

Resolution No.: 18-405  
Introduced: February 23, 2016  
Adopted: February 23, 2016

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

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By: District Council

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**SUBJECT:** APPLICATION NO. H-110 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Patricia A. Harris, Esquire, Attorney for the Applicant, ArtSpace Projects, Inc.; OPINION AND RESOLUTION ON APPLICATION; Tax Account Number 13-01044362

**OPINION**

On September 10, 2015, ArtSpace Projects, Inc. (Applicant or ArtSpace) filed Local Map Amendment Application (LMA) No. H-110. The application requests a reclassification from the R-60 Zone to the Commercial Residential Neighborhood Floating Zone (CRNF) 1.25, C-0.25, R-1.0, H-65.<sup>1</sup> The property is located at 801 Sligo Avenue, Silver Spring, Maryland. It is described as Lots 5-11, Block J of the Easley Subdivision. Exhibit 1. ArtSpace seeks to develop up to 68 multi-family affordable units, 4 workforce townhouse units, 7 market rate townhouse units, 30 artist studios, and 1,500 square feet of retail.

Staff of the Montgomery County Planning Department (Staff) recommended approval of the application in a report dated December 7, 2015. Exhibit 21. The Montgomery County Planning Board recommended approval as well. Exhibit 22.

After a public hearing on January 8, 2016, the Hearing Examiner also recommended approval. *Hearing Examiner's Report* (January 21, 2016). She found that the proposed reclassification and development will satisfy the standards for approval required by the *2014 Montgomery County Zoning Ordinance*. In addition, she found that the proposed reclassification will be consistent with the coordinated and systematic development of the Regional District, as required by State law. *Maryland Code Ann., Land Use, § 21-101(a)(4)(i)*.

To avoid unnecessary detail in this opinion, the Hearing Examiner's Report and Recommendation is incorporated in this opinion by reference. Based on its review of the entire

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<sup>1</sup> The first number listed after the acronym "CRNF" (i.e., 1.25) reflects the total floor area ratio (FAR) permitted in the zone. "C-0.25" indicates the maximum FAR permitted for commercial uses, and "R-1.00" means maximum FAR for residential uses is 1.00. "H-65" indicates that the maximum height permitted is 65 feet. *Zoning Ordinance, §59.5.3.1*.

record, the District Council finds that the application meets the standards required for approval of the requested rezoning.

### **SUBJECT PROPERTY**

The subject property consists of approximately 2.31 acres located in the northwest quadrant of the intersection of Sligo Avenue and Grove Street in Silver Spring. It is immediately to the east of the Silver Spring Central Business District (CBD). Existing improvements include a building formerly used as the District 3 Police Station and associated surface parking. The site currently has 3 access points: one on Grove Street and 2 on Sligo Avenue.

### **SURROUNDING AREA**

The surrounding area must be identified in a floating zone case to evaluate the compatibility of the use with properties it will directly impact. Staff defined the boundaries of the surrounding area as Fenton Street to the west, Silver Spring Avenue to the north, Chicago Avenue to the east, and Gist Avenue to the south.

To the north and the south, the neighborhood consists primarily of single-family homes on narrow lots. Fenton Village, a low- to mid-rise mixed-use development, lies to the west. To the east lie a mixture of residential uses, including townhouses on Twin Holly Lane and single-family and low-rise multi-family apartment buildings along Sligo Avenue. Exhibit 23. Mr. Joshua Sloan, the Applicant's expert in land use planning and landscape architecture, characterized the area as an "edge condition" to an urban area. The character of the area is primarily a mix of residential uses, which transition to more intense uses in the Silver Spring CBD. Exhibit 25-26.

### **PROPOSED DEVELOPMENT**

This project started with a community initiative to explore redevelopment of the former police station site. The initiative resulted in a Request for Qualifications and Development Proposals (RFQADP) issued by the Montgomery County Department of Housing and Community Affairs. The RFQADP sought "creative, feasible proposals for transforming the Site into a mixed-income housing development including artist live/work multi-family rental and for-sale housing that is compatible with the surrounding residential neighborhood and the goals of the RFQADP." Exhibit 28, p. 3. ArtSpace was selected to develop the site. Exhibit 30. ArtSpace is the largest real estate developer in the nation that specifically designs spaces for artists and art organizations. Their projects are unique because their buildings use an "artist work model," which allows a larger volume of space within each residence, and wider hallways and elevators, to facilitate creative activity. T. 14.

ArtSpace proposes up to 68 multi-family units, 11 townhomes (4 workforce housing and 7 market rate units), 30 artist studios and 1,500 square feet of retail. The multi-family units will serve residents at different income levels (i.e., 30%, 40%, 50% and 60% of the adjusted median income for the area). T. 17-18; Exhibit 21, p. 3. ArtSpace proposes a public plaza along Sligo Avenue where artists may display their works. It also proposes a private plaza in the interior of

the development that provides common open space for the townhouse units. A public walkway will border the western site boundary, connecting the development to nearby pedestrian pathways.

### **FLOATING ZONE PLAN**

Section 59-7.2.1.B.2.g of the Zoning Ordinance requires applications for Floating Zones must include a "Floating Zone Plan" (FZP) that contains specified information, including the location, massing, and height of buildings and anticipated uses. ArtSpace filed an FZP meeting this requirement (Exhibit 39(c)). Excerpts of the FZP are included in the Hearing Examiner's Report.

The buildings are arranged to create a transition from the single-family dwellings and townhomes adjoining and confronting the property to the east and north to the higher intensity uses in the Silver Spring CBD, immediately to the west. The townhouse units face the single-family dwellings and townhouses across Grove Street. The multi-family buildings step up to 3 stories along the northern boundary (adjacent to single-family homes) and then 4 stories on the western end of the site, adjoining the CBD. Binding elements in the FZP reinforce these height limits, permitted uses, required public and private open space, and density (Exhibit 39(c)):

#### **BINDING ELEMENTS**

1. VEHICULAR ACCESS FROM GROVE STREET SHALL BE PROHIBITED.
2. VEHICULAR ACCESS FROM THE ALLEY LOCATED TO THE NORTH OF THE PROPERTY IS PROHIBITED.
3. THE MAXIMUM BUILDING HEIGHT OF ANY STRUCTURE WITH FRONTAGE ON GROVE STREET SHALL NOT EXCEED 42 FEET FOR A DEPTH OF 75 FEET, AS MEASURED FROM THE CURB AT GROVE STREET.
4. THE MAXIMUM BUILDING HEIGHT OF THE 3 STORY BUILDING LOCATED PARALLEL TO THE ALLEY SHALL NOT EXCEED 50 FEET, AS MEASURED FROM THE CURB AT SLIGO AVENUE.
5. THE MAXIMUM BUILDING HEIGHT ALONG SLIGO AVENUE SHALL NOT EXCEED 60 FEET, AS MEASURED FROM THE CURB AT SLIGO AVENUE.
6. A PUBLIC PLAZA, AT LEAST 3,750 SQUARE FEET IN SIZE, WILL BE LOCATED ALONG SLIGO AVENUE.
7. A MINIMUM OF 3,500 SQUARE FEET OF COMMON OPEN SPACE WILL BE LOCATED IN AN INTERIOR COURTYARD FOR USE BY RESIDENTS OF THE SITE.
8. THE MINIMUM BUILDING OFFSETS FROM THE PROPOSED RIGHT OF WAY FROM GROVE STREET WILL BE 5 FEET AND FROM SLIGO AVENUE WILL BE 15 FEET.
9. FINAL DEVELOPMENT/UNIT MIX SHALL NOT EXCEED:
  - 68 MULTIFAMILY UNITS
  - 11 TOWNHOMES
  - 30 ARTISTS STUDIOS
  - 1,500 SF COMMERCIAL/RETAIL
10. A MINIMUM OF 10 OF THE ARTIST STUDIOS WILL BE LEASED TO RESIDENTS OF THE DEVELOPMENT.
11. FINAL DEVELOPMENT WILL INCLUDE A MINIMUM OF 12.5% MPDUs.
12. TOTAL SQUARE FOOTAGE OF DEVELOPMENT WILL NOT EXCEED 1.16 FAR OR 139,000 SQUARE FEET.

**NECESSARY FINDINGS**

Zoning Ordinance §59-7.2.1.E. establishes the “Necessary Findings” the District Council must make to approve a Floating Zone application. Because the Planning Board recommended approval of the rezoning, 5 Council members must approve the application. *Zoning Ordinance*, §59-7.2.1.F.2.

