 3) 17,899 square feet of on-site public use space improvements, including the project’s main plaza and two pedestrian connections from King Street to 13th Street (see Table 2);
- 4) 11,784 square feet of off-site public amenity space improvements adjacent to Building 1, including streetscaping along 13th street and King Street (see Table 2);
- 5) 1,373 square feet of offsite public amenity space improvements located on the north side of 13th street in front of the Gramax buildings (see Table 2); and
- 6) All parking and loading areas for the project.

Phase II includes the construction of the following:

- 1) The 56,126 square foot building to be located at the corner of Eastern Avenue and 13th Street (“Building 2”);

- 2) Recreation facilities related to Building 2 including an indoor fitness facility, and a pedestrian system (see Table 1).
- 3) 5,569 square feet of onsite public use space improvements located adjacent to Building 2 (see Table 2);
- 4) 4,134 square feet of offsite improvements to be located within the Eastern Avenue right-of-way (subject to the jurisdiction of the District of Columbia) (see Table 2).

(d) As conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.

The Amendment will not overburden existing public services or facilities. The site is located within the Silver Spring parking lot district which permits Applicants to minimize the number of parking spaces provided onsite and to take advantage of existing County facilities. The amendment proposes to reduce the number of private parking spaces by 66. The new total of 368 parking spaces includes 208 in the private parking garage and 160 in the public parking garage. In accordance with the General Development Agreement between the Applicant and Montgomery County, the number of parking spaces available for public use – 160 spaces – remains unchanged from the prior approval.

At the time of the previous approval, the Applicant had an Option Agreement with 75 residents in the adjacent Aurora Building that gave them the option of purchasing a space in the Galaxy parking garage. This is a private agreement, and therefore, it is not part of Staff's purview. However, Staff understands that the Agreement is still in place and the existing options for the Aurora residents will be honored despite the current amendment to the private parking garage.

As part of the previous approvals, the Applicant has entered into a Traffic Mitigation Agreement (TMA) with the Planning Board to help the Project achieve the non-driver commuting goal for development in the Silver Spring CBD. As part of the TMA, the Applicant will construct three "super bus shelters," two of which will be equipped with real-time transit information signs. The project is still within the APF validity period.

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

The amendment does not propose any modifications to the density, public use space, amenities, artwork, and offsite improvements, which were approved with Project Plan Amendment No. 92005005A and resulted from using the optional method of development.

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

The amendment continues to provide 31 MPDUs, which is 12.5 percent of the total number of units, as required by Chapter 25A. A final agreement between the Applicant and the

Department of Housing and Community Affairs will be required prior to the release of the 1st building permit.

- (g) *When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from on lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings:*

The proposed development is located on one existing lot, as consolidated by Preliminary Plan No. 120050890, and does not propose any open space or density transfers.

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

The project is exempt from the requirements of the forest conservation law.

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

The proposed amendment does not change the stormwater management concept, approved on May 9, 2007, and reconfirmed on November 20, 2009, except for the phasing of when the structures will be installed [Appendix B]. 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 because this is a redevelopment site. Channel protection volume is waived due to the site's location in the CBD. A partial waiver of water quality requirements is also granted for a very small portion of the site.

RECOMMENDATION AND CONDITIONS FOR PROJECT PLAN

The proposed modifications to the project plan do not adversely alter the design character of the development in relation to the original approval, and the development will remain compatible with existing and proposed development adjacent to the site. Reducing the number of parking spaces in the private garage is acceptable because the site is located in the Silver Spring Parking Lot District, which allows Applicants to minimize the number of spaces provided onsite to take advantage of the existing County facilities. The phasing proposed allows for each building with related amenities, recreation facilities and public use space to be developed separately. Phase I includes the largest building, with all MPDUs, and the main plaza area. The proposed amendment is consistent with the provisions of Section 59-D-2.6 of the Montgomery County Zoning Ordinance for Minor Plan Amendments. The amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board for the originally approved project plan and subsequent amendment.

Staff recommends approval of Project Plan Amendment No. 92005005B, The Galaxy, for the modifications to the parking and phasing. All site development elements shown on the project plans stamped “Received” by the M-NCPPC on September 14, 2009 and November 13, 2009, are required except as modified by the following conditions:

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for project plan amendment 92005005A as listed in the Planning Board Resolution dated April 24, 2008, unless amended by this application [Appendix A].

2. Staging of Amenity Features, Recreation facilities and Public Use Space

The proposed development will be completed in two phases. A detailed development program will be required prior to approval of the certified site plan.

RECOMMENDATION AND CONDITIONS FOR SITE PLAN

The proposed modifications to the site plan do not alter the overall design character of the development in relation to the original approval and the site remains compatible with existing and proposed development adjacent to the site. Reducing the number of parking spaces in the private garage is acceptable because the site is located in the Silver Spring Parking Lot District, which allows Applicants to minimize the number of spaces provided onsite to take advantage of the existing County facilities. The phasing proposed allows for each building with related amenities, recreation facilities and public use space to be developed separately. Phase I includes the largest building, with all MPDUs and retail, and the main plaza area. These modifications do not impact the efficiency, adequacy, or safety of the site with respect to vehicular and pedestrian circulation, open space, landscaping, or lighting.

