



Site Plan 820140020, 8001 Newell Street

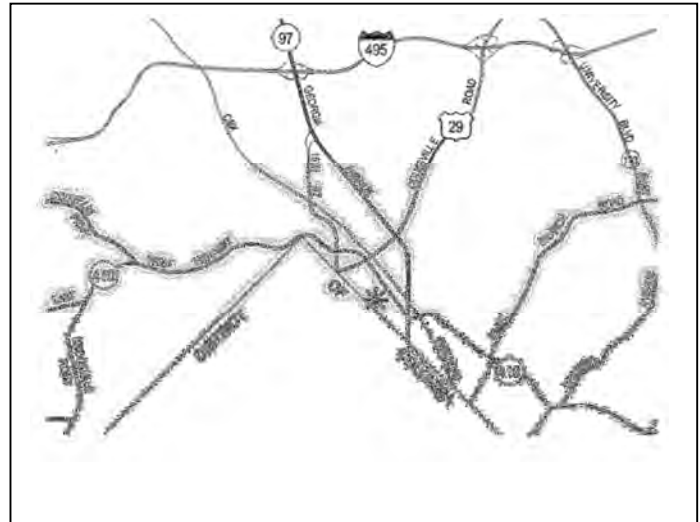
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Staff Report Date: 12/6/13

Description

- Demolition of an existing 1 story self-storage building and redevelopment of the site with a 7-story building containing 3,100 square feet of retail uses and 156,815 square feet of multi-family residential uses consisting of 187 dwelling units, including 12.5% MPDUs
- 1.2 acres
- CBD-1 and Ripley/South Silver Spring Overlay zones
- Located in the southeast quadrant of the intersection of Newell Street and Eastern Avenue
- Silver Spring CBD Sector Plan
- Submitted: August 27, 2013
- Applicant: Comstock Newell, LLC
- Chapter 59 D.3



Summary

- **Staff recommendation: Approval of the site plan with conditions.**

RECOMMENDATION AND CONDITIONS

Staff recommends approval of site plan 820140020, 8001 Newell Street, for 3,100 square feet of retail uses and 156,815 square feet of multi-family residential consisting of 187 dwelling units, including 12.5% Moderately Priced Dwelling Units (MPDUs) on 1.22 gross acres. All site development elements shown on the site and landscape plans filed by the applicant to M-NCPPC's electronic filing system on October 11, 2013, are required except as modified by the following conditions.

Conformance with Previous Approvals

1. The Applicant must comply with the conditions of approval for Project Plan 920130020 in Resolution No. 13-74.

Environment

2. Noise Attenuation

- a. Prior to issuance of a building permit, the Applicant must provide Staff with certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The Applicant must construct the units in accord with these design specifications, with any changes that may affect acoustical performance approved by the engineer and Staff in advance of installation.
- b. After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide Staff a certification from an engineer specialized in acoustics confirming that interior noise levels do not exceed 45 dBA Ldn.

3. Stormwater Management

The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated September 16, 2013, and hereby incorporates them as conditions of the Site Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Site Plan approval.

4. LEED Certification

The Applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. Before the issuance of any use and occupancy certificate, the Applicant must inform Staff of the LEED Certification Level for which they are applying. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to Staff a written report for public record purposes only from the Applicant's LEED consultant analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost. Submission of this report constitutes compliance with this condition.

Parks, Open Space, and Recreation

5. Recreation Facilities

- a. The Applicant must meet the square footage requirements for all of the applicable recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b. At a minimum, the Applicant must provide the following on-site recreation facilities:
 - i. Six picnic/seating areas
 - ii. Pedestrian walkway system
 - iii. Indoor community space
 - iv. Indoor fitness facility

6. Public Art

- a. The Applicant must provide and install the public artwork by artist David Hess, as presented to the Planning Department's Art Review Panel on October 2, 2013, and illustrated on the Certified Site Plan.
- b. Any significant changes to the public artwork concept presented on October 2, 2013, must be presented to the Art Review Panel and approved by Staff prior to approval of the Certified Site Plan.
- c. Significant changes to the concept, as determined by Staff, proposed after approval of the Certified Site Plan will require a Site Plan Amendment.

7. Public Use and Amenities

- a. The Applicant must provide a minimum of 9,014 square feet of on-site public use space, as illustrated on the Certified Site Plan.
- b. The Applicant must provide the Silver Spring streetscape standard improvements including undergrounding of utilities, as revised, along the site frontage, as illustrated on the Certified Site Plan.

8. Maintenance of Publicly Accessible Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, landscaping, walkways, lighting, benches and artworks.

Transportation and Circulation

9. Transportation

- a. The development is limited to a maximum of 3,100 square feet of retail use and 156,815 square feet of multi-family residential consisting of 187 dwelling units.
- b. The Planning Board has accepted the recommendations of the MCDPDS – Right-of-Way Section in its email dated November 25, 2013, and hereby incorporates them as conditions of the Site Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the email, which may be amended by the MCDPS – Right-of-Way Section provided that the amendments do not conflict with other conditions of the Site Plan approval.
- c. The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and the Montgomery County Department of Transportation ("MCDOT") to participate in the Silver Spring Transportation Management District and must execute the TMAg prior to the release of any building permit for development on the site exclusive of any sheeting

and shoring permit. The TMAg must include trip mitigation measures recommended by MCDOT.

- d. The Applicant must provide a minimum of ten public bicycle parking spaces (“inverted U” or similar), the location of which to be determined prior to approval of the certified site plan, and a minimum of four public motorcycle parking spaces.

Density and Housing

10. Moderately Priced Dwelling Units (MPDUs)

- a. The Applicant must provide 12.5% percent MPDUs on-site in accordance with the letter from the Department of Housing and Community Affairs (“MCDHCA”) dated November 14, 2013.
- b. The MPDU agreement to build must be executed prior to the release of any building permit, exclusive of the sheeting and shoring permit.
- c. The Planning Board has accepted the recommendations of MCDHCA in its letter dated November 14, 2013, and does hereby incorporate them as conditions of the Site Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDHCA provided that the amendments do not conflict with other conditions of the Site Plan approval.

Site Plan

11. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the Certified Site Plan, as determined by Staff.

12. Private Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to the Illuminating Engineering Standards of North America (“IESNA”) standards for residential development.
- b. All onsite down-light fixtures must be full cut-off fixtures.
- c. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- d. Deflectors must be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- e. The height of the light poles must not exceed the height specified on the Certified Site Plan.

13. Surety

Prior to issuance of a building permit within each relevant phase of development, the Applicant must provide a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.
- b. The amount of the bond or surety must include plant material, on-site lighting, recreational facilities, site furniture, and entrance piers within the relevant phase of development.
- c. Prior to issuance of the above-grade building permit, the Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the

Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.

- d. The bond/surety must be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

14. Development Program

The Applicant must construct the 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. On-site amenities including, but not limited to, sidewalks, benches, artwork, and trash receptacles must be installed prior to release of any building occupancy permit.
- b. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan.
- c. The development program must provide phasing for installation of on-site landscaping and lighting.
- d. Landscaping associated with the building must be completed as construction of each facility is completed.
- e. The development program must provide phasing of stormwater management and sediment and erosion control.
- f. The indoor community space and fitness facility must be completed prior to issuance of the final occupancy permit.

15. 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 the stormwater management concept approval, development program, inspection schedule, and Site Plan Resolution on the approval or cover sheet.
- b. Ensure consistency off all details and layout between Site Plan and landscape plan.
- c. Provide final details for proposed artwork.
- d. Provide the height of all on-site light poles including the mounting base.

16. Adequate Public Facilities Review

The Adequate Public Facility (“APF”) review for the Site Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.

SITE DESCRIPTION

Vicinity

The Subject Property is located in the Ripley/South Silver Spring Overlay Zone identified in the Silver Spring CBD Sector Plan area. The site is presently improved with a one story self-storage facility that occupies the entire site. The adjacent uses include high rise and garden apartments, a county parking garage, a church, offices and retail establishments. Directly to the southeast are a six story (approximately 75 feet tall) condominium called 8045 Newell Street and the four story Eastern Village Co-housing Condominium building. The site is within walking distance of the Silver Spring Transit Center, which will accommodate the Silver Spring Metro Station, local and regional bus lines, a commuter train

station and a future Purple Line station. The District of Columbia boundary is Eastern Avenue. The uses opposite Eastern Avenue consist of one-family homes, and churches further east.