The Hearing Examiner’s report and recommendation found that the subject site’s requested zone and density satisfied the prerequisites required by Section 59.5.1.3 of the Zoning Ordinance. Based on that report, the District Council finds that the site satisfies the prerequisites for the zone and density requested.

The District Council’s findings follow.

**A. Required “Necessary Findings” (§59-7.2.1.E.2.)**

*For a Floating zone application the District Council must find that the floating zone plan will:*

*a. substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;*

The property is located within the *2000 East Silver Spring Master Plan* (Plan) area. One of the Plan’s primary objectives is to “support stable residential neighborhoods and to assure linkages to commercial centers and public facilities.” *Plan*, p. 21.

The Plan reconfirmed the existing R-60 Zoning for the subject property but recommended rezoning to the RT-8 floating zone to increase the range of housing stock in the area. *Plan*, p. 27. The 2014 Zoning Ordinance prohibited new Local Map Amendment applications requesting that zone. *Zoning Ordinance*, §59-8.1.1. Although the Plan recommends the property for a floating zone, the Applicant cannot apply for the particular floating zone recommended.<sup>2</sup>

Staff concluded that the application met the Plan’s goal for the property by increasing the range of housing stock available in the area. The Hearing Examiner agreed with Staff that the proposed development would meet both the general and specific goals of the Plan because it will (1) increase the affordable housing stock in the area, (2) preserve the existing neighborhood as a transitional buffer between lower density residential uses and the CBD, (3) enhance the adjoining Fenton Village by providing an arts attraction, (4) secure additional public areas and pedestrian connections, and (5) bring the site up to today’s environmental standards. Based on this evidence, the District Council finds that the proposed development substantially conforms to the recommendations of the Plan.

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<sup>2</sup> The 2014 Zoning Ordinance permits an application for a Residential Townhouse Floating Zone, but this would not permit the artist studios and retail space requested. *Zoning Ordinance*, §§59.5.1.3, 59.3.1.6.

*b. further the public interest;*

A project that complies with County plans and policies is in the “public interest”, under the District Council’s interpretation of that phrase. This is because State law requires the Council to approve only rezoning applications that further the “coordinated, comprehensive, adjusted, and systematic development of the regional district.” Md. Code Ann., Land Use § 21-101 (West). To “further the public interest,” public facilities must be adequate to serve the use.

ArtSpace submitted a Land Use Report (Exhibit 7) describing how; 1) the project would meet all regulations governing stormwater management, 2) wet and dry utilities are available to the site, and 3) public services (schools, police and fire stations) are adequate to serve the proposed development. Currently 2 of the schools within the Blair Cluster, Takoma Park Middle School and Blair High School, exceed their maximum capacity under the FY 2016 Subdivision Staging Policy. If these schools remain over capacity when a preliminary plan is presented for approval, ArtSpace will be required to pay an impact tax. That payment will allow the project to proceed. Staff found that the development would have adequate public facilities, as did the Hearing Examiner. Based on this evidence, the District Council finds that these facilities will be adequate to serve the development.

*c. satisfy the intent, purposes, and standards of the proposed zone and requirements of this Chapter;*

For the reasons in Parts IV.B through E of the Hearing Examiner’s Report, summarized below, the District Council finds that the proposed FZP will satisfy the intent, purposes and standards of the proposed zone and the requirements of the Zoning Ordinance.

*d. be compatible with existing and approved adjacent development;*

ArtSpace’s experts in land planning and architecture testified that the proposed development will be compatible with the surrounding area because it creates a transition between lower density residential uses to the east and north and the Silver Spring CBD to the west. The lower density townhouse units on the subject property will confront single-family detached dwellings and townhouses across Grove Street. Stepped up heights from east to west foster a compatible transition of scale between the single-family detached and attached units on the eastern side of the site to the edge of the CBD on the western side. T. 44. The multi-family units along the northern edge of the property will be first-floor accessible with patios to transition to the single-family homes bordering this edge of the property. T. 55; Exhibit 7, p. 5. Both Staff and the Hearing Examiner found that the stepped up heights and densities of the uses are sensitive to and compatible with the existing residential neighborhood. Based on this evidence, the District Council finds that the proposed development will be compatible with existing and approved adjacent development.

*e. generate traffic that does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board’s LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts;*

This section requires the District Council to make a preliminary finding that transportation infrastructure will be adequate to support a proposed development. *Zoning Ordinance*, §59-7.2.1.E.2.e. The Planning Board will make the final determination of whether these facilities are adequate during the subdivision process. *See Montgomery County Code*, §50-35(k). The Council determines whether roadway capacity is adequate under the Local Area Transportation Review (LATR) test. *See, 2012-2016 Subdivision Staging Policy*, Council Resolution 17-601 (November 13, 2012.) Developments that will generate fewer than 30 peak-hour trips are exempt from the LATR and require only a traffic statement demonstrating the basis for the exemption. *Id.*, pp. 10-11.

ArtSpace submitted a traffic statement to show that the development would generate fewer than 30 peak hour trips. Exhibit 21. ArtSpace's traffic expert, Mr. Craig Hedberg, opined that the use would generate 26 morning peak hour trips and 25 evening peak hour trips. T. 72-74. His calculations include a credit for the trips generated by the former police station, and a 15% credit for artists who will live and work in the development. A binding element ensures that a minimum of 10 of the studios will be rented to resident artists. Staff reviewed Mr. Hedberg's traffic statement and agreed with its conclusions, as did the Hearing Examiner. Based on this evidence, the District Council finds that roads surrounding the site will be adequate to serve the proposed use.

*f. when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, not adversely affect the character of the surrounding neighborhood.*

The Hearing Examiner concluded that the development would not adversely affect the character of the surrounding neighborhood because it conforms to the Plan, facilities are adequate to serve the use, and the scale and massing are compatible with the surrounding residential uses, as discussed above. Based on this evidence, the District Council finds that the application meets this standard.

#### **B. The Intent of the Floating Zones (§59-5.1.2.)**

The proposed development must satisfy the intent of the Floating Zone. Section 59-5.1.2 describes this intent:

*The...Commercial/Residential floating...zones are intended to provide an alternative to development under the restrictions of the Euclidean zones mapped by Sectional Map Amendment (the Agricultural, Rural Residential, Residential, Commercial/Residential, Employment, Industrial, and Overlay zones). To obtain a Floating zone, an applicant must obtain approval of a Local Map Amendment under Section 7.2.1. The intent of the Floating zone is to:*

- A. Implement comprehensive planning objectives by:
 
  - 1. furthering the goals of the general plan, applicable master plan, and functional master plans;*
  - 2. ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure in the general plan,**

*applicable master plan, functional master plan staging, and applicable public facilities requirements; and*

*3. allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property; and*

The District Council found that the application furthers the goals of the *2000 East Silver Spring Master Plan* and that public facilities and infrastructure are adequate to serve the use. The *2005 Approved and Adopted Bikeways Functional Master Plan* calls for an on-road bike lane along Sligo Avenue, which is not precluded by the development. Exhibit 21, p. 8. Nearby transit facilities include the Silver Spring Metro Station and a proposed Purple Line station, which are approximately .47 miles west of the property and less than 1/3 of a mile south of the property, respectively. A bus stop for Montgomery County Ride-On is adjacent to the site on Sligo Avenue and runs between Silver Spring and Langley Park/Takoma. Additional Ride-On and WMATA bus routes are accessible from stops located nearby on Fenton Street. Exhibit 21, p. 2. The public pathways along Sligo Avenue and the western boundary of the site will provide pedestrian connections to other areas of Silver Spring. The District Council finds that the application furthers the comprehensive planning objectives listed in the Zoning Ordinance.

*B. Encourage the appropriate use of land by:*

- 1. providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;*
- 2. allowing various uses, building types, and densities as determined by a property's size and base zone to serve a diverse and evolving population; and*
- 3. ensuring that development satisfies basic sustainability requirements including:*
  - a. locational criteria,*
  - b. connections to circulation networks,*
  - c. density and use limitations,*
  - d. open space standards,*
  - e. environmental protection and mitigation; and*

This application provides a flexible response to the abandonment of the former police station. It contains a mix of building types and densities sensitive to the transitional location of the property. It would provide sustainability measures including proximity to public transit, connections to pedestrian circulation networks. It complies with density and use limitations, open space standards. It will upgrade environmental systems on the site, including stormwater management. The District Council finds that the development will meet this intent of the Floating Zones, as did the Hearing Examiner.