Staff recommends approval of Site Plan Amendment No. 82006013B, The Galaxy, for the requested modifications delineated above. All site development elements shown on the site and landscape plans stamped “Received” by the M-NCPPC on September 14, 2009, and November 13, 2009, are required except as modified by the following conditions.

Conformance with Previous Approvals

1. Project Plan Conformance

The development must comply with the conditions of approval for Project Plan Amendment No. 92005005B.

2. Preliminary Plan Conformance

The development must comply with the conditions of approval for preliminary plan 12005089A as listed in the Planning Board Resolution dated March 18, 2008 unless amended. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DPWT conditions, and DPS stormwater conditions.

3. Site Plan Conformance

The proposed development must comply with the conditions of approval for site plan 82006013A as listed in the Planning Board Resolution dated April 24, 2008, unless amended by this application [Appendix A].

Environment

4. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated May 9, 2007, and reconfirmed on November 20, 2009, unless amended and approved by the Montgomery County Department of Permitting Services.

Open Space & Recreation

5. Recreation Facilities

During Phase I, the Applicant must provide all recreation facilities related to Building 1, including an indoor fitness facility, indoor community space, tot lot, ten picnic/sitting areas, and the pedestrian system surrounding Building 1. During Phase II, the Applicant must provide the remaining recreation facilities related to Building 2, including an indoor fitness facility, and the pedestrian system surrounding Building 2.

6. Maintenance of Public Amenities

Initially, the Applicant, and subsequently, within ninety days of formation, the Condominium Association of each building must 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.

Density & Housing

7. Moderately Priced Dwelling Units (MPDUs)

- a. The Applicant must provide 31 Moderately Priced Dwelling Units (12.5% of the total number of units) onsite, consistent with Chapter 25A.
- b. The MPDU agreement with DHCA must be executed prior to the release of the first building permit.
- c. All MPDUs must be provided during Phase I in Building 1.

Site Plan

8. Performance Bond and Agreement

The Applicant is subject to the following provisions for surety as described in Section 59-D-3.5 of the Montgomery County Zoning Ordinance and Site Plan approval:

- a. The Applicant must provide a cost estimate from the landscape architect or landscape contractor indicating the installed costs of site plan elements, such as, but not limited to landscaping, lighting, recreation facilities, site furnishings, special paving, and public art. The cost estimate should include a 10% inflation factor for the site plan

- elements to account for changes in price and materials and modifications to the approved plans.
- b. Prior to the release of the first building permit, the Applicant must submit a Performance Bond or other satisfactory form of surety as approved by M-NCPPC to cover the installed costs of site plan elements, such as, but not limited to landscaping, lighting, recreation facilities, site furnishings, special paving, and public art, as shown and described in the cost estimate.
 - c. The Applicant must execute an agreement for site plan elements in conjunction with the performance bond indicating the Applicant's agreement to install, construct and maintain the site plan elements.

9. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. All site features associated with each building as defined by the Site Plan drawings dated September 14, 2009, must be installed no later than six (6) months after the occupancy of the last residential unit for each building. The Applicant must 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 public use space and amenities, including streetscaping and areas adjacent to the site and in front of the Gramax Building, must be completed during Phase I and no later than the issuance of the last use and occupancy permit for Building 1.
- c. Landscaping for each building must progress as construction of each unit is completed, but no later than six (6) months after completion of each building.
- d. The recreation facilities located within each building must be installed prior to occupancy of the first unit in each building. The seating areas located around the perimeter of Building 1 must be installed upon completion of Building 1.
- e. The public plaza, including the light display, specialty paving, terraced lawn area and seating, must be completed and installed upon completion of Building 1.
- f. The new mid-block alley connecting 13th Street to King Street must be installed within 6 months of the last use and occupancy permit for Building 1.
- g. The commissioned public art components must be completed and installed within 6 months of the last use and occupancy permit for Building 1.
- h. Clearing and grading must 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.

10. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Revise parking garage plans to be consistent with the parking space tabulations.
- c. Update inspection schedule to reflect proposed phasing.

APPENDICES

- A. Prior Resolutions
- B. Agency Letters

Appendix A

APR 24 2008



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

MCPB No. 08-31

Project Plan Amendment No. 92005005A

Project Name: The Galaxy

Date of Hearing: January 24, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review project plan applications; and

WHEREAS, on September 27, 2007, RST Development ("Applicant"), filed an application for approval of a project plan amendment for 241 multi-family dwelling units, including 31 MPDUs, and 3,663 square feet of retail space ("Project Plan") on 2.62 acres of CBD-1 zone and Ripley/South Silver Spring Overlay Zone land, located on the southeast quadrant of the intersection of 13th Street and Eastern Avenue in south Silver Spring ("Property" or "Subject Property"); and

WHEREAS, Applicant's project plan amendment application was designated Project Plan No. 92005005A, The Galaxy (the "Project Plan" or "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated January 10, 2008, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on January 24, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

APPROVED AS TO LEGAL SUFFICIENCY
DND 4/24/08
M-NCPPC LEGAL DEPARTMENT

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on January 24, 2008, the Planning Board approved the Application subject to conditions on the motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 4-0, Commissioner Bryant, Cryor, Hanson, and Robinson voting in favor, and Commissioner Lynch absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Project Plan No. 92005005A for 241 multi-family dwelling units, including 31 MPDUs, and 3,663 square feet of retail space, on 2.62 acres of CBD-1 Zone and Ripley/South Silver Spring Overlay Zone, subject to the following conditions:

1. Development Ceiling

- a. The development shall be limited to a maximum of 241 multi-family dwelling units or 92 dwelling units per acre.
- b. The development shall be limited to a maximum of 3,663 square feet of retail space.