Aerial Photo

Site Analysis

The subject property is an existing platted lot measuring 41,245 square feet (0.95 acres). The gross tract area, including previous right-of-way dedication, is 53,305 square feet (1.22 acres). The Subject Property is currently improved with a self-storage facility (Silver Spring Extra Space). The site is at the edge of the Ripley/South Silver Spring Overlay Zone and within the CBD-1 zone. There is a 1-2% slope across the frontage of the property. All utilities on Newell Street are underground, however, there are utility lines on telephone poles along the Eastern Avenue frontage. The rear of the self-storage building sits directly on the property line it shares with 8045 Newell Street.

PREVIOUS APPROVALS

Project Plan 920130020 was approved by the Planning Board on May 16, 2013, for a maximum of 156,815 square feet of multi-family residential uses and 3,100 square feet of non-residential uses.

PROJECT DESCRIPTION

The applicant proposes a mixed-use redevelopment of the property that will include 187 dwelling units, 3,100 square feet of ground floor retail use, and underground parking. The total development is 159,915 square feet of gross floor area for the retail and residential uses. There will be 16 dwelling units on the ground floor as well as fitness and social rooms that face Newell Street. The ground floor retail will be located adjacent to the intersection of Eastern Avenue and Newell Street. The

on-site public use space will be located at the corner of Newell Street and Eastern Avenue. It will be an approximately 7,700-square-foot pocket park that is predominantly green, incorporating lawn, trees, shrubs, perennials, artwork, and storm water best management practices. It will provide a 60-foot wide buffer between the proposed building and Eastern Avenue, providing a green buffer between the Silver Spring CBD and the single family residential homes on the District of Columbia side of Eastern Avenue. During project plan review, the applicant modified the proposal to expand the setback between the rear of the proposed building and the existing 8045 Newell Street Building from 55 to 60 feet. The setback between the rear of the proposed building and the existing Eastern Village Cohousing building was increased from 32 feet to 36 feet, and the width of the proposed building was decreased by 3 feet in order to further reduce the effect on the neighboring building located at 8045 Newell Street. The Sector Plan limits the building heights on Eastern Avenue to 45 feet for the first 60 feet behind the right-of-way, after which the height of the building can then increase to 90 feet.

Architecture

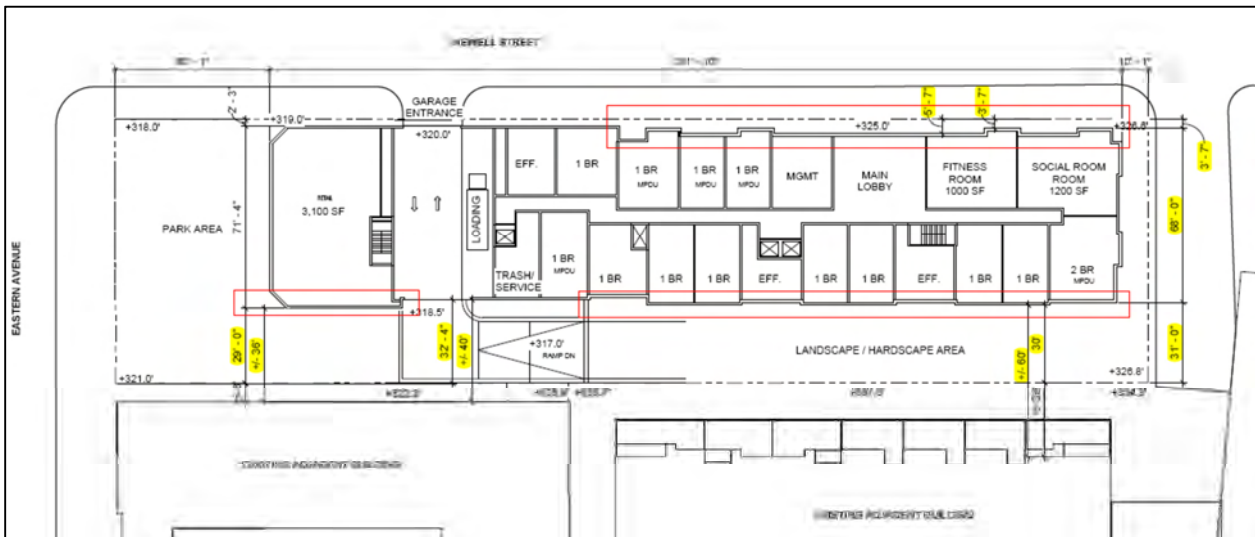
The proposed building will be a seven-story (74 feet) mixed-use retail and residential building with underground parking. The first five floors of the building will be approximately 50 feet tall at the southwest end. The rear building façade was modified at the time of project plan review to provide undulations in the footprint, adding interest while increasing the distance from the 8045 Newell Building. The last two stories will step back approximately 12 feet from Eastern Avenue before rising to 74 feet.



Illustrative Plan



Rendered Elevation



Ground Floor



Massing View Looking Northeast Along Newell Street Towards East West Highway



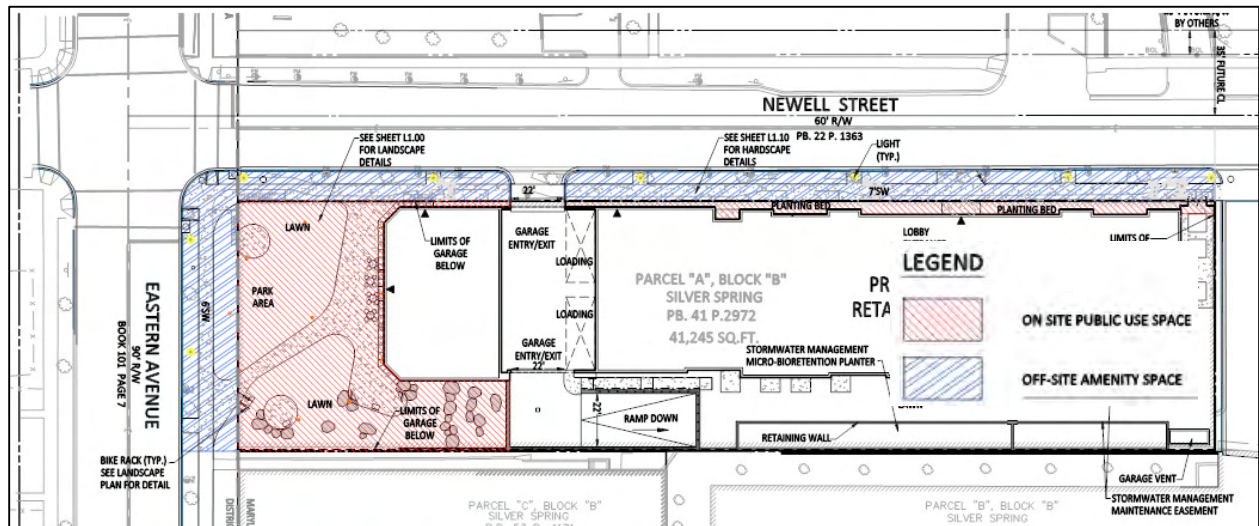
Massing View Looking East From Eastern Avenue

Public Use Space and Amenities

The proposed development provides 9,014 square feet of on-site public use space (21.85% of net lot area), satisfying the 20 percent requirement for Optional Method Development projects in the CBD. In addition, the project provides 7,493 square feet of off-site amenity space (18.17% of net lot area). The on-site space is composed of a public open space that includes lawn, landscaping and paved areas for circulation and seating. The on-site space will also include public art, which has been conceptually designed as a row of corten steel cylinders that will stand on end to form a solid screen. The cylinders will be of varying heights and will be filled with soil and ornamental plants. The row of cylinders will also serve as a screen between the open space and the adjacent residential building. The off-site amenity space requirements will be met by replacing existing concrete sidewalks with the Silver Spring Streetscape, including brick sidewalks, trees, lighting and street furniture.



Art Concept



Public Use and Amenity Space Diagram

Vehicular and Pedestrian Circulation

Resident parking and loading will be accessed from Newell Street and existing on-street parking will be preserved. Access to the site will be limited to one curb-cut, eliminating the two existing curb

cuts for the existing storage building. This curb cut will serve as the access point to the underground parking and the building loading area.

Pedestrians will access the site via improved sidewalks on Newell Street as well as a pedestrian path cutting diagonally across the public use space between Eastern Avenue and Newell Street. The primary pedestrian point of access to the residential units is from Newell Street. The primary point of access to the retail will be at the southwest end of the site at the corner of Newell Street and Eastern Avenue. Bicycle parking will be provided on-site.