*C. Ensure protection of established neighborhoods by:*

- 1. establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses;*
- 2. providing development standards and general compatibility standards to*

*protect the character of adjacent neighborhoods; and*  
*3. allowing design flexibility to provide mitigation of any negative impacts found to be caused by the new use.*

The compatibility requirements of this section are repetitive of the compatibility findings required in §59-7.2.1.E.2.d, above. The District Council finds that the proposed development will be compatible with existing and approved adjacent development.

### **C. Purpose, Land Uses, and Building Types Permitted by the CRNF Zone (Section 59-5.3)**

Zoning Ordinance §59.5.3.2 establishes the permitted uses and building types, and describes the purpose of the CRNF Zone:

#### *Section 5.3.2. Purpose*

*The purpose of the Commercial/Residential Floating zones is to:*

- A. allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;*
- B. allow flexibility in uses for a site; and*
- C. provide mixed-use development that is compatible with adjacent development.*

The Hearing Examiner concluded that the development proposed uses the flexibility of the zone to design a mixed use development that will be compatible with the surrounding community and provide public and private open space, as previously discussed. The District Council agrees and finds that this purpose has been met.

#### *Section 5.3.3. Land Uses*

*A. The following land uses are allowed in the Commercial/Residential Floating zones:*

- 1. In the CRNF zones, only the uses allowed in the CRN zone are allowed.*

The application proposes a mix of multi-unit and townhouse living units, commercial retail, and artisan manufacturing and production, all of which are permitted by right in the CRNF Zone.

#### *Section 5.3.4. Building Types Allowed*

- A. Any building type is allowed in the Commercial/Residential Floating zones.*
- B. An applicant may voluntarily prohibit specific building types or establish binding elements that restrict specific building types to support the necessary findings of approval under Section 7.2.1.*

Because any building type is allowed in the CRNF Zone, the proposed development meets this requirement. The Applicant has limited the number of units, building types, and building heights in its FZP to promote compatibility with the surrounding residential uses. Based on this record, the District Council finds that this application satisfies all the requirements in Section 59.5.3 for the purpose, permitted uses and allowed building types in the CRNF Zone.

**D. Development Standards for the Zone (Section 59.5.3.5)**

The bulk regulations for the CRNF Zone are included in Section 59.5.3.5.a-c of the Zoning Ordinance. Staff summarized these requirements in a table comparing the minimum standards required to the proposed development shown on the FZP (Exhibit 21, p. 17, below):

**Commercial Residential Floating Neighborhood Zone Standards**

<b>Development Standards</b>	<b>Required</b>	<b>Provided</b>
<b>Tract Area</b>		<b>119,990 sf</b>
<b>Prior Dedications</b>	NA	<b>19,192 sf</b>
<b>New Dedication</b>	NA	<b>3,365 sf</b>
<b>Site</b>	NA	<b>97,433 sf</b>
<b>Density</b>		
<b>Total FAR/GFA</b>	<b>1.25 (149,987 sf)</b>	<b>1.16 (139,000 sf)</b>
<b>Commercial</b>	<b>0.25 (29,997 sf)</b>	<b>0.24 (29,000 sf)</b>
<b>Residential</b>	<b>1.00 (119,990)</b>	<b>0.92 (110,000 sf)</b>
<b>Building Height</b>		
<b>Townhouses</b>	<b>Established by Plan</b>	<b>42 ft</b>
<b>Multi-Unit</b>	<b>Established by Plan</b>	<b>60 ft</b>
<b>Building Setbacks</b>		
<b>Public Street</b>	<b>Established by Plan</b>	<b>0 ft</b>
<b>Adjoining Lot</b>		
<b>Side</b>	<b>Established by Plan</b>	<b>15 ft</b>
<b>Rear</b>	<b>Established by Plan</b>	<b>0 ft</b>
<b>Open Space</b>	<b>10% of site</b>	<b>9,743 sq ft</b>
<b>Lot Size (for townhouses)</b>	<b>Established by Plan</b>	<b>800 ft</b>

The chart does not include the common open space requirements for the townhomes. *Hearing Examiner's Report*, p. 26. For standard method applications, the CRNF Zone requires 10% public open space for the portion of the site development devoted to multi-family units and 20% common open space for the portion of the site devoted to the townhomes. *Zoning Ordinance*, §59.4.5.3. The 5,666-square foot private plaza shown in the FZP meets the minimum common open space required for the portion of the site dedicated to the townhomes (i.e., 28,328 square feet). At least 10% of the residual lot area (i.e., 72,469 square feet) must be devoted to public open space. ArtSpace meets this requirement with a total of 7,247 square feet of public open space consisting of the public plaza along Sligo Avenue and a walkway on the western boundary of the site. Exhibit 7, p. 6. Based on this evidence, the District Council concludes that all development standards have been met.

In addition to the above standards, Section 59.5.3.5.B of the Zoning Ordinance requires building heights to meet the "compatibility" standards of Section 59.4.1.8.B. The latter section states:

## **2. Height Restrictions**

*a. When the subject property abuts a property in an Agricultural, Rural Residential, Residential Detached or Residential Townhouse zone that is...improved with an agricultural or residential use, any structure may not protrude beyond a 45 degree angular plane projecting over the subject property, measured from a height equal to the height allowed for a detached house in the abutting zone at the setback line determined by Section 4.1.8.A.*

*b. When the subject property confronts a property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is...improved with an agricultural or residential use, any structure may not protrude beyond a 45 degree angular plane projecting over the subject property, measured from a height equal to the height allowed for a detached house in the confronting zone at the front or side street setback line determined under Article 59-4.*

ArtSpace's expert in architecture submitted an illustration of the proposed setbacks from the single-family detached units and the townhomes across Grove Street to demonstrate that the application meets the setback and height compatibility standards, above (Exhibit 37). From this evidence, the District Council concludes that the application met this requirement, as did the Hearing Examiner.

### Conclusion

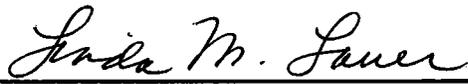
Based on the foregoing analysis, the Hearing Examiner's report, and after a thorough review of the entire record, the District Council concludes that the proposed reclassification and development will meet the standards in the *2014 Zoning Ordinance* and that it will be consistent with a coordinated and systematic development of the Regional District.

### **ACTION**

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

That Local Map Amendment Application No. H-110, requesting reclassification of 2.31 acres of land described as Lots 5-11, Block J of the Easley Subdivision, located at 801 Sligo Avenue, Silver Spring, Maryland, from the R-60 Zone to the CRNF 1.25, C-0.25, R-1.0, H-65 Zone be **approved** in the amount requested and subject to the specifications and requirements of the Floating Zone Plan, Exhibit 39(c). The Applicant must submit to the Hearing Examiner for certification a reproducible original and 3 copies of the Floating Zone Plan approved by the District Council within 10 days of approval.

This is a correct copy of Council action.



Linda M. Lauer  
Linda M. Lauer, Clerk of the Council



8787 Georgia Avenue  
 Silver Spring, Maryland 20910-3760

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**MANDATORY REFERRAL APPLICATION**

M-NCPPC Staff Use Only		
File Number	MR _____	MR Type (check One)
Date Application Received	_____	_____ 1 – Comprehensive
Application Completed by	_____	_____ 2 – Administrative
		_____ 3 – Consent

*An application will not be accepted for review unless all required information and fees are provided. If an item requires more space, attach a separate sheet.*

**Project Name (Subdivision):** Sligo Artspace Acres 2.31 (sf / 43,560)

200 scale Base Map # \_\_\_\_\_ Tax Map # \_\_\_\_\_ Special Protection Area \_\_\_\_\_

Property Tax Account Number(s) associated with the plan (8 digits)

A. 01044362 B. \_\_\_\_\_ C. \_\_\_\_\_ D. \_\_\_\_\_ E. \_\_\_\_\_  
 F. \_\_\_\_\_ G. \_\_\_\_\_ H. \_\_\_\_\_ I. \_\_\_\_\_ J. \_\_\_\_\_

**Location:** (Complete either A or B)

A. On Sligo Avenue, 0 feet W of Grove Street  
Street Name (N,S,E,W etc.) Nearest Intersecting Street

B. \_\_\_\_\_ quadrant, intersection of \_\_\_\_\_ and \_\_\_\_\_  
(N,S,E,W etc.) Street Name Street Name

**Subdivision Information:** (Complete either C, if located within a recorded subdivision, or D)

C. Lot 5-11 Block J Subdivision Easley Subdivision

D. Parcel \_\_\_\_\_ Liber \_\_\_\_\_ Folio \_\_\_\_\_; Parcel \_\_\_\_\_ Liber \_\_\_\_\_ Folio \_\_\_\_\_; Parcel \_\_\_\_\_ Liber \_\_\_\_\_ Folio \_\_\_\_\_

**Description of Project:** In accordance with the Request for Qualifications and Development Proposals for redevelopment of the Property, issued on September 29, 2014 Artspace Projects Inc. proposes to subdivide the Property into twelve (12) lots with associated open space parcels to facilitate the redevelopment of the Property with an affordable artist mixed-use development. Through adaptive re-use, the Applicant will transform the prior police station building into approximately 30 artist studios (or approximately 18,500 square feet) with up to 1,500 square feet of ground floor retail that is oriented to the arts. The Project will provide a range of housing types, and will include up to 11 townhouse units and 68 multi-family apartment units.