2. Building Height/Mass

- a. The height of Building 1 shall not exceed 75 feet as measured from 13th Street.
- b. The height of Building 2 shall not exceed 45 feet, within the 100 foot setback, as measured from Eastern Avenue.

3. Transportation Improvements

- a. Provide standard Silver Spring streetscape along the property boundary on 13th Street and King Street, and extend the streetscape off-site, as shown on the approved Project Plan.
- b. Provide a Class III bikeway (on-road, signed shared roadway) on the south side of 13th Street.

4. Moderately Priced Dwelling Units (MPDUs)

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

5. Public Use Space and Amenity

- a. The development shall provide at least 27% (23,468 square feet) of on-site public use space and 15.15% (13,157 square feet) of off-site public amenity space for a combined total of 42.18% or 36,625 square feet. In addition to the on-site and off-site public use space and amenities, the Applicant shall provide 4,134 square feet of streetscape improvements along Eastern

Avenue, consistent with approvals from the District of Columbia Department of Public Works.

- b. The public use space shall be easily and readily accessible to the general public and used for public enjoyment.

6. Streetscape

- a. The Applicant shall provide full-width streetscape improvements along the 13th Street (Type 'B') and King Street (Type 'B') frontage using the Silver Spring Streetscape Plan (April 1992) Technical Manual, or as amended. The following elements are included: stone, poured-in-place concrete, brick pavers, street trees, lighting, and any other details that are necessary, including placing the utilities underground along the frontage of the property, to fulfill the Silver Spring streetscape standards.
- b. The Applicant shall provide the full-width streetscape improvements along the Eastern Avenue frontage (District of Columbia right-of-way) using the Silver Spring Streetscape Plan (April 1992) Technical Manual, or as amended, consistent with approvals from District of Columbia Department of Public Works.
- c. Off-site improvements including upgrading the pavement per the Silver Spring Streetscape Plan (April 1992) Technical Manual, or as amended, shall be provided along 13th Street in front of the Gramax Building.

7. 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 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 13th Street façade of Building 1, and the new mid-block alley connecting 13th 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.

8. Staging of Amenity Features

- a. The project shall be developed in a single phase.
- b. Landscaping for each building to be installed no later than the next growing season after completion of that building and public plaza.
- c. Streetscape improvements and public art associated with each building to be installed prior to occupancy of each building, in accordance with the phasing for the site.

9. Maintenance and Management Organization

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

10. Coordination for Additional Approvals Required with Site Plan

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

- a. Enter into a maintenance agreement with the Silver Spring Urban District for maintenance of all or some of the streetscape improvements.
- b. The Applicant shall meet with the M-NCPPC staff and the District of Columbia Department of Public Works to discuss the streetscape improvements along Eastern Avenue.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified by herein), and upon consideration of the entire record and all applicable elements of § 59-D-2.43, the Montgomery County Planning Board, with the conditions of approval, FINDS:

- (a) The proposed development complies with all of the intents and requirements of the CBD-1 zone and the Ripley/South Silver Spring Overlay Zone.**

Purpose Clause Section 59-C-6.212

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

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

The Project Plan uses the optional method of development to build two separate mid-rise condominium buildings with retail space at street level. This is in conformance with the Silver Spring Central Business District and Vicinity Sector Plan. High density residential is permitted in the CBD-1 Zone.

The two buildings vary in height from 45 to 75 feet, which is in conformance with the standards of the Montgomery County Zoning Ordinance for the CBD-1 zone and Ripley/ South Silver Spring Overlay Zone, which permits a maximum height of 45 feet for buildings fronting Eastern Avenue and a maximum of 125 feet for buildings set back at least 100 from Eastern Avenue. The height restriction on Eastern Avenue is stricter due to the adjacent one-family residential uses located in the District.

The project provides 241 (rather than 328 previously approved) dwelling units, including 31 or 12.5% Moderately Priced Dwelling Units (MPDUs) on-site, and 3,663 square feet of retail space. The total density of this development is 2.26 FAR, which is below the maximum 3.0 FAR allowed under the zone for optional method projects. Because this is a mixed use project the FAR calculations apply, however for informational purposes, the development proposes 92 dwelling units per acre rather than 125 previously approved, which is the maximum that the zone permits.

The Project Plan accomplishes important Sector Plan objectives by providing a residential component within Ripley/South Silver Spring, including MPDUs, new commercial space, promoting redevelopment, upgrading the physical environment and enhancing the pedestrian circulation. The development improves the area by replacing a vacant lot and surface parking lot with a modern residential building with retail. The development provides an appropriate transition between residential and institutional uses on Eastern Avenue, and commercial and retail uses in the Georgia Avenue corridor.

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

The Project Plan responds to the need for housing in south Silver Spring and fulfills smart growth policies to develop where infrastructure, community facilities and elements of an urban district already exist. The Sector Plan encourages housing as an important component to the revitalization efforts and specifically identifies a portion of the site for residential development. Since the last approval, this Project Plan has responded to shifting market conditions and, as a result, it is providing less residential units and incorporating a retail component.