Transit

The immediate area is well served by transit that includes the Red Line Silver Spring Metrorail/MARC Station (approximately 3/8 mile away), Metrobus, RideOn, and the Silver Spring VanGo Circulator. Future transit in the area includes a proposed Purple Line station at the existing Metrorail Redline station. Specific transit routes near the site include:

1. RideOn Bus Routes 18 and 28
2. WMATA Metrobus Routes 70, 79, S2, S4, and S9
3. Maryland Transit Administration Commuter Routes 915, and 929

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 2000 *Silver Spring CBD Sector Plan* and the 2005 *Countywide Bikeways Functional Master Plan* include the following recommendation for Newell Street: a Business District roadway with a minimum master planned right-of-way of 70 feet. The current right-of-way measures 60 feet; however, the Sector Plan recommends that all future dedication come from the Spring Garden Apartments property across Newell Street from the subject property. No master planned bikeway facilities are recommended for Newell Street.

Sector-Planned Transportation Demand Management

As a development within the Silver Spring Transportation Management District (TMD), the applicant is required to enter into a Traffic Mitigation Agreement to participate in the Silver Spring TMD.

Adequate Public Facilities Review

A traffic study, dated July 17, 2013, was submitted for the application per the *Local Area Transportation Review/Transportation Policy Area Review (LATR/TPAR) Guidelines*, since the proposed development was estimated to generate more than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

- **Trip Generation**

A site trip generation summary for the proposed development, provided in Table 1, shows that the project will generate 58 peak-hour trips during the weekday morning peak period and 62 peak-hour trips during the weekday evening peak period. When compared to the existing warehouse use, the proposed development will result in an increase of 52 peak-hour trips during the morning peak period and 52 peak-hour trips during the evening peak period.

**TABLE 1
SUMMARY OF SITE TRIP GENERATION
PROPOSED 8001 NEWELL STREET PROJECT**

Trip Generation	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
Existing (Credit)						
Mini-Warehouse (40,000 SF)	3	3	6	5	5	10
Proposed Development						
Retail (3,100 SF)	1	1	2	3	3	6
187 High Rise Dwelling Units	11	45	56	39	17	56
Subtotal	12	46	58	42	20	62
Total Net New Peak Hour Trips	9	43	52	37	15	52

Source: Wells and Associates, Inc. Traffic Study dated July 17, 2013

- Local Area Transportation Review**

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis for the weekday morning and evening peak-hour periods, presented in Table 2, shows that the total (Build) condition will remain within the policy area congestion standard of 1,800 CLV. Based on the analysis presented in the traffic study, it is concluded that the subject application will satisfy the LATR requirements of the Adequate Public Facilities (APF) test.

**TABLE 2
SUMMARY OF CAPACITY CALCULATIONS
PROPOSED 8001 NEWELL STREET PROJECT**

Intersection	Traffic Conditions					
	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
Eastern Ave NW/ Colesville Rd/ 16 th St/ Portal Dr NW	1365	1340	1407	1382	1407	1383
Eastern Ave NW/ 14 th St NW/ Newell St	430	425	428	425	449	453
Eastern Ave NW/ 13 th St NW	464	489	462	498	482	516
Georgia Ave/ Eastern Ave NW/ Blair Rd	650	796	709	851	719	858
Georgia Ave/ Burlington Ave/ 13 th St/ East-West Hwy	1166	1223	1312	1329	1317	1333
East-West Hwy/ Newell St/ Blair Mill Rd	441	621	476	646	495	664

Source: Wells and Associates, Inc. Traffic Study dated July 17, 2013

- Transportation Policy Area Review**

Since the proposed development is within the Silver Spring CBD, a Metro Station Policy Area (MSPA), the project is adequate under the roadway test and exempt from the transit test set forth in the

2012-2016 Subdivision Staging Policy. As a result of these findings and the development's location in a MSPA, the proposed development is exempt from transportation mitigation payments under the TPAR requirement.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The property is proposed to be served by public water and public sewer. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the property. The subject property is within the Blair High School cluster area, which is currently operating between 105-120% of capacity at the middle school level. However, in accordance with Section 52-89(c)(5) of the Montgomery County Code, a school facilities payment is not required because the subject property is located in a former enterprise zone. Electrical, telecommunications, and gas services are also available to serve the property.

ANALYSIS AND FINDINGS – Section 59-D-3.4(c)

- 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 application did not require a development plan, a diagrammatic plan, or a schematic development plan. As conditioned, the Site Plan is consistent with Project Plan No. 920130020 with respect to density, public use space and amenities, massing and the provisions of the zone.

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

The proposed uses are allowed in the CBD-1 and Ripley/South Silver Spring Overlay zones, and the Site Plan fulfills the specific purposes of the each zone. The Site Plan fulfills the purposes of the CBD-1 zone by providing a design that will produce a desirable relationship between buildings in the central business district. The height of the proposed building is comparable to the adjacent 8045 Newell Street building, substantially separated by green space. The zone permits heights up to 90 feet; however, the applicant is proposing a height of 74 feet specifically to address the relationship with existing adjacent buildings and structures. The building materials will be compatible with surrounding buildings and will fit with the urban context.

The relationship of the proposed buildings to existing buildings is appropriate for a central business district. In the CBD, adjacent buildings with windows are required to be set back at least 15 feet from each other or 30 feet if both buildings have windows. This proposal exceeds that standard in order to minimize the impacts on available sunlight and existing views from adjacent buildings by setting the building 30 feet back from the rear property line and 60 feet from the adjacent 8045 Newell Street building. This setback was expanded from 25 to 30 feet during review of the project plan. The increased

setback provides for increased green space between the adjacent 8045 Newell Street building, adding to a desirable relationship between existing and proposed buildings. The proposed building is set back 60 feet from Eastern Avenue to fulfill the Zoning Ordinance requirement and to allow for a stronger relationship to the adjacent Eastern Village Co-housing development.

The proposed development will enhance pedestrian, cyclist, and vehicular circulation by limiting auto access to one point on-site and providing all required residential parking on-site, thereby limiting future demand for on-street parking and spaces in the public parking garage. It will enhance the circulation system between the central business district.

The Site Plan fulfills the purposes of the Ripley/South Silver Spring Overlay zone (RSSOZ) by providing a cohesive development pattern that is appropriate for an urban environment. The application will redevelop an under-utilized site in South Silver Spring while protecting surrounding residential neighborhoods. The proposed mixed-use building is appropriate for an urban environment. In addition, the Site Plan provides an attractive design that is compatible with adjacent existing buildings and uses. As required by the overlay zone, the building does not exceed 45 feet in height for any portion of the building that is within 60 feet of the Eastern Avenue right-of-way. This is achieved by placing the entirety of the building no closer than 60 feet to the right-of-way.

The subject property is located in the Silver Spring parking lot district. In accordance with Section 59-E-5 of the Zoning Ordinance, a new use that is located within a parking lot district is not required to provide the full complement of parking spaces on-site. Parking that is not provided on the site will be subject to an ad valorem tax. The parking spaces in the public garages provided by the parking lot district will be available to visitors to the subject property.

As the data table below indicates, the Site Plan meets all of the development standards of the zone. With respect to building height, setbacks, density, and public use space, the development meets the minimum and maximum standards, respectively.

Project Data Table for the CBD-1 Zone, Optional Method of Development

Development Standard	Permitted/ Required	Proposed for Approval
Building Height (feet)		
CBD-Zone-59-C-18.192(b)(1)(E)	90'	54' along Eastern Avenue
		74' along Newell Street
CBD-Zone-RSSOZ		
Within 60' of Eastern Avenue:	45'	N/a
Beyond 60' of Eastern Avenue:	90'	74'
Setbacks (feet)		
CBD-1		
Front Newell Street)	n/a	0
Front (Eastern Avenue)	60/90 ¹	60'
Site Area (square feet)		
Net Tract Area	n/a	41,245
Dedications	n/a	12,060
Gross Tract Area	18,000	53,305
Density		
CBD-1: Floor Area Ratio	3.0	3.0
Allowable S.F.	159,915	159,915
-Residential		156,815 (187 units)
-Non-residential		3,100
MPDUs	12.5%	12.5% (24 units)
Public Use Space (% of net lot)		
On-Site Public Use Space	20	21.85
Off-Site Amenity Space	n/a	18.17
Total Public Use & Amenity Space	20	40.02
Parking		
Residential Parking	196	199
Retail Parking	14	0
Total Vehicle Spaces	210	199²

¹ Section 59-C-18.202(b)(1) requires a 60-foot setback for buildings that exceed 60 feet in height up to a maximum of 90 feet as permitted in the CBD-1 zone. The proposed building is set back 60 feet from Eastern Avenue.