**Applicant** ( Agency/Department Head or  Agency/Department Representative)

Office of the County Executive	Ramona Bell-Pearson
Submitting Agency or Department	Contact Person
101 Monroe Street, 2nd Floor	
Street Address	
Rockville	Maryland
City	State
240-777-2561	20850
Telephone Number	Zip Code
ext. Fax Number	E-mail

**Engineer/Plan Preparer**

VIKA Maryland		James Buchheister	
<i>Name</i>		<i>Contact Person</i>	
20251 Century Blvd. Suite 400			
<i>Street Address</i>			
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<i>City</i>		<i>State</i>	<i>Zip Code</i>
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<i>Telephone Number</i>	<i>ext.</i>	<i>Fax Number</i>	<i>E-mail</i>

**Other Contact Person (if applicable)**

Lerch, Early & Brewer, Chtd.		Patricia A. Harris	
<i>Name</i>		<i>Contact Person</i>	
3 Bethesda Metro Center - Suite 460			
<i>Street Address</i>			
Bethesda		MD	20814
<i>City</i>		<i>State</i>	<i>Zip Code</i>
(301) 841-3832		paharris@lerchearly.com	
<i>Telephone Number</i>	<i>ext.</i>	<i>Fax Number</i>	<i>E-mail</i>

**Signature of Applicant**

*Heidi Zimmer*

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*Heidi Zimmer*

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*Name (Type or Print)*

*5-19-14*

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*Date*



June 29, 2016

Mr. Marco Fuster  
M-NCPPC  
8787 Georgia Avenue  
Silver Spring, MD 20910

RE: Forest Conservation Variance Request  
Artspace – 801 Sligo Avenue, Silver Spring, MD  
NRI # 420160380  
Preliminary Plan # 120160270  
Site Plan # 820160140  
VIKA # VM1981A

Dear Mr. Fuster:

We are submitting this variance request on behalf of Artspace Projects, Inc. (the "Applicant"), the Applicant in the above-referenced Preliminary Plan application (the "Application" or "Preliminary Plan"). Pursuant to Section 22A-21(b) of the Montgomery County Code (the "Forest Conservation Law"), we are requesting approval of a variance from the provisions of the Maryland Annotated Code, Natural Resources Article, Section 5-1607(c)(2)(iii).

**Background**

The Applicant is the contract purchaser of approximately 2.31 acres of land located within the northwest corner of the intersection of Sligo Avenue and Grove Street in Silver Spring (the "Subject Property"). The Subject Property is currently developed with a vacant three-story solid block/concrete structure, expansive asphalt and concrete paved areas, and lawn areas with trees located along the edge of the Subject Property. The Applicant proposes to redevelop the Subject Property with an affordable artist mixed-use development (the "Project"). The Project will include the adaptive re-use of the existing District 3 Police Station building into artist studios with ground floor retail that is oriented to the arts, construction of a new multifamily building (with up to 68 units), and construction of 11 townhomes. Additionally, the Project will require infrastructure improvements (including public utilities, access, and safe storm drain conveyance) that will necessitate offsite disturbance. The proposed redevelopment will result in impacts to both on and off-site priority vegetation. There are a total of seven (7) Specimen Trees impacted by the Project with impacts ranging from minor/moderate to significant/severe. Accordingly, the Applicant is submitting a variance request for the removal/disturbance of seven (7) trees that are either 30" DBH or greater, or are 75% the diameter of the County champion for that species (the "Specimen Trees"), including: the removal of three (3) Specimen Trees that will be significantly/severely impacted, and the disturbance of four (4) Specimen Trees that



will have minor/moderate impacts to their Critical Root Zones ("CRZs"), with the intent that these four (4) trees will be preserved. Details of these trees and the proposed impacts are included in "Exhibit A."

This variance request is submitted for concurrent review with the Preliminary Plan, in conjunction with the Preliminary and Final Forest Conservation Plans ("FCP") for the Project. A Natural Resources Inventory Plan (NRI) for the Project was submitted and subsequently approved by the Maryland-National Capital Park and Planning Commission (M-NCPPC) on November 6, 2015 (NRI #420160380). The location and existing condition of the Specimen Trees are shown on the approved NRI.

### **Variance Request**

As explained more fully below, retention of the Specimen Trees proposed to be removed or disturbed would result in undue hardship to the Applicant. The location of the Subject Property just outside the Silver Spring Central Business District, existing site constraints, and the nature of the proposed improvements justify granting of the variance pursuant to Section 22A-21(b) of the Code because the granting of the variance (i) will not confer a special privilege on the Applicant that would be denied to others; (ii) is not based on conditions or circumstances which result from the action of the Applicant; (iii) is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property; and (iv) will not violate State water quality standards or cause measurable degradation in water quality.

Pursuant to Section 22A-21(b) of the Forest Conservation Law, the Variance request must provide the following:

- 1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship;**
- 2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;**
- 3. Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and**
- 4. Provide any other information appropriate to support the request**

The Applicant provides the following to address the above criteria and in support of the variance request:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*

The Subject Property is located just outside the Silver Spring Central Business District ("CBD"), an urbanized area of Montgomery County. The Subject Property currently is improved with a vacant, three-story building that was previously operated as a police station and expansive surface parking. The Subject Property is located within approximately 2,500 feet of the Silver Spring Metro Station and 1,500 feet of the Silver Spring Library Purple Line Station. The Property's location presents an opportunity to improve the relationship between the CBD's more intensive uses and the residential

properties that are located just outside the CBD boundary. As such, the Subject Property provides an excellent opportunity for in-fill redevelopment that responds to the Property's location as a transitional site, at a density reflective of its location just outside the Silver Spring CBD and within walking distance of various transit options. The Project will further several important County policies, such as affordable housing and stormwater management. The Project provides an important opportunity to develop desired affordable housing in close proximity to transit. The multi-family residential component of the Project will comprise 100% affordable units and the for-sale townhouse component of the Project will include up to four (4) workforce housing units ("WFHUs"). Additionally, as discussed further below, the Project provides an important opportunity to provide stormwater management treatment on a site where there currently is none. The requested tree variance is necessary in order to further these, as well as other, important County policies.

The Subject Property was recently rezoned CRNF-1.25, C-0.25, R-1.0, H-65'. In approving Local Map Amendment H-110 for the rezoning of the Subject Property, the Montgomery County Council recognized the appropriateness of the proposed redevelopment on this site. The redevelopment proposed in connection with the Preliminary Plan is consistent with the Floating Zone Plan that was approved by the County Council in connection with Local Map Amendment H-110. In approving the Local Map Amendment, the County Council found that this Project "comports with the [Master] Plan's goal for the specific property by providing housing for a mix of incomes in a manner compatible with the site's transitional role in the surrounding area... [and that] it also conforms to the [Master] Plan's goals to enhance existing residential neighborhoods by providing public space and pathways that connect to other areas within Silver Spring". Furthermore, the County Council concluded that the Project is in the public interest, that the Project complies with the various County plans and policies and will be supported by adequate public facilities.

