



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

MCPB No. 16-098
Preliminary Plan No. 120160190
Ripley II
Date of Hearing: September 22, 2016

OCT 19 2016

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on May 18, 2016, Ripley West, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 1.66 acres of land in the CR 5.0 C 4.25 R 4.75 H 200T zone, located on Dixon Avenue, approximately 150 feet south of Ripley Street ("Subject Property"), in Ripley/South Silver Spring Overlay Zone, Silver Spring CBD Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120160190, Ripley II ("Preliminary 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 September 9, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 22, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Wells-Harley, seconded by Commissioner Cichy, with a vote of 4-0; Commissioners Anderson, Cichy, Fani-Gonzalez, and Wells-Harley voting in favor. Commissioner Dreyfuss was absent from the hearing.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120160190 to create one lot on the Subject Property, subject to the following conditions:¹

¹ 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.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

1. Approval is limited to one lot with a maximum density of 437,265 square feet of total development, consisting of up to 440 residential dwelling units and up to 18,083 square feet of non-residential uses. The development must include a minimum of 15% Moderately Priced Dwelling Units (MPDUs).
2. The Applicant must comply with the binding elements and conditions of approval for Sketch Plan No. 320150030 and any subsequent amendments.
3. The Planning Board accepts the recommendations of Montgomery County Department of Permitting Service (MCDPS) – Water Resources Section in its stormwater management concept letter dated August 9, 2015, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated August 12, 2016 and as amended by the email dated August 29, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements which are associated with each plat, as required by MCDOT.
6. The Applicant must dedicate and show on the record plat(s) the following dedications:
 - a. Dixon Avenue: Dedication necessary to provide the full width of the master-planned future right-of-way of 80 feet.
 - b. Silver Spring Avenue: Dedication necessary to provide the full width of the master-planned future right-of-way of 70 feet.
 - c. A public use and access easement, for the full width and extent of the Metropolitan Branch Trail, on the Subject Property, as shown on the Certified Site Plan, granted to Montgomery County, in trust for the public, in a recordable form containing provisions to address the following:
 - i. Entitlement for open and unobstructed public use of the easement for all customary pedestrian, bicycle, general public, and emergency access;
 - ii. Obligation for the Applicant to design and construct the Metropolitan Branch Trail as shown on the Certified Site Plan pursuant to comparable MCDOT structural construction standards, at the Applicant's expense,

- unless such obligation has been assumed by another entity as part of the overall trail maintenance;
- iii. Obligation for the Applicant to maintain and repair the shared use path, as shown on the Preliminary Plan, in a condition acceptable to MCDOT for all access, at the Applicant's expense, unless such obligation has been assumed by another entity as part of the overall trail maintenance;
 - iv. Obligation for the Applicant to keep the shared use path free of snow, litter and other obstructions and hazards at all reasonable times, at its expense, unless such obligation has been assumed by another entity as part of the overall trail maintenance;
 - v. Entitlement for the Applicant or its designee to close the shared use path for normal maintenance and repair at reasonable times and upon reasonable prior notice to the public.
7. Prior to recordation of the plat(s) the Applicant must satisfy MCDPS requirements to ensure the construction of frontage improvements, on both the Dixon Avenue and Silver Spring Avenue frontages, as shown on the Certified Site Plan. These improvements may be modified by MCDOT to reflect the incorporation of separated bike lanes along the frontage, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 8. The certified Preliminary Plan must contain the following note:
Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.
 9. The record plat must show necessary easements.
 10. Prior to the release of any building permit for development on the Site exclusive of any sheeting and shoring permit, the Applicant must enter into a Traffic Mitigation Agreement (TMAG) with the Planning Board and MCDOT. The TMAG must include trip mitigation measures recommended by MCDOT in its letter dated August 12, 2016.
 11. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.