² The site is located in the Silver Spring parking lot district, and as such is not required to provide the full complement of parking spaces. Parking that is not provided on the site, consistent with Section 59-E, will be subject to an ad valorem tax.

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

The building of the proposed development is located close to the property line along the Newell Street frontage, but set back 60 feet from the Eastern Avenue frontage. This location provides easy access to the building from adjoining sidewalks, while maintaining an adequate distance from the one-family detached dwellings on the opposite side of Eastern Avenue. In addition, the building is set back from the rear and side property lines to maintain adequate distance from other residential properties in this block. The location of the building is adequate and efficient, while meeting the aesthetic concerns of the area, and does not pose any safety concerns on the site.

The application provides 9,014 square feet of public use space, which is 21.87% of the subject property. This exceeds the 20% requirement established in the Zoning Ordinance. The public use space

is largely comprised of an approximately 7,700 square-foot pocket park located at the intersection of Newell Street and Eastern Avenue. The park will include lawn, trees, shrubs, perennials, art work, and storm water best management practices. This location for the public use space brackets Newell Street with publicly accessible open space at both ends, because there are several open spaces at the intersection of Newell Street and East West Highway, including developer-provided public use spaces and the publicly owned Acorn Park. In addition, the location of the public use space on the subject property ensures that it will be prominently visible and allows the placement of a diagonal pedestrian walkway between Eastern Avenue and Newell Street that will shorten the path of travel to the Silver Spring Metrorail station and the remainder of the central business district beyond. The open spaces, landscaping, and site details adequately and efficiently address the needs of the proposed use and the recommendations of the Sector Plan, while providing a safe and comfortable environment. The open space will be available for recreational use by residents of the building.

Recreation facilities are required for this Site Plan and are provided as shown in the following tables.

RECREATION TABULATIONS

	D1 Tots	D2 Children	D3 Teens	D4 Adults	D5 Seniors
SFD I (20,000 sf+)	0.096	0.200	0.216	0.848	0.080
SFD II (7,000-19,999 sf)	0.128	0.240	0.252	1.060	0.112
SFD III (<7,000 sf)	0.140	0.192	0.230	1.272	0.128
TH	0.168	0.216	0.080	1.288	0.072
GARDEN (up to 4 storie	0.108	0.140	0.120	1.184	0.160
HI-RISE (>5 stories)	0.035	0.040	0.040	0.768	0.460

DEMAND CALCULATIONS

	Number of Units	D1 Tots	D2 Children	D3 Teens	D4 Adults	D5 Seniors
SFD I		0.0	0.0	0.0	0.0	0.0
SFD II		0.0	0.0	0.0	0.0	0.0
SFD III		0.0	0.0	0.0	0.0	0.0
TOWNHOUSE		0.0	0.0	0.0	0.0	0.0
GARDEN		0.0	0.0	0.0	0.0	0.0
HI-RISE	187	6.5	7.5	7.5	143.6	86.0
Total Units	187.0					
Total Demand		6.5	7.5	7.5	143.6	86.0
On-Site Supply		7.3	9.4	13.5	166.4	98.0
% Demand Met On-Site		111.7	125.2	180.3	115.9	114.0
Off-Site Supply		0.0	0.0	0.0	0.0	0.0
Total On-Site/Off-Site		7.3	9.4	13.5	166.4	98.0
% Demand Met On+Off		111.7	125.2	180.3	115.9	114.0

ONSITE SUPPLY CALCULATIONS

Ref #	Description	No. Provided	D1 Tots	D2 Children	D3 Teens	D4 Adults	D5 Seniors
1.0	Tot Lot (0-6)		0.00	0.00	0.00	0.00	0.00
2.0	Play Lot (5-14)		0.00	0.00	0.00	0.00	0.00
3.0	Multi-Age Playground		0.00	0.00	0.00	0.00	0.00
4.0	Picnic/Sitting	6	6.00	6.00	9.00	30.00	12.00
5A	Open Play Area I		0.00	0.00	0.00	0.00	0.00
5B	Open Play Area II		0.00	0.00	0.00	0.00	0.00
6.0	Volleyball		0.00	0.00	0.00	0.00	0.00
7A	Multipurposes (MP) Court		0.00	0.00	0.00	0.00	0.00
7B	Half MP Court I		0.00	0.00	0.00	0.00	0.00
7C	Half MP Court II		0.00	0.00	0.00	0.00	0.00
8.0	Tennis		0.00	0.00	0.00	0.00	0.00
9.0	Handball		0.00	0.00	0.00	0.00	0.00
10.0	Indoor Racquetball		0.00	0.00	0.00	0.00	0.00
11.0	Horseshoes		0.00	0.00	0.00	0.00	0.00
12A	Soccer-Regulation		0.00	0.00	0.00	0.00	0.00
12B	Soccer-Junior		0.00	0.00	0.00	0.00	0.00
13A	Softball-Regulation		0.00	0.00	0.00	0.00	0.00
13B	Softball-Junior		0.00	0.00	0.00	0.00	0.00
14A	Baseball-regulation		0.00	0.00	0.00	0.00	0.00
14B	Baseball-Junior		0.00	0.00	0.00	0.00	0.00
15A	Football-Regulation		0.00	0.00	0.00	0.00	0.00
15B	Football-Junior		0.00	0.00	0.00	0.00	0.00
20.0	Bike System		0.00	0.00	0.00	0.00	0.00
21.0	Pedestrian System	1	0.65	1.50	1.50	64.63	38.71
22.0	Nature Trails		0.00	0.00	0.00	0.00	0.00
23.0	Natural Areas		0.00	0.00	0.00	0.00	0.00
24A	Swimming Pool		0.00	0.00	0.00	0.00	0.00
24B	Wading Pool		0.00	0.00	0.00	0.00	0.00
25.0	Indoor Swimming Pool		0.00	0.00	0.00	0.00	0.00
26A	Indoor Community Space	1	0.65	1.12	2.24	43.08	34.41
26B	Indoor Exercise Room		0.00	0.00	0.00	0.00	0.00
27.0	Indoor Fitness Facility	1	0.00	0.75	0.75	28.72	12.90
28.0	Community Garden		0.00	0.00	0.00	0.00	0.00
TOTAL			7.31	9.37	13.49	166.44	98.02

Pedestrian access from adjacent sidewalks adequately and efficiently integrates the subject property into the surrounding area. Safety is enhanced by reduction of the two current curb cuts into the one proposed curb cut, thereby reducing conflicts between pedestrians and drivers. Provision of the diagonal walkway from Newell Street to Eastern Avenue will increase efficiency for pedestrians.

The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation. The underground parking will separate parking facilities from the pedestrian realm above ground.

Public facilities are adequate to serve the proposed development, as discussed on page 12 of this staff report.

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

The proposed building and its use will be compatible with other existing and proposed development. The building massing, step-backs and heights proposed are compatible with adjacent and surrounding uses, especially with the one-family detached neighborhood across Eastern Avenue to the west and the adjacent multi-family buildings. The project massing has been designed so as not to adversely affect adjacent buildings and uses.

The CBD-1 Optional Method of Development has no setback requirement. However, the applicant has set the building back 30 feet from the rear property line it shares with the multi-family building at 8045 Newell Street in order to minimize any impact to the building. The Ripley/South Silver Spring Overlay Zone limits building heights fronting onto Eastern Avenue to 45 feet for the first 60 feet from the street where proposed development confronts a residential zone in the District of Columbia, at which point the building height may increase to 90 feet. The applicant has chosen to locate their public use space within the 60 foot setback, therefore negating the 45-foot height limitation along Eastern Avenue. Furthermore, the building is proposed for 54 feet in height at this setback line, after which it steps back an additional 12 feet to reach a total height of 74 feet. The applicant has exceeded the requirements of the Ripley/South Silver Spring Overlay zone to reduce the impact the proposed building could have on the neighbors in South Silver Spring and in the District of Columbia. The shadows cast by the proposed building will have a similar impact upon the 8045 Newell Street Condominium building as the 8045 Newell Street Condominium building has upon the land directly to its southeast.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable laws.*

A Forest Conservation Exemption was approved on May 14th, 2012, for the subject property. The subject property qualifies for an exemption because it is less than 1.5 acres with no existing forest, specimen trees, or champion trees, and the afforestation requirements would not exceed 10,000 square feet. The subject property is 41,245 square feet, with an additional off-site disturbance area of 12,060 square feet in the right-of-way for a total net tract area of 53,305 square feet. This is under the 65,340 square-foot (1.5-acre) limit allowed under Section 22A-5(s)(1).

The stormwater management concept will meet required stormwater management goals via environmental site design to the maximum extent practicable with the use of a green roof and micro-bioretenion. A waiver was granted by MCDPS for the volume that could not be treated due to a shallow storm drain.