The Specimen Tree impacts occurring as a result of this redevelopment are the minimum impacts necessary – The mixed-income housing development envisioned for the Subject Property simply cannot be accommodated if the Specimen Trees cannot be disturbed/removed. The proposed redevelopment necessitates certain infrastructure improvements; including SWM facilities, public utilities, site access, and safe storm drain conveyance that will result in impacts to the Specimen Trees. There currently exists no storm water management or safe storm conveyance system that serves the Subject Property or the surrounding properties. As a result, the Project will require the installation of a large storm water facility on-site and storm drain within the Grove Street public right-of-way that will extend from the northeast corner of the Subject Property approximately 500' to the north where it will connect to an existing storm drain system. To accomplish the storm drain installation, there may be some adjustments to the existing gas and sewer lines, however the intent is to keep all the utilities within the current limit of disturbance. Installing the storm drain as described will allow the Applicant to redevelop the Subject Property with the densities envisioned by the County Council, as shown on the approved Floating Zone Plan. This improvement will also serve the general public and neighboring properties. After evaluating alternative alignments, this alignment was determined to be the most feasible and practical solution. Accordingly, the storm drain conveyance system cannot be implemented without removal/disturbance of 5 additional Specimen Trees.

Additionally, one of the Specimen Trees to be removed, located at the SW corner of the site, is in poor condition and is a potential hazard to passing cars and pedestrians. This Specimen Tree is also in a key location that would prevent the creation of a unified sidewalk and streetscape – the unified

streetscape improvements proposed by the Project further the Master Plan's goal of providing "Neighborhood-friendly Circulation".

- (2) *Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;*

Due to the location of the Specimen Trees and the extent of their CRZs, the inability to disturb/remove the Specimen Trees would prevent the Applicant from developing the Subject Property in a manner consistent with the Floating Zone Plan, approved by the County Council, and as allowed by the CRNF-1.25 C-0.25, R-1.0, H-65T Zone. It would also deprive the Applicant of the opportunities enjoyed by others with similar properties in the CR Zones. Any redevelopment of the Subject Property, which reflects the County's current goals and objectives, would likely require similar levels of disturbance and the removal of the Specimen Trees.

- (3) *Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variance; and*

The variance will not violate state water quality standards or cause measurable degradation in water quality. The Specimen Trees are not located within a special protection area (SPA) or watershed primary management area (PMA). The Subject Property currently contains no known stormwater management on-site and is approximately 71 % impervious. Therefore, the provision of stormwater management facilities in connection with the proposed redevelopment will significantly improve the stormwater quality on the Subject Property and in the surrounding area.

The Project will comply with the requirements of Chapter 19 of the Montgomery County Code. The current Maryland Department of the Environment (MDE) Stormwater Management regulations that Montgomery County has adopted require the use of ESD techniques to treat the required runoff on all new developments, where stormwater management is required. Per MDE's 2000 Maryland Stormwater Design Manual, "[t]he criteria for sizing ESD practices are based on capturing and retaining enough rainfall so that the runoff leaving the site is reduced to a level equivalent to a wooded site in good condition[.]" The final proposed stormwater management plans for the Subject Property will meet this standard with the removal of and impact to the identified Specimen Trees. The Project will provide for stormwater runoff to be stored and treated on-site for water quantity and quality control through use of Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP). Applicable requirements under Chapter 19 are addressed in the Concept Stormwater Management Plan (SM # 281805) recently approved by the Montgomery County Department of Permitting Services (DPS) Water Resources Section on 6/29/2016. As illustrated on the CSWM, the Project will meet the required stormwater management goals through the extensive use of SWM facilities for the entire 2.31 acres property, where no treatment was provided prior. A key component of the SWM proposal is the use of a large sand filter vault near the northeast corner of the site near Tree # 1 in the same vicinity as the proposed sewer line and storm drain outfall.

The proposed project will result in a significant improvement to the water quality, over the current condition. Therefore, granting this variance will not adversely affect water quality standards and no

measurable degradation in water quality will be experienced because effective mitigation measures are being provided.

*(4) Provide any other information appropriate to support the request.*

The location of the Specimen Trees and the extent of their CRZs makes it impossible to avoid impacts to the Specimen Trees. However, to mitigate the loss of and impacts to the Specimen Trees, the Applicant is proposing root protection during construction and on site plantings – up to 126 caliper inches of mitigation tree plantings will be provided on site. The mitigation plantings will be integrated into the landscape of the developed property and located as to maintain 5' clearance from utilities and easements. The Project will accommodate all mitigation on-site, at a ratio of one (1) inch for every four (4) inches removed. Accordingly, through mitigation, the redevelopment will provide more trees on site than currently exist. The on-site plantings will provide various long-term environmental benefits and tree canopy that will compensate for the loss of the Specimen Trees. Additionally, the proposed development provides significant new landscaping and green areas on the Subject Property.

Specimen trees in urban and semi-urban areas are often located close to structures and existing roads. The majority of the roots of these trees are likely in lawn and landscaped areas as opposed to under structures and in compacted roadways, not to mention installation and maintenance of utilities, storm drain, etc. For example, Tree # 1 has nearly 50% of the CRZ area disturbed if you just look at 1.5x the DBH in feet. In reality, the majority of this tree's roots are most likely in lawn or landscaped areas where there is less proposed disturbance. Tree # 13 also has nearly 50% of the CRZ area disturbed if you just look at 1.5x the DBH in feet. Similarly to tree #1, much of the CRZ area overlays the adjacent roads and so the majority of this tree's roots are most likely in lawn or landscaped areas where there is less proposed disturbance. In both cases, there are little to no feeder roots under the road which receive nutrients and water for this tree. And although we identify both of these trees as being removed, we believe that the utility construction that is proposed within Grove Street will not have as much of an impact as a CRZ circle on a plan would indicate. We recommend root pruning along the LOD and as the Forest Inspector indicates as well as monitor during excavation.

One other important matter to review is the existence of a major 69kV PEPCO transmission within Grove Street. An underground vault for maintenance and service to this line is located at the northeast corner of the property very near where we connect to sewer and storm drain (described above in section 1). WSSC, PEPCO, and Montgomery County DPS all require minimum offsets between their respective utilities. Moving the PEPCO vault is impossible and impracticable, thus we are effectively forced into placing either the sanitary or the storm drain off-site within the 20' paper alley and the CRZ of Tree #1. As the plan shows, we are proposing to put the sewer in the 20' paper as opposed to the storm drain due to engineering design constraints.

Mr. Marco Fuster  
June 29, 2016

### **Conclusion**

The granting of this variance request would not confer a special privilege on the Applicant that would be denied to others. Rather, as discussed above, the variance will prevent the deprivation of rights to the Applicant that have been enjoyed by others similarly situated, as this request is typical for an application of this type. The need for the variance does not arise out of action by the Applicant, but rather existing site conditions established many years ago. The request is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property and, as stated previously, the granting of this request will not violate State water quality standards or cause measureable degradation in water quality.

Thank you for your consideration of this variance request. We believe that the supporting information provided in this letter justifies the variance to impact seven (7) Specimen Trees, including the removal of three (3) Specimen Trees and the disturbance of the CRZ of four (4) Specimen Trees. If you have any questions or need more information for your review of this request, please do not hesitate to contact us so that we may discuss this matter further.

Sincerely,  
VIKA, Maryland, LLC

James Buchheister, RLA  
Project Manager

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**Exhibit "A"**

Table 1 summarizes the trees with significant/sever impacts to be removed; Table 2 summarizes the trees with only minor/moderate impacts to be preserved. Each table is followed by a more detailed description of the circumstances pertaining to the proposed impacts. The assessment of the condition of each tree was performed by VIKA Maryland, LLC as a visual, at-grade-level inspection with no invasive, below grade, or aerial inspections performed at that time. Decay or weakness may be hidden out of sight for large trees.

**Table 1: Specimen Trees with significant/severe impact – To be removed.**

TREE #	BOTANICAL NAME	D.B.H. (in.)*	CONDITION	CRZ (SF)	CRZ IMPACT (SF)	CRZ IMPACT %	DISPOSITION
1	<i>Quercus coccinea</i>	48	GOOD/FAIR	12,791	7,900	48.51	REMOVED*
7	<i>Acer rubrum</i>	34	POOR	8,171	8,171	100.0	REMOVED
13	<i>Acer rubrum</i>	39	GOOD	10,751	5,322	49.5	REMOVED*

\*Trees #1 and #13 likely do not need to be removed, but we request permission to do so if tree preservation methods fail.

**Tree # 1**

**48" Scarlet Oak (*Quercus coccinea*):** This tree is located off-site, just north of the 20' alley parcel and just west of Grove Street.

