



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

MCPB No. 16-060  
Site Plan No. 820160140  
Sligo Artspace  
Date of Hearing: July 21, 2016

AUG 23 2016

**RESOLUTION**

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on April 6, 2016, Artspace Projects, Inc., ("Applicant") filed an application for approval of a site plan for up to 130,000 square feet of development, including up to 110,000 square feet of residential uses, with up to 68 multi-family units and 11 townhomes, and up to 20,000 square feet of non-residential uses, with up to 30 artist studios and 1,500 square feet of retail, on 2.75 acres of CRNF-1.25, C0.25, R1.0, H65 zoned-land, located at 801 Sligo Avenue, in the northwest corner of the intersection of Sligo Avenue and Grove Street ("Subject Property"), in the Silver Spring-Takoma Park Policy Area and the East Silver Spring Master Plan ("Master Plan") area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820160140, Sligo Artspace ("Site Plan" or "Application"); 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 July 11, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 21, 2016, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, on July 21, 2016, the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Presley, seconded by Commissioner Wells-Harley, with a vote of 5-0; Commissioners Anderson, Dreyfuss, Fani-Gonzalez, Presley and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820160140 for up to 130,000 square feet of development, including up to 110,000 square feet of residential uses, with up to 68 multi-family units and 11

Approved as to  
Legal Sufficiency:

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townhomes, and up to 20,000 square feet of non-residential uses, with up to 30 artist studios and 1,500 square feet of retail, the Subject Property, subject to the following conditions:<sup>1</sup>

### **Conformance with Previous Approvals & Agreements**

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120160270.

### **Environment**

2. Forest Conservation

The development must comply with the conditions of the approved Final Forest Conservation Plan.

a) Before issuance of an associated Sediment Control Permit, the Applicant must receive approval from the M-NCPPC Office of the General Counsel for a Certificate of Compliance for an off-site forest mitigation bank, or fee-in-lieu as applicable, to satisfy the equivalent credits of 0.43 acres or as established with the Final Forest Conservation Plan for this Site Plan.

3. 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.

b. The Applicant must provide a signed commitment to 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.

c. After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide staff with a certification from an engineer specializing in acoustics confirming that the dwelling units were constructed in accord with the approved specifications for noise attenuation.

d. If the plan changes in any manner that affects the validity of the noise analysis for acoustical certifications and noise attenuation features, the Applicant must conduct a new noise analysis to reflect the revised plans, and new noise attenuation features may be required.

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<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

## **Public Use Space, Facilities and Amenities**

### **4. Open Space, Facilities, and Amenities**

- a. The Applicant must provide a minimum of 12,510 square feet of public open space on-site.
- b. The Applicant must provide a minimum of 11,870 square feet of common open space on-site.
- c. The Applicant must construct streetscape improvements, not including the undergrounding of utilities, along the property's frontage on Sligo Avenue and Grove Street, consistent with the Certified Site Plan.
- d. Before the issuance of the first residential use and occupancy certificates for the multi-family residential development, all public open space areas on the Subject Property must be completed. The use and occupancy certificate for a leasing office may be issued before the open space areas are completed.
- e. Within one year of the issuance of the first use and occupancy certificates for the townhouse development, all common open space areas on the Subject Property must be completed.

### **5. Recreation Facilities**

Before Certified Site Plan approval, the Applicant must meet demonstrate to M-NCPPC Staff that each recreational facility meets M-NCPPC Recreation Guidelines.

### **6. Maintenance of Public Amenities**

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to Public Open Space, Common Open Space, and related areas.

## **Transportation & Circulation**

### **7. Pedestrian & Bicycle Circulation**

- a. The Applicant must provide 27 private and 4 public bicycle parking spaces.
- b. The private spaces must be in a secured, well-lit bicycle room adjacent to the covered parking area, and the public spaces must be inverted-U racks installed along the building's Sligo Avenue retail frontage (weather protected preferred). The specific location(s) of the public bicycle rack(s) must be identified on the Certified Site Plan.
- c. The Applicant must provide minimum 5-foot wide sidewalks
- d. Adjacent public streets and along the internal drive aisle, as shown on the Site Plan.