COMMUNITY OUTREACH

The applicant has met all proper signage, noticing, and pre-submission meeting requirements. As of the date of this staff report, staff has not received any citizen correspondence on the application.

Attachments

- A. Vicinity Map
- B. Proposed Site Plan
- C. Resolution Approving Project Plan 920130020
- D. Agency Correspondence Referenced in Conditions



Map compiled on November 05, 2013 at 11:37 AM | Site located on base sheet no - 209NW02

NOTICE

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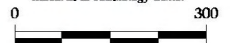
Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes, is not recommended. - Copyright 1998

Key Map



Research & Technology Center



1 inch = 300 feet
1 : 3600

8001 NEWELL STREET
Silver Spring, Maryland

Applicant/Owner:
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Silver Spring, MD 20910
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Contact: Dan Sklar

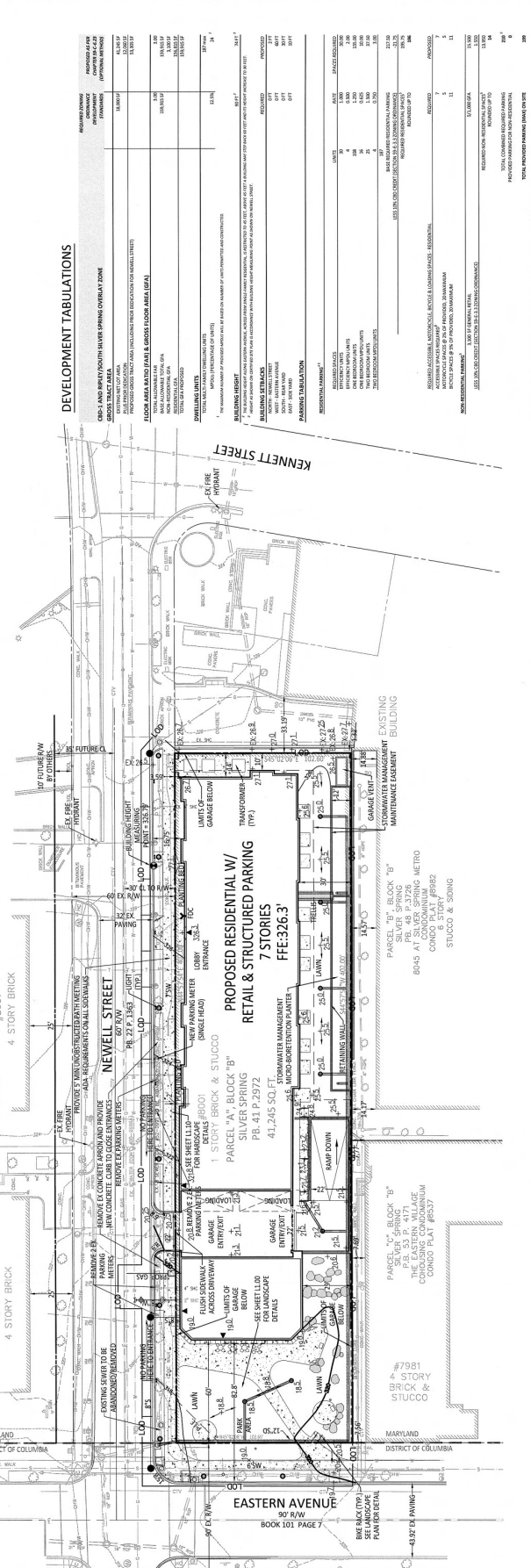
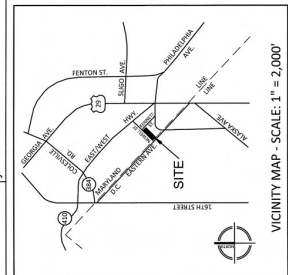
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Contact: Shamar Elmadi

Civil Engineer:
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Gaithersburg, MD 20878
301.918.4100
Contact: William Lawfair



DEVELOPMENT TABULATIONS

CD-1 AND INTL/OUTH SILVER SPRING OVERLAY ZONE

APPLICABLE REGULATIONS (INCLUDING PRELIMINARY PROVISIONS FOR MULTIFAMILY HOUSING)

REGULATORY CATEGORY	REQUIREMENT	PROPOSED DEVELOPMENT	COMPLIANCE
GENERAL DEVELOPMENT	MINIMUM HEIGHT	7 STORIES	MEETS
	MAXIMUM HEIGHT	326.3 FEET	MEETS
MULTIFAMILY HOUSING	MINIMUM UNIT DENSITY	1 UNIT PER 1,000 SQ FT	MEETS
	MAXIMUM UNIT DENSITY	1 UNIT PER 1,000 SQ FT	MEETS
MULTIFAMILY HOUSING	MINIMUM UNIT DENSITY	1 UNIT PER 1,000 SQ FT	MEETS
	MAXIMUM UNIT DENSITY	1 UNIT PER 1,000 SQ FT	MEETS

PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF MARYLAND.

DATE: AUGUST 23, 2013
TITLE: CIVIL ENGINEER
PROJECT: 8001 NEWELL STREET
CLIENT: COMSTOCK NEWELL, LC

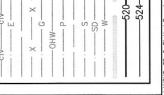
DEVELOPER'S CERTIFICATE

THE UNDERSIGNED AGREES TO EXERCISE ALL THE FEATURES OF THE SITE DEVELOPMENT PROGRAM AND CERTIFIED SITE PLAN.

DEVELOPER'S NAME: COMSTOCK NEWELL, LC
CONTACT PERSON: JEROME GLENN
ADDRESS: 3850 METRO CENTER DRIVE, FOURTH FLOOR, SILVER SPRING, MD 20910
PHONE: 301.961.5372

E-FILE APPROVAL

PLAN LEGEND





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

JUN 17 2013

MCPB No. 13-74
Project Plan No. 920130020
Project Name: 8001 Newell Street
Hearing Dates: December 20, 2012 and May 16, 2013

RESOLUTION

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

WHEREAS, on September 25, 2012, Comstock Newell, LLC ("Applicant"), filed an application for approval of a project plan for 3,100 square feet of retail and 156,815 square feet of residential development with a maximum of 187 dwelling units, including 12.5% MPDUs; and

WHEREAS, the project is located on an existing 0.94-acre lot bounded on the east side by Eastern Avenue in the District of Columbia and on the north side by Newell Street; and

WHEREAS, the Subject Property is located in the CBD-1 and Ripley/South Silver Spring Overlay zones and included in the 2000 Silver Spring Central Business District Sector Plan ("Sector Plan"), and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920130020, 8001 Newell Street ("Application" or "Project Plan"); and

WHEREAS, following review and analysis of the Application by Planning Board Staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 7, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 20, 2012, the Planning Board held a public hearing on the Application, and at the hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:

A handwritten signature in black ink, appearing to be 'M', written over a horizontal line.

WHEREAS, at the Hearing, the Planning Board deferred the Application at the request of the Applicant in order to more fully address height and setback restrictions in the Sector Plan and zoning Ordinance; and

WHEREAS, on April 19, 2013, the Applicant submitted revised plans modifying certain elements of the proposed building and site design; and

WHEREAS, following additional review and analysis of the Application by Planning Board Staff ("Staff") and other governmental agencies, Staff issued a new memorandum to the Planning Board, dated May 3, 2013, setting forth additional analysis and a recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 16, 2013, the Planning Board continued the public hearing, and heard additional testimony and received additional evidence on the Application; and

WHEREAS, at the Hearing, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Presley, by a vote 5-0, Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor;

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Project Plan No. 920130020, 8001 Newell Street, for 3,100 square feet of retail, and 156,815 square feet of residential development with a maximum of 187 dwelling units, including 12.5% MPDUs, subject to the following conditions:

1. Development Ceiling

The development is limited to 159,915 square feet of gross floor area

- | | | | |
|----|-----------------|---------|------|
| a. | Residential | 156,815 | s.f. |
| b. | Non-Residential | 3,100 | s.f. |

2. Building Height and Mass

The development is limited to the building footprints delineated in the Project Plan drawings submitted to M-NCPPC dated April 19, 2013, unless modified at site plan review. Building height is limited to a height of 74 feet on Newell Street and to 54 feet on Eastern Avenue as determined by the Department of Permitting Services approved building height measurement point(s).

3. Building Materials

The building is to have the level of quality and style of the materials shown in the rendering on page 8, submitted with the project plan submission dated April 19, 2013 and elevations, sheets A09-A10.¹

4. Housing

The development will provide a minimum of 12.5% moderately priced dwelling units (MPDUs) based upon the total number of units, in accordance with Chapter 25A.