**Field Condition:** Good/Fair

**Proposed CRZ Impact:** Nearly 50% impact to the CRZ due primarily to installation of sewer infrastructure required for the Project and due to extensive storm drain infrastructure that will provide safe conveyance of storm runoff. Nearly half of the CRZ area disturbed is within the existing Grove Street right-of-way. The proposed disturbance is within 20' of the trunk and is perpendicular to much of the CRZ.

**Disposition:** Removed

**Tree # 7**

**34" Red Maple (*Acer rubrum*):** This tree is located at the south-east corner of the Subject Property.

**Field Condition:** Poor

**Proposed CRZ Impact:** 100% impact. This tree is in poor condition and is a potential hazard to passing cars and pedestrians. In addition to being in poor condition and a potential hazard, this tree is in a key location that would prevent a unified sidewalk and streetscape.

**Disposition:** Removed.

**Tree # 13**

**34" Red Maple (*Acer rubrum*):** This tree is located off-site, in the NE corner of the intersection of Silver Spring Avenue and Grove Street.

**Field Condition:** Good

**Proposed CRZ Impact:** Nearly 50% impact to the CRZ due primarily to installation of sewer infrastructure required for the Project and due extensive storm drain that will provide safe conveyance of storm runoff. The proposed disturbance is within 7 feet of the trunk and is perpendicular to much of the CRZ

**Disposition:** Removed.

**Table 2: Specimen Trees with minor/moderate impacts – To be preserved.**

TREE #	BOTANICAL NAME	D.B.H. (in.)*	CONDITION	CRZ (SF)	CRZ IMPACT (SF)	CRZ IMPACT %	DISPOSITION
3	<i>Juglans nigra</i>	38	GOOD	10,207	2,812	27.55	SAVE
11	<i>Quercus falcata</i>	50	GOOD	17,671	3,144	17.79	SAVE
12	<i>Acer rubrum</i>	43	FAIR	13,070	3,057	23.39	SAVE
14	<i>Robinia pseudoacacia</i>	34	GOOD	8,171	885	10.83	SAVE

**Tree # 3**

**38" Black Walnut (*Juglans nigra*):** This tree is located off-site, just north of the 20' alley on Lot 6.

**Field Condition:** Good

**Proposed CRZ Impact:** Approximately 28%. The proposed disturbance is within 20' of the trunk and is perpendicular to much of the CRZ.

**Disposition:** Saved.

**Tree # 11**

**50" Southern Red Oak (*Quercus falcata*):** This tree is located off-site to the north on the west side of Grove Street.

**Field Condition:** Good

**Proposed CRZ Impact:** Approximately 18% impact to the CRZ due to installation of sewer infrastructure required for the Project and due extensive storm drain that will provide safe conveyance of storm runoff. The proposed disturbance is more than 35' from the trunk.

**Disposition:** Saved.

**Tree # 12**

**43" Red Maple (*Acer rubrum*):** This tree is located off-site to the north, in the SW quadrant of the intersection of Silver Spring Avenue and Grove Street.

**Field Condition:** Fair

**Proposed CRZ Impact:** Approximately 24% impact to the CRZ due to installation of sewer infrastructure required for the Project and due extensive storm drain that will provide safe conveyance of storm runoff. Nearly half of the CRZ area disturbed is within the existing Grove Street right-of-way. The proposed disturbance is about 25' from the trunk.

**Disposition:** Saved.

**Tree # 14**

**34" Black Locust (*Robinia psuedoacacia*):** This tree is located off-site to the north on the west side of Grove Street near the northern limit of the infrastructure improvements.

**Field Condition:** Good

**Proposed CRZ Impact:** Approximately 11% impact to the CRZ due to installation of sewer infrastructure required for the Project and due extensive storm drain that will provide safe conveyance of storm runoff. Nearly half of the CRZ area disturbed is within the existing Grove Street right-of-way. The proposed disturbance is nearly 50' from the trunk.

**Disposition:** Saved.

**RE: ARTSPACE APPLICATION #120160270 – Sligo Avenue**

Dear Mr. Hisel-McCoy:

East Silver Spring Citizen's Association (ESSCA) supports this project. The layout of the project is very sensitive to the surrounding neighborhood and Artspace worked extensively on design with the adjacent neighbors.

However, the community objects to the suggested bump-out of the sidewalk onto Grove Street on the west side. Grove Street has many problem areas for vehicles, pedestrians and bicyclists. The residents of Grove have been working together on a comprehensive plan for the street, which is only four blocks long. Narrowing one side of one partial block by bumping out the sidewalk two feet, compromises solutions for the rest of Grove.

Currently, Grove is a bike route and is lacking a consistent sidewalk on one side of the street. Except for the Artspace property, the right-of way on Grove has been taken for the road paving and periodic narrow sidewalks. In some cases the road pavement is within a foot or two from the wall of the houses. Narrowing the road for the sidewalk bump-out will shrink, if not eliminate, the separation of bicycles from oncoming traffic. It also will compromise the much needed parking on the east side of Grove for which the neighbors' have applied.

The proposed bump-out along the Artspace project is only half a block long and given the right-of-way constraints of Grove, will be the only part of the street with enough room for the proposed grass strip.

The community is excited about the compatibility of this project with the surrounding neighborhood. However, as one neighbor put it, the suggested bump-out would negate the sensitivity to and compatibility with the surrounding residents of the original design.

We seek a more holistic solution to make Grove Street safer for neighbors, pedestrians, bikers, and drivers, and fear that the proposed bump-out will these harm efforts.

Sincerely,  
Karen Roper  
Chair, Land Use, Zoning and DPWT  
Board of Directors  
East Silver Spring Citizens Association



DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

Al R. Roshdieh  
Director

June 10, 2016

Mr. Elza Hisel-McCoy, Supervisor  
Area 1 Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Design Exception and Preliminary Plan Letter  
Preliminary Plan No. 120160270  
Sligo ArtSpace

*alr*  
Dear Mr. Hisel-McCoy:

We have completed our review of the Design Exception Package dated March 10, 2016 and the amended Preliminary Plan – most recently dated May 17, 2016. An earlier version of this plan was reviewed by the Development Review Committee at its meeting on May 2, 2016. We recommend approval for the plan based to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

**DESIGN EXCEPTION PACKAGE COMMENTS:**

We had completed our review of Design Exception request dated March 10, 2016:

- 1. A-1 “Driveway Spacing Reduction”:** The applicant requested for a waiver for less than 100-foot separation (not including the curb returns) between the proposed driveway entrance and the intersection of Sligo Avenue and Grove Street. The applicant is proposing to retain the existing eastern most access point on Sligo Avenue. The distance between the access driveway and the intersection of Sligo Avenue and Grove Street is approximately seventy-five (75) feet. Given the existing conditions, it is not possible to provide an access point that meets 100-foot minimum spacing requirement at this location. If the access point was relocated to meet the 100-foot minimum spacing requirement from Grove Street, then it would be less than 100-foot from Woodbury Drive.

**Office of the Director**

101 Monroe Street 10<sup>th</sup> Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX  
www.montgomerycountymd.gov

*Located one block west of the Rockville Metro Station*

**Response:** Considering the restriction against vehicular access on Grove Street, the locations of opposite entrances and intersections on Sligo Avenue, and recognizing the proposed driveway entrance location is coincident with the existing driveway, we recommend **approval** of the reduced Driveway Spacing for the site entrance on Sligo Avenue.

**2. A-2 “Modifications to the Context Sensitive Road Standards”:**

- a) **Sligo Avenue (A-87):** The existing right-of-way width is approximately forty-seven (47) feet wide. There are generally two road sections along the frontage of the applicant’s property. The first section (from Grove Street to Woodbury Drive) essentially matches Context Sensitive Design Standard No. MC-2005.01 (“Business District Street – 2 Lanes with Parking on One Side”). The section then transitions into a second condition from Woodbury Drive to the western limit of the property; this area substantially differs from standard MC-2005.01. The 2000 East Silver Spring Master Plan prescribes a fifty (50)-foot minimum right-of-way for Sligo Avenue between the Silver Spring Central Business District and Piney Branch Road.

M-NCPPC Transportation Planning Staff recommended an ultimate right-of-way width of sixty (60)-feet in connection with the recently approved Local Map Amendment Application (No.H-110). M-NCPPC staff also recommended that the applicant dedicate five (5)-feet along their site frontage; the applicant intends to provide this dedication.