Under the optional method, this project encourages the creation of active urban streets by providing significant public spaces abutting street edges and improving the quality of the pedestrian environment within the improved streetscapes. The project supports the economic base in the downtown by making it more

convenient for workers in Silver Spring to live near their jobs. This project will also increase the vitality of south Silver Spring and add an economic infrastructure for commercial and retail businesses in the Ripley district.

This project adds a variety of activities to the CBD. Active recreation is accommodated in the children's play area. Passive recreation is accommodated in sitting areas with benches and movable chairs and tables. Art elements throughout the site make this development more appealing and inviting for workers, shoppers and residents in this expanding mixed-use market.

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

The approved project strengthens the Ripley/South Silver Spring area by complementing the scale and mix of existing design elements along the Eastern Avenue and Georgia Avenue corridors while respecting the Ripley/South Silver Spring Overlay Zone height limitations, thus providing a compatible and desirable relationship with adjacent and surrounding uses. This project provides the pedestrian friendly environment envisioned in the Sector Plan. The varying heights of the buildings provide the necessary and applicable transition from the adjacent residential neighborhood of Shepherd Park in the District to the higher density uses and buildings closer to Georgia Avenue.

The design creates an effective relationship with adjacent uses and amenities and allows for a more interactive pedestrian and vehicular circulation pattern. In addition to the improved streetscapes on the periphery of the site, the pedestrian circulation onsite accommodates pedestrian desire lines through the mid-block connections.

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

The development is located approximately 3000 feet south of the Silver Spring Metro Station. The proximity to transit facilities, as well as to the downtown employment core, will reduce the dependency on the automobile for the residents of the development. In addition, the streetscape improvements along 13th Street and King Street encourage pedestrian connectivity to the metro station and core areas in the Silver Spring CBD. The streetscape improvements along both streets, including the expanded streetscape improvements in front of the Gramax building, will promote pedestrian circulation to Georgia Avenue and other businesses in the downtown corridor. The expansion of public parking

spaces in the CBD will also facilitate parking needs for the expanding residential and commercial base.

As part of the previous approvals, the Applicant entered into a Traffic Mitigation Agreement (TMA) with the Planning Board to help the Project achieve the non-driver commuting goal for development in the Silver Spring CBD. The approved TMA outlines possible transit alternatives, monitoring of the program and commuter display information.

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

The Amended Project Plan encourages the development of active urban streets and improves the quality of the pedestrian environment by providing the enhancement to the streetscape as prescribed in the Silver Spring Streetscape Plan (April 1992) Technical Manual, or as amended.

The full streetscape improvements along the south side of King Street 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 the Georgia Avenue corridor.

The new mid-block alley connecting 13th Street to King Street will facilitate the Arts and Entertainment theme for Silver Spring and further activate pedestrian circulation through the site.

Vehicular circulation is enhanced with improved rights-of-way along the south side of 13th Street and north side of King Street. Additional area has been dedicated on the south side of 13th Street, which equates to 41 feet from the centerline for a total of 71 feet of right-of-way. The full width 60-foot right-of-way has already been dedicated on King Street. The dedication will ensure complete accommodation of the optional method streetscape treatment on the Applicant's side of 13th Street and King Street. The north side of 13th Street already contains an improved streetscape. 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 of Columbia to implement the Silver Spring streetscape standards along Eastern Avenue. Additional off-site streetscape improvements are included with this application directly in front of the Gramax building on 13th Street.

The 160 spaces included within the public parking garage have access from both 13th Street and King Street. The private parking garage with 274 spaces

accommodates parking for the residents and retail users of the Galaxy (subject site) and residents of the Aurora (Site Plan No. 82004028A). One access point from King Street is provided to the private garage that spans across Buildings 1 and 2. The public and private garages are separate across the different levels of the parking structure. The public portion is located in the two stories above grade underneath Building 1, and the private portion is located in the two stories below grade spanning across the majority of the site.

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

This Amended Project Plan fulfills a major objective of Montgomery County to provide affordable housing in areas where public facilities, services and transit options are readily available. Consistent with Chapter 25A, the Applicant is committed to providing 31 MPDUs within the two buildings, which represents 12.5% of the total number of dwelling units (12.5% is required). This Amended Project Plan has ten fewer MPDUs than the Project Plan originally approved as a result of the decrease in the total number of dwelling units (from 328 to 241 units). The Applicant is providing a mix of 1 and 2-bedroom MPDUs that reflect the mix of market rate units and are distributed throughout the two buildings. The final breakdown and location of the MPDUs will be decided by the Department of Housing and Community Affairs (DHCA) during the building permit application.

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

Preliminary Plan No. 120050890 approved the assemblage of four recorded lots, four unrecorded parcels and the County parking lot to allow for the unified redevelopment of the underutilized site. At the time that the Sector Plan was adopted, the Property was under multiple ownerships and redevelopment appeared unlikely, nonetheless it specifically identifies a portion of the property as a potential housing site. In addition, the Sector Plan identifies housing and retail as key components of the revitalization efforts for downtown Silver Spring. Consistent with the recommendation of the Sector Plan, the Project Plan introduces retail and a variety of housing types into an existing framework of commercial and retail uses in downtown Silver Spring, which will encourage further revitalization in the downtown corridor.