5. Transportation

- a. The Applicant must limit future development on the site to 3,100 square-feet of retail and 187 multi-family residential units.
- b. The Applicant, as part of a future site plan, must show the Newell Street right-of-way of 35 feet from the roadway right-of-way centerline along property frontage consistent with the 2000 Approved and Adopted Silver Spring CBD Sector Plan
- c. The Applicant must coordinate with the District of Columbia Department of Transportation on any proposed improvements along Eastern Avenue.
- d. The Applicant must enter into a Traffic Mitigation Agreement (Agreement) with the Planning Board and the Montgomery County Department of Transportation (MCDOT) to participate in the Silver Spring Transportation Management District (TMD). The Applicant must coordinate details of the Agreement with MCDOT as well as Planning Department Staff and must execute the Agreement prior to the release of any residential building permit for the development.

6. Public Use Space & Public Amenities and Facilities

- a. The Applicant must provide a minimum of 21.87% of the net lot area for on-site public use space and a minimum of 18.17% of the net lot area for on and off-site public amenity and facility space. The final design and details will be determined during site plan review.
- b. The public use space must be easily and readily accessible to the general public and available for public enjoyment.
- c. The Applicant must provide bio-retention areas and other features in general conformance with the illustrative landscape plan depicted in the landscape plan L-01 dated April 19, 2013.

¹ The elevations referred to in this condition were submitted on November 13, 2012.

- d. The Applicant must present the plaza designs and public artwork to the art review panel prior to submittal of the site plan amendment.

7. Staging of Amenity Features

- a. The development will be completed in one phase. A detailed development program will be required prior to approval of the certified site plan.
- b. The Applicant must complete the on-site public use space improvements in accordance with a development program to be developed at site plan.
- c. The Applicant must install the landscaping no later than the next growing season after completion of the building and site work.

8. Maintenance and Event Management Organization

Prior to issuance of use-and-occupancy permits, the Applicant will create and implement a maintenance plan for all on-site public use space unless an alternative arrangement is made with another public entity.

9. Coordination for Additional Approvals Required Prior to Site Plan Approval

The Applicant must obtain written approval from MCDOT for the final design and extent of any and all streetscape improvements within the rights-of-way prior to approval of the site plan.

BE IT FURTHER RESOLVED that all elements of Project Plan No. 920130020, 8001 Newell Street, stamped received by M-NCPPC on April 19, 2013, are required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having considered the recommendations and findings of its Staff as presented at the hearings and as set forth in the Staff Reports, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and having considered the entire record, all applicable elements of § 59-D-2.43, and the relevant provisions of Section 59-D-2.42, the Planning Board, with the conditions of approval, FINDS:

- (a) **The development complies with all of the intents and requirements of the CBD-1 and Ripley/South Silver Spring Overlay zones as applied comprehensively to the Project, and to that portion of the Project within each zone.**

Intents and Purposes of the CBD Zones

The proposed development conforms to the intents and purposes of the CBD zones as follows:

- (1) *"To encourage development in accordance with an adopted and approved master or Sector Plan ... by permitting an increase in density, height, and intensity where the increase conforms to the master or Sector Plan ... and the site plan... is approved on review by the Planning Board."*

With respect to density, the Sector Plan recommends redevelopment of vacant or under-used buildings in South Silver Spring while protecting surrounding residential neighborhoods. Moreover, the Sector Plan calls generally for a residential downtown. This redevelopment replaces a one-story self-storage facility with a five to seven story mixed use development that is compatible with the surrounding residential neighborhood.

The design guidelines in the Silver Spring Central Business District Sector Plan recommend height setbacks adjacent to residential neighborhoods in order to ensure compatibility with adjacent residential neighborhoods. The Project Plan establishes generous setbacks on Eastern Avenue to maximize compatibility with the one-family homes across the street in the District of Columbia. Compatibility is achieved through increased setbacks from the adjoining properties, adding activating uses on Newell Street to address safety, locating an appealing public use space at the corner of Newell Street and Eastern Avenue and varying the height of the building from 54 feet to a maximum of 74 feet, which is considerably less than the 90 feet permitted in the zone.

- (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 proposed development meets the needs of workers and residents by providing additional housing and the opportunity for people who work in Silver Spring to live there too. The project would also serve the needs

of residents and shoppers by providing a neighborhood-serving retail space.

- (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 relationship of the proposed buildings to existing buildings is appropriate for a central business district. In the CBD, adjacent buildings with windows are required to be set back at least 15 feet from each other or 30 feet if both buildings have windows. This Application exceeds that standard in order to minimize the impacts on available sunlight and existing views, by setting the building back 60 feet from the adjacent 8045 Newell Street building and 30 feet from the rear property line. It is also creating a passive green area within the 30-foot setback to enhance the view of the residents of 8045 Newell Street. In addition, the proposed building is set back 36 feet from the Eastern Village Cohousing condominiums and 29 feet from the property line it shares with that building.

Some plan opponents, from the neighboring 8045 Newell Street building, expressed concern about the impact of the proposed building on their access to air and light. But while there will be some impact, the Board does not believe it will be nearly as bad as some fear. For purposes of the findings that the Board is tasked with making, the proximity of this building to surrounding buildings is appropriate for, and to be expected in, an urban setting such as this. The Board saw ample evidence that in the vicinity of this project there are many courtyards between buildings that are far narrower than the 60 foot setback from the 8045 Newell Street building that this project will deliver. In context, the generous setback of the proposed building, combined with the fact that the building is similar in height to most other nearby buildings, meets or exceeds the setback requirements and ensures its compatibility with surrounding buildings.

The development will enhance pedestrian, cyclist, and vehicular circulation by limiting auto access to one point onsite and providing all required residential parking on-site, thereby limiting future demand for

on-street parking and spaces in the public parking garage. It will enhance the circulation system between the central business district and adjacent areas by fulfilling the Sector Plan goal of creating a green street on Newell Street.

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

The development is approximately 0.5 mile from the Silver Spring Metro and 180 feet from the nearest bus stop. As conditioned, the location and accessibility of the development to the local transit system effectively implements the Sector Plan transit and sustainability goals.

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

Vehicular circulation is limited to one ingress and egress point for daily circulation. A loading space uses the same access point.

The project provides numerous enhancements to increase the walkability of the South Silver Spring Overlay District, including an upgraded streetscape on Newell Street and an open space at the corner of Newell Street and Eastern Avenue that will accommodate diagonal pedestrian "cut-through."

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

The development provides 187 residential units, 12.5% of which are Moderately Priced Dwelling Units, providing for a range of different tenant incomes.

- (7) *"To encourage land assembly and most desirable use of land in accordance with a Sector Plan."*

The Sector Plan encourages, but does not require, land assembly. The development will be built on an existing recorded lot, surrounded by developed properties that are not suitable for assembly into this project. The development of this lot on its own, instead of as part of a larger assembly of land, will benefit this area by contributing to the organic

sense of urban growth that occurs when properties are developed separately over time instead of all at once.

Further Intentions of the CBD-1 Zone

Section 59-C-6.213(a) of the Zoning Ordinance states further intentions of the CBD-1 zone:

- (1) To foster and promote the orderly development of the fringes of the central business districts of the county so that these areas will provide land uses at a density and intensity which will encourage small business enterprises and diverse living accommodations, while complementing the uses in the interior portions of these districts; and*
- (2) To provide a density and intensity of development which will be compatible with adjacent land uses outside the central business districts.*

As further described above, this Application will provide land uses at a density and intensity that encourages diverse housing (through inclusion of moderately priced dwelling units), small business enterprises (through 3,100 square feet of retail space) and complements the uses of the interior of the CBD and is compatible with adjacent land uses outside the Central Business District through the use of restricted heights and generous setbacks.

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

The data table demonstrates the project's conformance with the project plan finding and with optional method development standards. Among other standards, the development meets the area, public use space, building height, and density requirements of the zone.