The existing pavement width closely matches MC-2005.01; however, the lane widths vary. Because these variations extend beyond this block and match a broader pattern, the applicant requests a modification to the MC-2005.01 road section to retain the existing pavement width, lane widths and curb locations. The applicant’s intent for the sidewalk is to match and extend the Silver Spring urban sidewalk section (provided by the adjacent property to the west) along the site’s frontage to the driveway entrance - to provide for a continuous streetscape to Grove Street. This sidewalk section extends from the curb to the right-of-way line and includes six (6) foot wide by ten (10) foot long tree pits.

As a result of the comments provided at Development Review meeting on May 2, 2016, the latest revised preliminary plan reflects replacing the previously proposed tree pits with a six (6)- foot wide lawn panel – while still providing a minimum five (5) foot Americans With Disabilities Act (ADA)-compliant sidewalk and a one (1) foot maintenance strip along the property frontage.

**Response:** Based on the existing conditions, the pavement width matches the broader area beyond this block. Therefore, we recommend **approval** of the roadway cross section with the existing pavement to remain unchanged and improvements along the property frontage (behind the existing curb) to include a six (6) foot wide lawn panel, a minimum five (5) foot wide Americans With Disabilities Act (ADA)-compliant sidewalk, and a minimum one (1) foot wide maintenance strip behind the sidewalk.

- b) **Grove Street:** The existing right-of-way width varies from thirty (30)-ft. up to forty-five (45)-ft. along the frontage of the Woodhollow subdivision. In connection with the recently approved Local Map Amendment Application (No.H-110), M-NCPPC staff recommended an ultimate right-of-way width of forty (40)-ft. M-NCPPC staff also recommended that the applicant dedicate five (5)-feet along their frontage in pursuit of the ultimate width; the applicant intends to provide that dedication. Planning staff also concluded that Grove Street functions as a Secondary Residential Street.

The applicant's original plan proposed retention of the existing twelve (12)-ft. travel lanes to align with the curblines north of the property. The original plan also proposed allowing the existing sidewalk to remain at the back of curb, but be widened to five and half (5.5)-feet to six (6)-feet.

**Response:** The proposed forty (40) foot wide right-of-way does not provide sufficient room to accommodate the secondary residential street typical section shown in MC-2002.01. Grove Street also has restrictions on vehicles over 7000 pounds' gross vehicle weight.

The revised plans reflect our comments at the Development Review meeting: the project is subject to Executive Regulation No. 31-08AM (Context Sensitive Road Design Standards) and leaving the sidewalk adjacent to the curb is not the preferred location. We also note there are two utility poles in front of the site that are located behind the existing curblines – they were most likely placed in those locations due to right-of-way limitations.

To remedy those concerns, two options were considered:

- i. Relocate the curblines along their site frontage two (2) feet to the east [this adjustment will typically reduce the southbound travel lane from twelve (12) feet to ten (10) feet], provide a four (4) foot minimum width lawn panel populated by minor species street trees, a five (5) foot wide ADA compliant sidewalk, and a one (1) foot minimum width maintenance panel along the site frontage.

The curblin transition will need to tie back into the existing sidewalk at the north end; depending on final site grading, it may be appropriate to commence this transition within the limits of proposed Lot 2 to avoid a conflict with the proposed private stairs – which may not encroach on the right-of-way. At the intersection with Sligo Avenue, the curb return radius will be designed to accommodate southbound truck turning movements.

This non-standard solution will avoid the relocation of the existing utility poles, will improve the separation between the poles and the travel lane, and will provide a measure of traffic calming for the community.

- ii. Retain the curblin in its current location, provide a one (1') buffer behind the curb, a minimum five (5') sidewalk behind the buffer, and relocate the existing utility poles behind the sidewalk. Under this scenario, there would not be street trees in the right-of-way.

Although the subject site is located just beyond the limits of the Silver Spring Central Business District, we believe there is merit to considering the Grove Street site frontage to be comparable to an urban situation – for this specific location. Under Bill 33-13 (“Streets and Roads – Urban Road Standards and Pedestrian Safety Improvements”), a through travel lane on an urban road abutting an outside curb must be no wider than eleven (11) feet, including the gutter pan.

After considering the right-of-way limitations, aesthetics and cost implications of relocating the existing utility poles, and the opportunity to improve the pedestrian experience adjacent to the site, we consider Option (i) to be best suited for Grove Street and **recommend the Planning Board condition their approval of the plan on implementing Option (i).**

**If the Planning Board does not concur with recommended Option (i), the Applicant should be required to provide the improvements as mentioned in Option (ii) – including utility pole relocations.**

#### **PRELIMINARY PLAN COMMENTS:**

1. In accordance with the Planning Board recommendations in Local Map Amendment Application (No.H-110), dedicate five (5) feet of right-of-way along the Sligo Avenue and Grove Street site frontages. Provide a standard truncation at the intersection of these streets.

2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. Private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, drainage, maintenance and liability characteristics of private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.
4. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
5. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with DPS Right-of-Way Plan Review Section.
6. Record plat to reflect denial of access along the site frontages of Grove Street and the unimproved alley located along the northern property line.
7. Retain the existing on-street shared bikeway markings on Sligo Avenue.
8. The storm drain study has been accepted. There is an increase in run-off from the subject site under proposed conditions. Considering the proportionality of the development with respect to the drainage area and the increase in runoff, the impact is minimal compared to the cost of replacing the existing storm drain pipe. Therefore, the applicant is not responsible for any improvements to the existing storm drain.
9. The proposed driveway apron on Sligo Avenue is to be constructed per standard MC-302.01 (Commercial Driveway) modified to reflect the sidewalk separated from the curb by the lawn panel. The wings of the apron will need to accommodate the turning movements of emergency vehicles.
10. The dimension of the proposed curb return radius at the intersection of Sligo Avenue and Grove Street should be shown on the Certified Preliminary Plan.
11. Prior to approval of the Certified Preliminary Plan, we recommend plans be amended to retitle the Sligo Avenue Roadway cross section title "EX SLIGO AVENUE-44' R/W (From Grove Street to WOODBURY DRIVE) AND MC110.01 (Modified)....." & "EX SLIGO AVENUE-44' R/W (From WOODBURY DRIVE to the West Property Boundary) AND MC110.01 (Modified).....". Please revise Grove Street roadway cross section title as "MC-2002.01 (Modified) Secondary Residential Street and MC110.01 (Modified).....".
12. At or before the permit stage, please coordinate with Ms. Stacy Coletta of our Division of Transit Services for any relocation or improvements to the RideOn bus facilities in the vicinity of this project. Ms. Coletta may be contacted at 240-777-5800.

13. The applicant must pay the TPAR mitigation payment that is equivalent to 25% of the Transportation Impact Tax prior to issuance of the building permit.
14. Traffic Mitigation Agreement (TMAg). In order to provide information to the employees of the retail space and to Project residents, Commuter Services requests that the Applicant formalize a TDM program (a “voluntary” Traffic Mitigation Agreement) with this Department. A voluntary TMAg will allow Commuter Services to market alternative modes of transportation available at the nearby Silver Spring Transit Center and the proposed Silver Spring Library Purple Line Station, and others. The applicant should coordinate these efforts with Ms. Sandra Brecher (240-777-8383).
15. Bicycle Facilities. Significant bicycle activity will likely occur at this site due to its proximity to the bicycle facilities in the area (i.e., sharrows and signed on-road routes). Locate some bicycle racks for use by the public in the common open space/private plaza along Sligo Avenue. Provide bike racks/lockers in weather-protected, highly visible/active locations. Consider providing secure bicycle storage area in garage for resident use (bike cage) as well as a small bicycle repair station for resident use.
16. Bikesharing Station. The Applicant is required to contribute to the operating costs of bikeshare facilities and service in the area for five (5) years. Work with Commuter Services to promote the use of the bikeshare, especially the station located at Fenton and Gist Avenues, approximately 1/10 of a mile from the Project. In the event that County Code or other regulations in place at the time of occupancy would provide more favorable terms to the Applicant, such provisions may be applied to the project at the County’s discretion (without modification to a TMAg, if one is executed).
17. Displays. With or without a TMAg, the Applicant should provide space in the multi-family building lobby for a permanent display. The display should be in a highly-used location. The display will contain MCDOT-provided commuter information and promotional material on transportation options and transportation management programs in the county and the region.
18. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
19. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
20. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
  - A. Right-of-way grading, sidewalks with handicap ramps, and street trees along Sligo Avenue site frontage as discussed in Design Exception Comment # 2(a).