Requirements of the CBD-1 zone and Ripley/South Silver Spring Overlay Zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards, the previously approved development standards on Project Plan No. 920050050, and the development standards proposed for approval. The Board

finds, based on the aforementioned data table, and other uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-1 zone and the Ripley/South Silver Spring Overlay Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

DATA TABLE

	Development Standards Approved by the Planning Board and Binding on the Applicant
Min. Gross Tract Area (sf./ac.)	114,310* (2.6242 ac.)
Net Lot Area (sf.)	86,834
Permitted Density Calculations (du/ac.)	
Max. Total Density (FAR)	2.26 (258,080 sf)
Max. Non-Residential (FAR)	0.03 (3,663 sf)
Min. Residential (FAR)	2.23 (254,417 sf)
Residential Density (du/ac.)	92
Max. Total Number of Units	241
MPDUs (%)	12.5 (31 units)
Public Use Space	
Min. On-site Public Use Space (sf)	23,468 (27.03%)
Off-site Public Use Space (sf)	11,784 (13.57%)
Additional Off-Site Improvements (sf)	4,134 (4.76%)**
Total On and Off-Site Public Use Space And Improvements (sf)	36,625 (42.18%)**
Max. Building Height (ft.) ¹	
For properties fronting on Eastern Ave	45
For properties fronting 13th St. and King St.	75***
Min. Building Setbacks (ft.)	
Building 1	
Building walls	
South side	7.5
13th Street R/W	9
West side	30
Balconies/canopies	
13th Street R/W	9
Building 2	
Building walls	

South side	24
Eastern Ave R/W	3
13th Street R/W	9
Parking (spaces)	
Private	
Residential Subtotal	257
Commercial Subtotal	17
Public (County Parking Garage)	160
Total Parking	434****

- * Includes previous street dedication (approximately 22,301 sf on King Street and 13th Street) and approximately 5,176 sf for the 13th Street right-of-way dedication.
- ** Applicant has included 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 13th Street. 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 13th Street, which slopes down to Eastern Avenue.
- **** The 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.

⁽¹⁾ 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.

(b) The proposed development conforms to the Silver Spring CBD and Vicinity Sector Plan approved under Chapter 56.

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 approved mixed-use development is comprised of 3,663 square feet of retail and 241 residential units with separate private and public parking structure. High-rise multi-family units are permitted uses under the CBD-1 Zone with a maximum total density of 3.0 FAR. The Project Plan Amendment has a total density of 2.26 FAR and uses the optional method of development.

While the minimum required public use space for this project is 17,367 square feet (20% of the net lot), the Applicant is providing 23,468 square feet of onsite public use space and amenities, which equals to 27.03% of the net lot. In addition, the Applicant is providing 13,157 square feet of off-site streetscape improvements. In total, the Applicant is providing 36,625 square feet of on-site public use space, amenities and off-site improvements or 42.18% of the net lot area. In addition to the public use space, amenities and off-site improvements, the Applicant is providing 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 development. The Sector Plan encourages housing as an important component of the revitalization efforts and specifically identifies a portion of the 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 development improves the quality of the pedestrian environment by providing the optional method streetscape treatment and other amenities along 13th Street and King Street.

Compatibility: The Board finds that this Application is compatible with adjacent uses in terms of building height and building massing in accordance with the Ripley/South Silver Spring Overlay Zone and the Zoning Ordinance requirements. The building height along Eastern Avenue that confronts a residential zone in the District of Columbia must not exceed a height of 45 feet per the Overlay Zone requirements. 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 approved mixed-use development has a height of 45 feet along Eastern Avenue, which increases compatibility with the residential community in the District of Columbia. The building height transitions to 75 feet where the site is closer to the higher intensity uses of the Georgia Avenue corridor. Similarly, the building mass also transitions from a smaller building (approximately 14,285 square feet of lot coverage) along Eastern Avenue, to a larger and bulkier building (approximately 41,910 square feet of lot coverage) where the site is closer to the Georgia Avenue corridor.

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 per DPWT Docket No. 667.

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. The Planning Board approved a Class III bikeway (on-road, signed shared roadway) along 13th Street.

Streetscape: The Applicant will improve the 13th Street and King Street frontages with the Type "B" streetscape treatment. The streetscape and public amenities for the project will 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.

- (c) Because of its location size, intensity, design, operational characteristics and staging, the proposed development is compatible with and not detrimental to existing or potential development in the general neighborhood.**

The residential use is compatible with the surrounding neighborhood and potential development within the Georgia Avenue and Eastern Avenue corridors. The approved buildings are in scale with the adjacent Aurora building and Gramax building, and complement the surrounding community. The height and mass of the buildings fronting onto Eastern Avenue are less intense to complement the low-density residential character within the Eastern Avenue corridor.

The buildings have been sensitively designed to ensure compatibility with the surrounding development and the general neighborhood. The building fronting on Eastern Avenue is 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 site upon the surrounding community.

- (d) The proposed development does not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.**

The use will not overburden existing public services or facilities. The project provides residential units within an emerging mixed-use area of south Silver Spring. Parking is provided at approximately a 0.75 space per unit ratio for the 241 units in the subject site, including an additional 17 parking spaces for retail and assuming that 75 parking spaces will be used for Aurora residents. The Applicant has an Option Agreement with 75 Aurora residents that offers them the option of purchasing a space in the Galaxy parking garage. In addition to the private parking provided for the residents, 160 additional spaces are provided in the public parking garage. The remainder of the parking needed to satisfy the County Parking Ordinance for the development will take advantage of the parking in the public garage that is part of this project, and in the nearby Kennett Street garage, approximately 100 feet north of the site. Because the site is located within the Silver Spring Parking Lot District, it is permitted to minimize the number of spaces provided on-site to take advantage of the existing County's facilities.