DATA TABLE

Development Standard	Permitted/ Required	Approved by the Planning Board and Binding on the Applicant
Building Height (feet)		
CBD-Zone-59-C-18.192(b)(1)(E)	90'	54' on Eastern Avenue
		74' on Newell Street
CBD-Zone-RSSOZ		
Within 60' of right of way:	45'	0'
Beyond 60' of right of way:	90'	74'
Setbacks (feet)		
CBD-1		
Front Newell Street)	n/a	2
Front (Eastern Avenue)	60/90 ¹	60
Site Area (square feet)		
Net Tract Area	n/a	41,245
Dedications	n/a	12,060
Gross Tract Area	18,000	53,305
Density		
CBD-1: Floor Area Ratio	3.0	3.0
Allowable S.F.	159,915	159,915
-Residential		156,815 (187 units)
-Non-residential		3,100
Public Use Space (% of net lot)		
On-Site Public Use Space	20	21.87
Off-Site Amenity Space	n/a	18.17
Total Public Use & Amenity Space	20	40.04
Parking		
Residential Parking	196	206
Retail Parking	14	0
Total Vehicle Spaces	210	206²
<p>¹ Section 59_C-18.202(b) (1) requires a 60 foot setback for buildings that exceed 60 feet up to a maximum of 90 as permitted in the CBD-1 zone. The proposed building is set back 60 feet from Eastern.</p> <p>² No Parking is required for this site as it is located in the Silver Spring parking lot district. Total number of spaces will be determined at site plan.</p>		

The Application maintains compatibility with existing buildings by holding the building back 29 feet from the rear property line (the optional method of

development for CBD-1 properties has no setback requirements). The subject property shares the rear property line with two buildings. The first building, 8045 Newell Street, is similar in height to the proposed building (approximately 75' tall). The second building, Eastern Village Cohousing, is approximately 40' tall. The project also sets the building back 60' from the Eastern Avenue right-of-way Holding the building height to a total of 74' (the overlay zone allows 90' at this setback).

According to the Zoning Ordinance, §59-C-6.215(b), another 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 following package of amenities and public facilities is included with the Project Plan:

Amenities and Facilities Summary

The development is providing the following package of amenities and public facilities:

On-Site Public Use Space Improvements

- A public green open space at the corner of Eastern Avenue and Newell Street approximately ¼ acre in size
- Public Art
- Landscaping, including bio-filtration areas
- Seating
- Specialty paving

Off-Site Amenity Improvements

- Brick sidewalks
- Street Trees
- Pedestrian scale street lights
- Street furnishings

- Green panels for street trees and native plantings between the curb and sidewalk on Newell Street

(b) The development conforms to the Sector Plan.

The proposed development is consistent with the recommendations in the Silver Spring CBD Sector Plan. The uses proposed are allowed in this zone, and the proposed development is in keeping with the general guidelines to provide employment uses in the Sector Plan area. The proposed uses are appropriate for the subject site and conform to the Sector Plan.

The Approved and Adopted Silver Spring CBD Sector Plan recommends the South Silver Spring Overlay Zone, which calls for a mix of housing and commercial uses. The Application meets this goal by proposing rental housing and ground floor retail space. Moreover, as explained in detail below, the Sector Plan calls for stepping back buildings confronting residential development in the District, and the proposed development does that.

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

The location is appropriate for the Project Plan's intensity of use and density at the edge of the Central Business District. The building massing, stepbacks and heights are compatible with adjacent and surrounding uses, including in the one-family detached neighborhood to the west, which the Sector Plan calls out for special stepback protections. The project massing has been designed so as not to adversely affect adjacent buildings and uses. The CBD-1 Optional Method of Development has no setback requirement. However, the Applicant has set the building back 30 feet from the rear property line it shares with the multi-family building at 8045 Newell Street and 29 feet from the rear property line that it shares with Eastern Village Cohousing condominiums, in order to minimize its impacts upon the quality of light and air that those structures enjoy. The Ripley/South Silver Spring Overlay Zone limits building heights fronting onto Eastern Avenue to

45 feet for the first 60 feet from the street where the Application confronts a residential zone in the District of Columbia, at which point the building height may increase to 90 feet. The Applicant has proposed to locate a public use space within the 60-foot setback, thereby ensuring compliance with the height limitations confronting residential properties in the District of Columbia. Furthermore, the building is proposed to be 54 feet tall at this setback line. The building then steps back an additional 12 feet to reach a total height of 74 feet. The Applicant has exceeded the requirements of the Ripley/South Silver Spring Overlay zone to reduce the detrimental impact the proposed building could have on the neighbors in South Silver Spring and in the District of Columbia.

- (d) As conditioned, the development 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, is subject to a traffic mitigation agreement that meets all the applicable requirements.**

A draft traffic management agreement has been submitted by the Applicant and will be finalized during the site plan review process. Other public facilities exist on or near the site, and no expansion or renovation of these services will be required to be completed by the County. The Application will not overburden public facilities, including the public parking garage on Kennett Street. The Application will satisfy the residential parking requirement on site; the retail parking requirement will be satisfied by the PLD tax. Requirements for public safety and fire will be minimally impacted due to the nature of the land use and must be approved by the respective agencies prior to site plan approval.

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

A standard method project would only allow a density of 2.0 FAR or 43 dwelling units per acre on this site within the CBD-1 Zone. The number of MPDUs being provided would be significantly reduced through the standard method of development. The requirement for public amenities would be removed, and the public use space requirement would be reduced by half. The total height of the building would be reduced to 60 feet. Infill development and density near transit hubs (the Silver Spring

Transit Center is within a 10-minute walk), is a core value of smart growth. Given the number and quality of public amenities being proffered, the additional MPDUs, and the appropriateness of targeting density in this area, the optional method of development is more desirable and more efficient for this site.

- (f) The development will include moderately priced dwelling units in accordance with Chapter 25A of the Montgomery County Code.**

The development will provide 12.5% MPDUs as required by Chapter 25A. A final agreement to build between the Applicant and the Department of Housing and Community Affairs will be conditioned with the site plan review.

- (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 one lot to another or transfer densities within a lot with two or more CBD zones, the project plan may be approved by the Planning Board based on the following findings:**

The development is presently composed of one lot and does not transfer public open space or density.

- (h) The development satisfies applicable requirements for forest conservation under Chapter 22A of the Montgomery County Code.**

The property was granted an exemption from submitting a forest conservation plan on May 14th, 2012 because it qualified as a small property under chapter 22A-5(s)(1) of the County code. The exemption (42012169E) met the conditions as it is less than 1.5 acres with no existing forest, or existing specimen or champion trees, and the afforestation requirements would not exceed 10,000 square feet.

- (i) The development satisfies applicable requirements for water quality resources protection under Chapter 19 of the Montgomery County Code.**

The development is not subject to the water quality resources protection requirements. The Applicant has submitted a Stormwater Concept Plan to

the Montgomery County Department of Permitting Services for their review and approval. The Applicant is proposing green roofs and bio-filtration planters.

- (j) Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the applicable master or Sector Plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.**

The Applicant is providing all public use space and amenities and facilities on-site.

- (k) The building setback along Newell Street meets the requirements of both the zoning code and the Sector Plan.**

The most hotly debated issue about this plan is whether the proposed building is required under the zoning code and Sector Plan to stepback further from Newell Street than the Applicant proposes. Certain plan opponents argue that it is. The Applicant and Staff argue that it is not. The Planning Board finds that it is not. This resolution touches on this issue in other findings, but because of the extent of the debate, and because this issue cuts across findings that the Board has to make with respect to zoning and Sector Plan, the Board will discuss this issue separately.

Section 59-C-18.202(b)(1) states that “[b]uilding 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,” and then allows the height to be increased at a greater distance from the street. The Sector Plan, in connection with which the overlay zone was crafted, contains similar language. The Sector Plan recommends to “[l]imit building height for new construction along Eastern Avenue, fronting one-family detached dwellings in the District of Columbia as follows: at the property line, building heights should be limited to 45 feet. Above 45 feet, the building may step back 60 feet and its height may increase to 90 feet.” Later, the Sector Plan states that “[b]uilding heights along Newell Street and Eastern Avenue should ensure compatibility with the adjacent residential neighborhood,” and that “above 45 feet, the building may step back 60 feet and its height increase to 90 feet.”

The Board reads the law and the Sector Plan to limit development to 45 feet within 60 feet of the street to apply on those portions of Eastern Avenue and Newell Street across from residentially zoned properties in the District. In this respect, the Application satisfies both the requirements of the zoning code and the Sector Plan.

The Board recognizes that the use of the term "confronts" in relation to Newell Street is less than artful drafting, but this is the meaning that best gives meaning to and harmonizes all of the provisions. It also makes the most sense in light of what the Board understands to have been the goal of the Sector Plan and overlay zone – protecting the neighborhood of one-family detached residences in the District from denser development in Silver Spring.

The reading of the law and Sector Plan advanced by plan opponents does violence to the plain language of the zoning code and Sector Plan. The only way to read the zoning ordinance and Sector Plan language in the way that plan opponents advocate is either to read the "confronting" language out of the code entirely or to read it to modify only the reference to Eastern Avenue. As argued by opponents' counsel, reading the "confronting" language to have such a limited effect requires one to insert a comma in a sentence where none exists. This is not the exercise in plain language interpretation that opponents' counsel argued should carry the day in this case, but rather involves inserting punctuation into the language to significantly change its meaning.