### **8. Fire and Rescue**

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services (MCFRS) Fire Code Enforcement Section in its letter

dated July 5, 2016, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval.

## **Density & Housing**

### **9. Moderately Priced Dwelling Units (MPDUs)**

The Planning Board accepts the recommendations of Department of Housing and Community Affairs (DHCA) in its letter dated June 6, 2016, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

- a) The development must provide a minimum of 12.5 percent of all residential units on-site as MPDUs.
- b) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the Department of Housing and Community Affairs (DHCA) must be executed.

### **10. Affordable Housing**

- a. The 68 multi-family dwelling units must conform to the Maryland State Department of Housing and Community Development Low-Income Housing Tax Credit Program.
- b. The development must provide a minimum of four of the townhouse units as voluntary workforce housing units.

## **Site Plan**

### **11. Architecture**

The exterior architectural character, proportion, materials, and articulation of each of the buildings must be substantially similar to the schematic elevations shown on the Certified Site Plan.

### **12. Lighting**

- a. Before Certified Site Plan, the Applicant must provide certification to M-NCPPC Staff from a qualified professional that the lighting plans conform to the appropriate Illuminating Engineering Society of North America (IESNA) standards for residential development.
- b. All onsite down-lights must have full cut-off fixtures.
- c. Deflectors will be installed on all uplighting fixtures causing potential glare or excess illumination.
- d. The light pole height must not exceed the height illustrated on the Certified Site Plan, including the mounting base.

**13. Public Art**

The Planning Board accepts the recommendations of the Art Review Panel as described in their letter dated June 3, 2016, and hereby incorporates them as conditions of approval.

**14. Site Plan Surety and Maintenance Agreement**

Before issuance of any building permit or sediment and erosion control permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4. of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount;
- b. The cost estimate must include applicable Site Plan elements including, but not limited to, plant materials, on-site lighting, exterior site furniture, vegetated walls, retaining walls, railings, curbs, gutters, sidewalks, and associated improvements; and
- c. The bond or surety must be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety will be followed by inspection and release of the surety.

**15. Development Program**

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

**16. Certified Site Plan**

Before 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 letter, development program, and Site Plan resolution and other applicable resolutions on the approval or cover sheet(s).
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c. Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d. Modify data table to reflect development standards approved by the Planning Board.
- e. Ensure consistency of all details and layout between Site and Landscape plans.

- f. Expand note #12 on the site plan cover sheet to state that any increased impacts to variance trees would trigger a Forest Conservation Plan amendment and new variance request.
- g. Provide the variance mitigation tree plantings within the plaza space as shown in previous plan submissions.
- h. Revise landscape plans to provide appropriate notes, details and specifications for onsite soil restoration.
- i. Clearly label all stormwater management facilities.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Sligo Artspace, 820160140, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, 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 hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The development satisfies any previous approval that applies to the site.*

As demonstrated below, the Site Plan conforms to all Bindings Elements of Local Map Amendment H-110:

1. *Vehicular access from Grove Street shall be prohibited.*

The sole vehicular access to the site is from Sligo Avenue.

2. *Vehicular access from the alley located to the north of the property is prohibited.*

The sole vehicular access to the site is from Sligo Avenue.

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.*

The only structures with frontage on Grove Street are the 11 townhouses, which have a maximum building height of 42 feet.

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.*

The maximum building height of the 3-story multi-family building wing located parallel to the alley will 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.*

The maximum building height along Sligo Avenue is 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.*

The primary public open space, located along Sligo Avenue, will be at least 3,750 square feet in size.

- 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.*

The common open space for the Site Plan will cover at least 3,500 square feet and is located in an interior courtyard created by the repurposed police station and the new multifamily building and will be available 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.*

The Application meets these building offsets.

- 9. Final development/unit mix shall not exceed: 68 multifamily units; 11 townhomes; 30 artist studios; 1,500 sf commercial/retail.*

The final development/unit mix does not exceed these maxima.