There is adequate water and sewer capacity within the Silver Spring CBD Policy Area to accommodate the increase in residential units. The Annual Growth Policy (AGP) Schools Test for FY2005 indicates that there is adequate capacity within the Montgomery Blair cluster to accommodate the student generation attributable to the development.

As part of the previous approvals, the Applicant has entered into a Traffic Mitigation Agreement (TMA) with the Planning Board to help the Project achieve the non-driver commuting goal for development in the Silver Spring CBD.

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

The Optional Method of Development permits a more efficient use of the land and promotes a higher quality project than the standard method of development. The Project Plan uses the optional method of development and is in conformance with the goals and objectives of the Silver Spring Sector Plan. The development provides 241 dwelling units, including 31 MPDUs (12.5%) onsite, and 3,663 square feet of retail with a total density of 2.26 FAR.

In addition to the provision of additional market-rate and MPDU units in south Silver Spring, the project will contribute a significant new public open space and art amenity package on the site. The project is providing over 42 percent of new on and off-site public use space, which would not have been possible through the standard method of development. An additional 4.76 percent of off-site improvements may be possible on Eastern Avenue if the District of Columbia permits streetscape improvements within their right-of-way. Additionally, the Applicant is enlisting the talents of local artists to enhance the new mid-block alley connecting 13th Street to King Street, and public use spaces throughout the site. Overall, the size and quality of the onsite public spaces and amenities would not have been possible through a standard method project.

- (f) The proposed development includes moderately priced dwelling units in accordance with Chapter 25A of this Code.**

This Application requires thirty-one (31) Moderately Priced Dwelling Units (MPDUs) or 12.5% of the approved residential dwelling units within the development.

- (g) When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from on lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings:**

The previously approved preliminary plan has assembled four recorded lots, four unrecorded parcels and the Montgomery County surface parking lot to allow for a unified redevelopment of the currently underutilized and vacant site. The project will result in an overall land use configuration that is significantly superior to that which could otherwise be achieved.

- (h) The proposed development satisfies any applicable requirements for forest conservation under Chapter 22A.**

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #4-05144) was approved on March 21, 2005. The Applicant will need to address final Forest Conservation Plan requirements with the site plan but is permitted to pay a fee-in-lieu or claim credit for street trees planted within the property boundaries.

(i) The proposed development satisfies any applicable requirements for water quality resources protection under Chapter 19.

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.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 92005005A, The Galaxy stamped received by M-NCPPC on November 29, 2007, are required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that this Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

BE IT FURTHER RESOLVED that the date of this Resolution is APR 24 2008 (which is the date that this Resolution is mailed to all parties of record); and


BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

At its regular meeting, held on Thursday, April 17, 2008, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Vice Chair Robinson, seconded by Chairman Hanson, with Chairman Hanson, Vice Chair Robinson and Commissioner Bryant present and voting in favor, and with

Commissioner Cryor absent. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Project Plan No 92005005A, The Galaxy.



Royce Hanson, Chairman
Montgomery County Planning Board



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

MCPB No. 08-25
Site Plan Amendment No. 82006013A
Project Name: The Galaxy
Date of Hearing: January 24, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on September 27, 2007, RST Development ("Applicant"), filed an application for approval of a site plan for 241 multi-family dwelling units, including 31 MPDUs, and 3,663 square feet of retail space ("Site Plan" or "Plan") on 2.62 acres of CBD-1 and Ripley/South Silver Spring Overlay Zone land, located on the southeast quadrant of the intersection of 13th Street and Eastern Avenue in south Silver Spring ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan Amendment No. 82006013A, The Galaxy (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated January 10, 2008, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on January 24, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

APPROVED AS TO LEGAL SUFFICIENCY
[Signature] 4/24/08
M-NCPPC LEGAL DEPARTMENT

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on January 24, 2008, the Planning Board approved the Application subject to conditions on the motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 4-0, Commissioner Bryant, Cryor, Hanson, and Robinson voting in favor, and Commissioner Lynch absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 82006013A for 241 multi-family dwelling units, including 31 MPDUs, and 3,663 square feet of retail space, on 2.62 gross acres in the CBD-1 and Ripley/South Silver Spring Overlay zone, subject to the following conditions:

1. Project Plan Conformance

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

2. Preliminary Plan Conformance

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

3. Public Use Space

- a. The 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% (23,468 sf.) of on-site public use space and 15.15% (13,157 sf.) of off-site public use space. Additional off-site improvements (4.76%, 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 13th Street frontage using the *Silver Spring Streetscape Plan* (April 1992) Technical Manual, or as amended. The following elements are included: stone, poured-in-place 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 include the 13th 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 will provide three areas or elements that are incorporated into the public art component: a public plaza between Buildings 1 and 2, a mosaic wall along the 13th Street façade of Building 1, and the new mid-block alley connecting 13th 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 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 ten (10) picnic/sitting areas, a tot lot, a pedestrian system, an indoor community space and two (2) 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 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 13th Street.
- d. Provide 20 bike parking spaces, of which 16 shall be bike lockers (each holding one bike) and two inverted-U bike racks, one in the front of each retail entrance.
- e. Maintain the pedestrian access route elevation across the driveway.