The Planning Board further rejects the argument by opponents' counsel that reading the "confronting" language to apply to Newell Street where it intersects with Eastern Avenue would limit the application of the height limit to just that corner. It makes sense to interpret these provisions to refer to all of Eastern Avenue that confronts residential properties in the District, and the corner of Newell Street where it meets the District.

The Board's interpretation of the code and the Sector Plan is based not just on the face of the language, but also on how the language carries out what the Board understands to have been the intent of the Sector Plan and the overlay zone. Some plan opponents -- in particular counsel for certain plan opponents -- argued that the language of the overlay zone is clear and unambiguous, and that therefore it is unnecessary (and even inappropriate)

to look at legislative history. At the same time, however, he also argued that the language could be best understood by inserting a comma where none was originally written. The need to insert a comma to derive a certain meaning proves that the statute is at least somewhat ambiguous. The Board is comfortable that it is not foreclosed from considering legislative history. The Board also finds that it is appropriate to consider testimony from Staff and County Council staff about what was intended by these provisions. Although these after-the-fact accounts are not legislative history, they are nonetheless of some value in this process.

The reason that plan opponents' counsel would have preferred for the Board to ignore legislative history is that the legislative history supports that the focus of the overlay zone and Sector Plan, which the overlay zone implemented, was on protecting abutting residential development in the District of Columbia, not other properties along Newell Street.

The Board's interpretation of the zoning and Sector Plan makes even more sense in the context of the surrounding zoning. The properties across Newell Street, which are in Montgomery County, not the District, and which are developed currently with garden apartments, are zoned R-10, a zone with no height limit. As a practical matter, density limits would prevent these properties from developing very high, but within this zoning context it would make little sense that the Council would provide the same setback protection as it did for the detached residential properties in the District along Eastern Avenue.

The Board acknowledges that it referenced a stricter stepback requirement along Newell Street when it approved the development on a neighboring property ten years ago. But the stepback issue was not disputed in that proceeding, and therefore, the Board believes, was not decided with the benefit of the full vetting that the issue has had in this case. Moreover, because the issue has been so fully vetted in this case, the Board has additional information that leads it to conclude differently.

The Board also acknowledges the testimony of a Planning Board staff member who worked on the Sector Plan that the height limit was intended to apply along Newell Street as well as Eastern Avenue. But the Board also received a detailed analysis of this issue from a member of the County Council staff who was closely involved in the preparation of the Sector Plan

and the accompanying overlay zone that indicated the height limit was to apply along Newell Street only at the intersection of Eastern Avenue where it confronts residential development in the District (and along the rest of Eastern Avenue). Given that the County Council has the final say over the contents of Sector Plans and zones -- and the Planning Board an advisory role -- it makes sense to resolve the conflict between the Planning Staff's recollection of the Board's objectives and the Council Staff's recollection of the Council's objectives in favor of the Council staff.

On a procedural note, at the second hearing in this matter opponents' counsel referred to the Board as having already made up its mind about the issue of the required building setback along Newell Street, even referring incorrectly to the Board having voted on the matter. These statements misconstrue the posture in which the Board left this matter after the first hearing. It is true that at the first hearing several board members expressed a concern about whether there was a stricter setback requirement along Newell Street than this Application was proposing. And on that basis the Applicant requested, and the Board granted, a deferral. That deferral did not preclude the Applicant, or any other party, from presenting additional information about the issues in this case. Contrary to the characterization of opponents' counsel, the Board did not vote at the conclusion of the first hearing, but instead left the record open on all issues. The Board's decision in this matter is, as required by law, based on the entire record of both hearings in this matter.

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 this Resolution constitutes the written opinion of the Planning Board, and that the date of this Resolution is JUN 7 2013 (which is the date that this Resolution is mailed to all parties of record); and

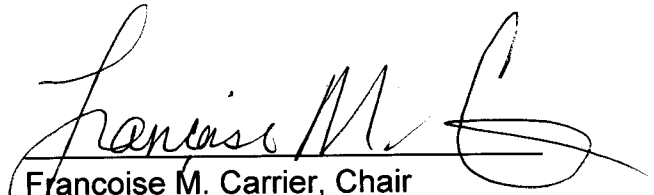
BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, May 16, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

September 16, 2013

John W. Clapsaddle
Vika Maryland, LLC
20251 Century Blvd, Suite 400
Germantown, MD 20874

Re: Stormwater Management **CONCEPT** Request
for Revision to 8001 Newell Street
Site Plan #: 820140020
SM File #: 245753
Tract Size/Zone: 0.95 Ac./CBD-1
Total Concept Area: 1.12 Ac.
Block: B
Parcel(s): A
Watershed: Lower rock Creek

Dear Mr. Clapsaddle:

Based on a review by the Department of Permitting Services Review Staff, the **revised** stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via ESD to the MEP with the use of green roof and micro-bioretenion/planter boxes. Due to existing shallow storm drain the remaining ESDv can not be treated and is granted a CPv waiver.

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

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.
5. Must provide an easement and covenant for the green roof and micro-bioretenion/planter boxes.
6. Use a professional with green roof experience when designing the green roof.
7. Minimum square footage of 6" green roof required is 9,170. At design try to provide additional square footage and try to provide 8" thickness.

8. Provide a copy of the mechanical drawings showing schematic profile of garage drains and roof drains. All under ground parking is to drain to WSSC. Roof drains must drain to the micro-bioretenention.
9. Please include a narrative on the plan that explains in detail how the green roof will be accessed for inspections and maintenance.

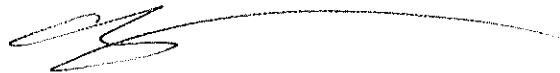
This list may not be all-inclusive and may change based on available information at the time.

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,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: me CN245753 Revised 8001 Newell Street.DWK

cc: C. Conlon
SM File # 245753

ESD Acres: 1.12
STRUCTURAL Acres: 0.00
WAIVED Acres: 1.12



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

November 14, 2013

Mr. Neil Braunstein
Area 1 Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: 8001 Newell Street
Site Plan No. 820140020

Dear Mr. Braunstein:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the above referenced revised Site Plan. DHCA recommends Approval of the Site Plan with the following condition:

- Final MPDU locations, bedroom compositions and layouts will be determined at certified site plan with review and approval by DHCA.

Please include this condition on the site plan and in the Planning Board resolution, in addition to the standard resolution condition stating that the MPDU Agreement to Build must be executed between the Applicant and Montgomery County prior to the release of any residential building permits.

Sincerely,

Lisa S. Schwartz
Senior Planning Specialist

cc: William Landfair, VIKA Maryland, LLC
Anne M. Mead, Linowes and Blocher
Dan Slear, Comstock Partners, LC

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Division of Housing

Moderately Priced
Dwelling Unit
FAX 240-777-3709

Housing Development
& Loan Programs
FAX 240-777-3691

Landlord-Tenant Affairs
FAX 240-777-3691

Licensing & Registration Unit
240-777-3666
FAX 240-777-3699

100 Maryland Avenue, 4th Floor • Rockville, Maryland 20850 • 240-777-3600 • www.montgomerycountymd.gov/dhca

From: Farhadi, Sam [mailto:Sam.Farhadi@montgomerycountymd.gov]
Sent: Monday, November 25, 2013 11:37 AM
To: Braunstein, Neil
Cc: Kronenberg, Robert
Subject: RE: comments from Sam F on 8001 Newell Street

8-20140020 8001 Newell Street

Contact: Sam Farhadi at 240 777-6333

1. The Site Plan signed on 11/14/13 is acceptable subject to the following to be conditions of the certified site plan:
 - Provide Silver Spring streetscaping along the site frontage;
 - County can utilize the PIE truncation area without the need to replace what is currently shown there on the site plan;
 - Provide a five foot wide sidewalk to ADA standards as shown on the site plan along the site frontage on Newell Street;
 - Provide Slope/drainage easement along the site frontage (prior to ROW permit);
 - Provide Storm drain adequacy analysis (at ROW permit);
 - The approval of the current access point is valid only if the limits shown on the site plan are free of parking spaces. Coordinate with MCDOT for removal of the parking meters if any;
 - Provide a recorded private open space covenant (prior to ROW permit);
 - Provide an executed TMAg per MCDOT Commuter Services requirements (prior to ROW permit);
 - Bike racks in the public ROW need to meet MCDOT requirements/standards.