- 10. A minimum of 10 of the artists studios will be leased to residents of the development.*

The Applicant will monitor lease rolls to ensure compliance with this Binding Element.

- 11. Final development will include a minimum of 12.5% MPDUs.*

The final development will include a minimum of 12.5% of the total number of units on-site as MPDUs. Additionally, all of the multi-family units and at least

four of the townhouses will also be State Low-Income Housing Tax Credit units.

*12. Total square footage of development will not exceed 1.16 FAR or 139,000 square feet.*

The maximum total square footage of development will be 130,000 square feet.

*2. The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

*3. The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This section is not applicable as the Subject Property's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

*4. The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

a. Development Standards

The Subject Property includes approximately 2.75 acres zoned CRNF-1.25, C0.25, R1.0, H65. The Application satisfies the applicable development standards as shown in the following data table:

<b>Development Standards</b>	<b>Floating Zone Plan</b>	<b>Provided</b>
Tract Area		119,990 sf
Prior Dedications		19,192 sf
New Dedication		3,551 sf
Site		97,433 sf
Density		
Total FAR/GFA, max.	1.16 (139,000 sf)	1.08 (130,000 sf)
Commercial, max.	0.24 (29,000 sf)	0.17 (20,000 sf)
Residential, max.	0.92 (110,000 sf)	0.92 (110,000 sf)



Building Height, max. Townhouses Multi-Unit		42 ft 60 ft
Building Setbacks, min. Public Street Adjoining Lot Side Rear		0 ft 15 ft 0 ft
Public Open Space, min.	7,960 sf. (10%)	12,510 sf (16%)
Common Open Space, min.	1,760 sf. (10%)	11,870 sf (67%)
Parking	Established by Site Plan	102

As the Subject Property is in a CRNF zone, it is being developed under the Standard Method, which does not require provision of Public Benefits.

General Requirements

i. *Site Access*

The retention of the existing vehicular access point on Sligo Avenue provides safe and convenient access into the site with direct access to visitor and resident parking, while minimizing potential for conflicts with pedestrians. The improved sidewalks along the Sligo Avenue and Grove Street frontages will enhance the existing pedestrian access to the site.

ii. *Parking, Queuing, and Loading*

Parking for the multi-family residential building will be provided in a below-grade facility. The townhouses will include integrated parking garages and private driveways for each unit. Vehicular and loading access is located off of the internal private driveway.

iii. *Open Space and Recreation*

The Application has open space requirements for 10 percent each of the site area devoted to both the multi-family (Public Open Space) and townhouse (Common Open Space) uses. In total, the Site Plan will provide a minimum of 25,563 square feet open space

on-site, including 12,510 square feet of public open space associated with the multi-family and studio development (16%), and 11,870 square feet of common open space associated with the townhomes (67%).

The Site Plan meets the active and passive recreation space required by the zone, based on the calculation methods in the M-NCPPC Recreation Guidelines. As a condition of approval, the Certified Site Plan will provide the calculations. The development will provide adequate, safe, and efficient recreation facilities to allow residents to lead an active and healthy life.

iv. *General Landscaping and Outdoor Lighting*

Landscaping and lighting, as well as other site amenities, will be provided to ensure that these facilities will be safe, adequate, and efficient for year-round use and enjoyment by residents and visitors. The on-site lighting will limit the necessary light levels to streets and sidewalks and will prevent light spillover to adjacent areas. Site furnishings will be integrated within the site to create a unique and interesting place and ensure accessibility and comfort.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on June 29, 2016. The plan will meet stormwater management requirements through the use of environmental site design to the maximum extent possible through micro-bioretenion, with the remaining volume to be treated by a structural sandfilter

b. Chapter 22A, Forest Conservation

The Board finds that as conditioned the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

6. *The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

The Site Plan provides safe and well-integrated parking and circulation patterns. The single vehicular access point minimizes potential conflicts with other modes of locomotion along the site frontages. The circulation maximizes the efficient use of the relatively constrained site while provided the require parking and loading areas.