11. Forest Conservation

The development shall comply with the conditions of the preliminary forest conservation plan. The Applicant shall satisfy all conditions prior to recording of plat(s) or the issuance of sediment and erosion control permits by the Montgomery County Department of Permitting Services (MCDPS). Approval of the final forest conservation plan must be consistent with the approved preliminary forest conservation plan prior to any clearing, grading or demolition on the site.

12. Stormwater Management

The development is subject to the Stormwater Management Concept approval conditions dated May 9, 2007.

13. 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.

14. Easement Agreement

The Applicant will enter into an Easement Agreement with the Aurora Homeowners Association, Inc. regarding continuous and permanent access (before, during and after construction) for the storage and removal of its trash and recyclables. A copy of the Easement Agreement will be placed in the site plan file. Although the requirement to enter into this Easement Agreement is being made a condition of Site Plan approved at the request of the Applicant and the Aurora Homeowners Association, the Easement Agreement is a private agreement and will not be enforced by the Planning Board.

15. Development Program

Applicant shall construct the approved 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 13th 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.

16. Clearing and Grading

Clearing or grading is permitted prior to M-NCPPC approval of the Certified Site Plan.

17. 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 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.

BE IT FURTHER RESOLVED that all site development elements as shown on The Galaxy drawings stamped by the M-NCPPC on November 29, 2007, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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 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 CBD-1 Zone and the Ripley/South Silver Spring Overlay Zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

Requirements of the CBD-1 Zone and the Ripley/South Silver Spring Overlay Zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards, the development standards approved with Site Plan No. 820060130, and the developments standards proposed for approval. The Board finds, based on the aforementioned data table, and other uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-1 Zone and the Ripley/South Silver Spring Overlay Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table

Development Standards Approved by
the Planning Board and Binding on the
Applicant

Gross Tract Area (ac/sf.):	2.6242* 114,310
Net Lot Area (sf.):	86,834
Gross Floor Area (sf)	258,080.10
Permitted Density	
Max. Total Density (FAR)	2.26 (258,080 sf)
Max. Non-Residential (FAR)	0.03 (3,663 sf)
Min. Residential (FAR)	2.23 (254,417 sf)
Residential Density (du/ac.):	92
Max. total Number of Units:	241

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MPDUs (%):	12.5 31 MPDUs
Public Use Space (PUS)	
On-site PUS (sf)	23,468 (27.03%)
Off-site PUS adjacent to site (sf)	11,784 (13.57%)
Off-site PUS not adjacent to site (sf)	1,373 (1.58%)
Additional Off-Site Improvements (sf)	4,134 (4.76%)**
Total On and Off-Site Public Use Space And Improvements (sf):	36,625 (42.18%)**
Green space (sf)	25,816 (29.7%)
Building Coverage (sf)	56,195 (64.7%)
Max. Building Height (ft.) ¹ (see footnote)	
For properties fronting on Eastern Ave	45
For properties fronting 13th St	75***
Min. Building Setbacks (ft.)	
Building 1	
Building walls	
South side	7.5
13th Street R/W	9
West side	30
Balconies/canopies	
13th Street R/W	9
Building 2	
Building walls	
South side	24
Eastern Ave R/W	3
13th Street R/W	9
Bicycle parking (spaces)	
(16) Bike Lockers	16
(2) Inverted-U bike racks	4
Total bicycle parking	20
Motorcycle parking (spaces)	9
Automobile Parking (spaces)	
Private	
Residential Subtotal	257
Commercial Subtotal	17
Public (County Parking Garage)	160
Total Parking	434****

* Includes previous street dedication (approximately 22,301 sf on King Street and 13th Street) and approximately 5,176 sf for the 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 Washington, D.C. 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 13th Street . 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 13th Street, which slopes down to Eastern Avenue.
- **** The 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.

⁽¹⁾ 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.

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

a. Buildings and Structures

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 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 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 are 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 one 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 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 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 13th 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 level plan consists 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 will include a commissioned mosaic panel that features galactic bodies and stars that will help to 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% of the net lot), the Amended Site Plan will include 23,468 square feet of public use space and amenities provided on-site which equals 27.03% of the net lot. The Applicant will also include 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 will include 36,625 square feet of on-site public use space, amenities and off-site improvements or 42.18% of the net lot area. In addition to the public use space, amenities and off-site improvements, the Applicant will include 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% of the net lot area.

The open space 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 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 to 15 feet from the top of the raised planter. The lights are designed as 1.5 inch diameter clear acrylic rods in metal housings on a two inch 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 13th Street to King Street emphasizes each art piece.

The diverse types of lighting 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 13th 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 foot 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 landscape and lighting are adequate, safe and efficient.

d. Recreation Facilities

Recreation demand is met on-site. 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. The recreation facilities are adequate, safe and efficient.

e. Vehicular and Pedestrian Circulation

Vehicular circulation is enhanced with improved right-of-way along the south side of 13th Street and north side of King Street. Additional area was dedicated with the Preliminary Plan No. 120050890 on the south side of 13th 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 streetscape improvements will ensure complete accommodation of the optional method streetscape treatment on the Applicant's side of 13th 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 located directly in front of the Gramax building on 13th 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, the 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, provides 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 amendment, the Applicant has chosen to decrease the number of dwelling units in the development and the number of parking spaces available for the residents in the 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 13th 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. Vehicular and pedestrian circulation is adequate, safe and efficient.