Mr. Elza Hisel-McCoy  
Preliminary Plan No. 120160270  
June 10, 2016  
Page 7

- B. Right-of-way grading, curbs and gutters, sidewalks with handicap ramps, and/or street trees along Grove Street site frontage as discussed in Design Exception Comment # 2(b) – as required by the Planning Board.
- C. Enclosed storm drainage and/or engineered channel (in accordance with the MCDOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
- D. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- E. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- F. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- F. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Deepak Somarajan, our Development Review Team Engineer for this project at [deepak.somarajan@montgomerycountymd.gov](mailto:deepak.somarajan@montgomerycountymd.gov) or (240) 777-7170.

Sincerely,



Gregory M. Leck, Manager  
Development Review  
Office of Transportation Policy

M:\Subdivision\Deepak\Preliminary Plan\Sligo ArtSpace\Letter\ 120160270 Sligo ArtSpace-Prel Plan Letter.docx

c: Shawn Samuel JDC  
James Buchheister VIKA Maryland, LLC  
Chuck Irish VIKA Maryland, LLC  
Mark Morelock VIKA Maryland, LLC  
Jim Lapping VIKA Maryland, LLC  
Patricia Harris Lerch, Early & Brewer, Chtd  
Preliminary Plan folder  
Preliminary Plan letters notebook

Mr. Elza Hisel-McCoy  
Preliminary Plan No. 120160270  
June 10, 2016  
Page 8

cc-e:	Robert Kronenberg	M-NCPPC Area 1
	Matthew Folden	M-NCPPC Area 1
	Mark Etheridge	MCDPS WRM
	Atiq Panjshri	MCDPS RWPR
	Sam Farhadi	MCDPS RWPR
	Marie LaBaw	MCDPS Fire
	Roderick Simpson	MCDHCA
	Dan Sanayi	MCDOT DTEO
	Khursheed Bilgrami	MCDOT DTEO
	Stacy Coletta	MCDOT DTS
	Patricia Shepherd	MCDOT DTE
	Matt Johnson	MCDOT DTE
	Sandra Brecher	MCDOT OTP
	Beth Dennard	MCDOT OTP
	Deepak Somarajan	MCDOT OTP



**MONTGOMERY COUNTY PLANNING DEPARTMENT**

THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**FROM:** Molline Jackson,  
Art Review Panel Coordinator

**PROJECT:** Artspace  
PRELIMINARY PLAN No. 120160270

**DATE:** June 3, 2016

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*The Art Review Panel has generated the following meeting minutes based on our discussion of the design concept for the public amenities on May 11, 2016 for Artspace. The Panel's recommendations should be incorporated into the Staff Report and strongly considered prior to the certification of the Site Plan and/or prior to the release of the first building permit. Should you have any additional questions and/or comments please feel to contact the Art Review Panel Coordinator.*

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**Attendance:**

Elza Hisel-McCoy (Area \_ Supervisor)  
Molline Jackson (Art Review Panel Coordinator)  
Claudia Rousseau (Panelist)  
Damon Orbona (Panelist)  
Judy Moore (Panelist)  
Luann Korona (Panelist)  
Mark Kramer (Panelist)

Stacey Mickelson (Applicant)  
Pat Harris (Attorney)  
Joshua Sloan (Landscape Architect)  
John Maisto (Architect)

**Meeting Notes:**

- A. A Local Map Amendment (LMA) approved on September 10, 2015 for the reclassification from R-60 to CR Floating Zone (CRNF) 1.25, C-0.25, R-1.0, H-65 for Lots 5-11, Block J. The LMA approval consisted of 68 multi-family affordable units (including 30 artist studios), 11 townhouse units (including 4 workforce units and 7 market rate units), and 1,500 square feet of retail on 2.31 acres of land with 3 access points.
  
- B. The multi-family units will serve residents of different income levels (e.g. 30%, 40%, 50%, and 60% of AMI).

- C. This project is proposing to have two different plaza areas; one that will be primarily used by the residents (a private plaza) and the other to be primarily used by the general public (a public plaza). The development will also provide a common open space dedicated to the townhouse units and a public walkway (bordering the western boundary) connected to existing pedestrian pathways.
- D. The Applicant presented to the Art Review Panel to just get their initial feedback on possible locations/ opportunities to incorporate public art into the landscape. This information will come in handy for the review of the Site Plan application.

**Panel Recommendations:**

1. The Art Review Panel highly recommends that the Applicant consider the flexibility and freedom to explore a mix of different type of public artworks (e.g. film, performance, temporary artworks, artful rainwater designs within the SWM facilities, etc.).
2. The concept of “LIVE/ WORK” should be thoughtfully integrated into the property, in such a way that the displayed artworks enhance the quality of the neighborhood. The way in which the artwork(s) connect to the surrounding neighborhood will give the development more LIFE.
3. The Panel recommends removing the three shade trees from the center of the public plaza area, as they may be an obstacle (limits the height) for the installation of artwork(s) in the future.
4. The project should also consider the limitations of certain types of art and/or design at the site in such a way that it becomes a blank canvas. The building itself could also be used to project images or public artworks could be incorporated into the façade or the concrete.
5. The building materials used should be conducive for displaying/attaching artwork(s) outside. For instances, the PSI in concrete may need to be built to a different standard. Some of the artists’ studios may need to accommodate welding equipment.
6. The wall could also be built in such a way that it becomes a pedestal for the display of smaller works of art and not just made for seating.
7. The shade elements (including trees) may be another opportunity to be creative/ artful. These elements could also be connected to the SWM facilities.
8. Temporary and permanent artworks should be incorporated throughout the site. The permanent artwork(s) could honor the history of the site (e.g. the police station, the act of service).
9. The corners/ access points into the public spaces could also be designed as landmark opportunities to attract pedestrian into the site.

10. The Certified Site Plan must contain site details that clearly indicate the overall dimensions, prescribed materials, necessary lighting fixtures, footers and fasteners to ensure adequate safety and proper inspection of the artworks by the Arts and Humanities Council of Montgomery County (“AHC MC”) and Montgomery County Department of Permitting Services (“DPS”). This information will most likely come from the engineered drawings, certified by the structural engineer.
11. The appropriate signage should also be clearly visible, specifically identifying the title of the artwork(s), the artist’s name, materials, completion date, and overall dimensions.
12. Prior to final inspection of the public artwork(s), the Applicant must submit to the Public Art Coordinator with the Maryland – National Capital Park and Planning Commission (M-NCPPC) at least three images of the artwork(s) on-site and information regarding the 1) associated project number, 2) title of the piece, 3) date of completion, 4) description of materials used, and 5) address. This information will be added to the existing inventory of the public artworks throughout the County (<http://www.mcatlas.org/art/>).



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## FIRE MARSHAL COMMENTS

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**DATE:** 05-Jul-16  
**TO:** James Buchheister  
VIKA, Inc  
**FROM:** Marie LaBaw  
**RE:** Sligo Art Space  
820160140

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### PLAN APPROVED

1. Review based only upon information contained on the plan submitted **05-Jul-16** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

June 29, 2016

Mr. Jim Lapping, P.E.  
VIKA Maryland, LLC  
20251 Century Blvd, Suite 400  
Germantown, MD 20874

Re: **COMBINED STORMWATER MANAGEMENT  
CONCEPT/SITE DEVELOPMENT  
STORMWATER MANAGEMENT PLAN**  
Request for Sligo Artspace  
Preliminary Plan #: 120160270  
SM File #: 281805  
Tract Size/Zone: 2.31 Ac./  
CRNF1.25, C0.25, R1.0, H65  
Total Concept Area: 2.2 Ac.  
Lots/Block: 5-11 /J  
Watershed: Sligo Creek

Dear Mr. Lapping:

Based on a review by the Department of Permitting Services Review Staff, the Combined Stormwater Management Concept/Site Development Stormwater Management Plan for the above mentioned site is **acceptable**. The plan proposes to meet required stormwater management goals via the use of ESD to the MEP with the use of micro-bioretenion. The remaining volume will be treated by a structural sandfilter.

The following **items** will need to be addressed **during** the final stormwater management design 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 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. Use MCDPS latest design standards when you submit the plans for review.

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

Mr. Jim Lapping, P.E.  
June 29, 2016  
Page 2 of 2

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the final stormwater management design 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: CN281805 Sligo Artspace.DWK

cc: C. Conlon  
SM File # 281805

ESD Acres:	2.2
STRUCTURAL Acres:	0.47
WAIVED Acres:	0.00