The Site Plan provides a safe and well-integrated building, open spaces and site amenities. The open spaces are generously sized and well-appointed and are all edged with residential uses to promote activation and "eyes on the street". The display of art within, on, and outside the buildings will attract appreciation and connect the development to the surrounding community.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Subject Property is located within the 2000 *East Silver Spring Master Plan*, the major emphasis of which "is to support stable residential neighborhoods and to assure linkages to commercial centers and public facilities." The Master Plan recommendations seek to achieve this through four general themes for the entire Master Plan area, as well as a specific recommendation for the Subject Property.

The proposed development echoes these general themes:

***Community Preservation, Stability, and Character.*** *Preserve existing residential character, encourage neighborhood reinvestment, and enhance the quality of life throughout East Silver Spring.*

In furtherance of the Master Plan's goal to preserve the existing residential character and encourage compatible reinvestment, the Site Plan will increase the range of the housing stock through the development of townhouses and multi-family units on the Subject Property. It preserves and enhances the existing residential neighborhood by providing an affordable mixed-use, predominantly residential development, which serves as a buffer and provides an appropriate transition between the more intensive uses in the CBD and the single-family residential areas just outside the CBD.

***Commercial Centers:*** *Improve commercial centers to better serve the needs of local and area residents and people passing through the area.*

Although the Subject Property is located just outside the CBD area of Fenton Village, the proposed development will improve that commercial center and the Silver Spring CBD as a whole by providing a center of arts activity that has the potential to attract people who might typically pass through the area to stay in the area to experience some art and then dine in one of the many nearby restaurants. Further, the creation of a center for art activity will further raise the profile of the CBD as a cultural destination.

***Community Facilities, Parks and Environmental Resources.*** Support the community facilities and parks and protect the environmental resources that contribute to community identity and provide valuable services and programs.

The Site Plan will result in significant improvements to the natural and pedestrian environment by creating additional green space, reducing the amount of impervious area on-site, and providing on-site stormwater management treatment, where there currently is none.

***Neighborhood-friendly Circulation.*** Provide safe, pleasant and convenient pedestrian access to places people want to go while accommodating local and regional traffic.

The Site Plan will provide a pedestrian-friendly environment that will promote pedestrian and bicyclist access, with streetscape improvements along Sligo Avenue and Grove Street, and the realization of a through-block connection between Sligo Avenue and Silver Spring Avenue.

The Master Plan also makes the following specific recommendations for the Subject Property:

*Increase the range of the housing stock by recommending the site currently occupied by the police department on Sligo Avenue for townhouses, if it becomes available for private development.*

*If the police station moves from this location and becomes available for redevelopment, under County policy public reuse of the site will be given first priority. If public reuse of the site is not appropriate, the site may be privately developed under the R-60 or the RT-8 Zone.*

After the police station relocated from the Subject Property to White Oak in 2014, the County issued a request for proposals for a public-private partnership to redevelop the site. In partnership with the surrounding community, the County selected the Applicant's proposal for redevelopment of the site. The development will both enhance the public use of the site, as described under discussion of the general themes above, by creating inviting uses and public spaces. In addition, construction of townhouses and multi-family units will increase the types of housing stock available in East Silver Spring.

The application, with the proposed residential uses of multifamily and townhouses is consistent with the above stated goals and guidance of the *East Silver Spring Master Plan*.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

As discussed in the Board's approval of the associated Preliminary Plan, the development will be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.

9. *The development is compatible with existing and approved or pending adjacent development.*

The Site Plan is compatible with other uses and other site plans, as well with existing and proposed adjacent development. The development will serve as a buffer and provide an appropriate transition to the residential uses just outside of the CBD. The massing and site layout have been specifically designed with the confronting residentially zoned properties in mind. The Project will be compatible with and will complement the adjacent development.

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

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 23 2016 (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 Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Fani-González voting in favor, Commissioner Cichy abstaining, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, July 28, 2016, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board

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