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

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

The mixed-use development is compatible with the surrounding neighborhood and potential development within the Georgia Avenue and Eastern Avenue corridors. The 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 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 is 45 feet in height, significantly less than the 90 to 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 on the property include a progressive transition in height and massing from Eastern Avenue toward the Gramax Building at the intersection of 13th and Kennett Streets. The building fronting on Eastern Avenue (Building 2) measures 45 feet in height from Eastern Avenue. Building 1 fronts onto 13th Street with a height of 75 feet as measured from 13th Street and is set back a minimum of 100 feet from Eastern Avenue. The 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 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.

BE IT FURTHER RESOLVED, that this resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this resolution is APR 24 2008 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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CERTIFICATION

At its regular meeting, held on Thursday, April 17, 2008, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Vice Chair Robinson, seconded by Chairman Hanson, with Chairman Hanson, Vice Chair Robinson, and Commissioner Bryant present and voting in favor, and with Commissioner Cryor absent. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Site Plan Amendment No. 82006013A, The Galaxy.



Royce Hanson, Chairman
Montgomery County Planning Board

Appendix B



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

November 10, 2009

Mr. Rollin Stanley, Planning Director
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, MD 20910

RE: Site Plan Amendment No. 82006013B, The Galaxy

Dear Mr. Stanley: *Rollin*

I understand that the above site plan amendment is scheduled to be heard by the Planning Board in December. The applicant, RST Development, LLC, is requesting to divide the project into two (2) phases, and to locate all 31 of the project's MPDUs in Phase One of the development, which will include 195 residential units. Phase Two, which will include 46 units, will be built several years after the first building, and will not include any MPDUs. The applicant is also proposing to make changes to the parking schedule and landscaping of the project.

The Department of Housing and Community Affairs (DHCA) is assisting with the financing of Phase One of this development, which will utilize Low Income Housing Tax Credits (LIHTCs). Although the MPDU requirement for the project as a whole is only 31 units, Phase One will include a total of 82 housing units affordable to households at 30%, 50%, and 60% of Area Median Income (AMI). These levels of affordability are lower than the MPDU requirement of 65% to 70% AMI.

DHCA is willing to accept the developer's proposal to include all of the MPDUs in Phase One, for the following reasons. First, under the LIHTC, it is more financially advantageous to locate all of the affordable units in this phase. Second, locating all of the MPDUs in this building will ensure that they are built earlier.

If you have any questions or need anything further, please contact Lisa Schwartz at 240-777-3786.

Sincerely,

Richard Y. Nelson, Jr.
Director

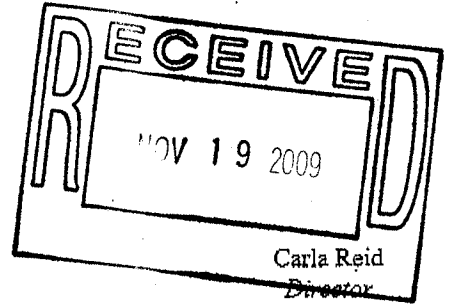
RYN: lss

cc: M. Scott Copeland, RST Development, LLC
Rose Krasnow, M-NCPPC
Sandra Pereira, M-NCPPC
Joseph T. Giloley, Chief, Division of Housing and Code Enforcement, DHCA
Stephanie Killian, Program Manager, DHCA

8: Files FY 2010 Housing MPDU Lisa Schwartz Galaxy Letter 11/10/09
Office of the Director



DEPARTMENT OF PERMITTING SERVICES



Isiah Leggett
County Executive

November 20, 2009

Mr. Jagdish Mandavia, P.E.
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. Mandavia:

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 the site's location in the CBD. A partial waiver of water quality requirements is also granted for a very small portion of the site.

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 architectural plans to verify areas for the green roof.
8. Documentation of infeasibility must be submitted to DPS if green roof technology is not used.

9. The water quality structures will be designed as "flow based" due to existing storm drain inverts.
10. The site will be phased for construction. Phase I will include Building #1 and stormwater management for the entire site. Two trench drains will also be installed in Phase 1 to pick up most of the parking area in the foot print of future Building #2. When Phase 2 begins, the trench drains will be removed and Building #2 will drain to one of the existing filters.
11. Maryland Department of the Environment regulations require all final sediment control and stormwater management plans approved on or after May 4, 2010 must comply with the most recent changes to the Maryland Stormwater Design Manual. After that date, previously approved stormwater management concept plans are no longer valid unless they have been designed to the new standards or have been reconfirmed by the Department of Permitting Services.
12. Also, if the erosion and sediment control permit is issued before May 4, 2010 but expires or is closed before the completion of all phases, the stormwater concept will need to be revised to meet the current design standards at that time of construction.
13. Submit mechanical drawings which show that all roof drains and outside drains go to the stormwater structures and that all under ground garage drains go to WSSC.
14. Provide easements and covenants around all stormwater structures (including flow splitters).

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 2ndRevision The Galaxy.DWK

cc: C. Conlon
M. Pfefferle
SM File # 217680

QN -Waived; Acres: 2.0
QL - Onsite/Waived; Acres: 1.79/0.21
Recharge is not provided