12. No demolition, clearing or grading of the site, or recording of plats prior to certified site plan approval. Demolition and clearing of the site may be permitted once Montgomery County has accepted the new Progress Place facility on the Silver Spring Fire Station site and moved into the new site.
13. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
14. The Applicant must include the stormwater management concept approval letter, agency letters and Preliminary Plan resolution on the approval or cover sheet(s) of the Certified Preliminary Plan.
15. In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration, location of right-of-way width or alignment, or limits of disturbance, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.

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 Preliminary Plan substantially conforms to the Sector Plan.*

Land Use and Zoning

The Ripley District is envisioned as a revitalized, mixed-use district with its primary focal point a high-density commercial development. (Page 45) The Application is for a mixed-use development with both high-rise residential uses as well as potential ground-floor retail, live-work units or other non-residential uses. The Application is for up to 440 multi-family residential units with 15% on-site MPDUs and up to 18,083 square feet of non-residential uses.

The Sector Plan called for a new inter-connected street system, extending Dixon Avenue along the Subject Property to Silver Spring Avenue, which the Application will provide. The Application will also provide an enhanced pedestrian environment through wide sidewalks and attractive streetscaping features along Dixon Avenue adjacent to the Subject Property and a portion of Silver Spring Avenue and improve the eastern side of Dixon Avenue south of Ripley Street.

The Sector Plan also called for addressing obstacles to development that include small parcels not suitable for a combination of building floor area and required

open space, and the reduction of available building area due to dedication of the Metropolitan Branch Trail. The Subject Property is an assemblage of three separate small parcels, providing for an efficient consolidation while also including construction of the Dixon Avenue-Silver Spring Avenue connection and that portion of the Metropolitan Branch Trail adjacent to the Subject Property. The Applicant anticipates a significant number of residents who will take advantage of the nearby bicycle facilities and trails, and will provide a bicycle-only access into the building.

Although the 2000 Sector Plan recommended retaining the CBD-2 Zone on parcels currently zoned CBD-2 and rezone all CBD-R2 properties in the Ripley District to CBD-2, the Subject Property was rezoned to CR-5.0, C-4.0, R-4.75, H-200T and Ripley/South Silver Spring Overlay Zone, as recommended in the revised Zoning Ordinance that took effect October 31, 2014. The intent of the CBD-2 zoning was to encourage redevelopment near the Transit Center by allowing more commercial density in response to the market, but also provide the flexibility for both commercial or residential high-rises, or mixed use projects. The intent of the overlay zone is to encourage redevelopment in the Ripley District by providing more flexibility in the development standards and the range of permitted uses, while ensuring that new development is compatible with nearby uses and that it incorporates critical design elements, such as streetscaping and useful public open spaces. (Page 58) The Application for a mixed-use, high-rise residential development with ground-floor non-residential uses under the optional method of development, streetscaping and public open spaces, is compatible with nearby uses, and it satisfies the intent of the former CBD-2 Zone, the Ripley/South Silver Spring Overlay Zone and the current CR Zone.

The Application conforms to the Sector Plan recommendations for Land Use and Zoning.

Urban Design

The Sector Plan provides urban design goals and guidelines for future development in the Ripley District (pages 83-85). These recommendations apply to the Subject Property.

- *Make connections to the proposed Transit Center, the Capital Crescent Metropolitan Branch Trail, and other CBD facilities and neighborhoods.*

The Subject Property is located approximately 1,000 feet south of the Silver Spring Transit Center, and directly adjacent to the Metropolitan Branch Trail. The Application facilitates pedestrian access to and from these and other CBD facilities with its streetscape along Dixon Avenue and a portion of Silver Spring avenue, to be improved to the Silver Spring streetscape

standard. The Application includes construction of the Metropolitan Branch Trail adjacent to the Subject Property and access dedicated for bicyclists with a designated bicycle access point. In addition, the Applicant will be providing improvements to the frontage of the Subject Property with separated bike lanes and will coordinate with the Department of Transportation (MCDOT) to implement the bicycle facility as part of the Application. The Applicant provided an illustrative sketch detailing how the separated bike lanes could be accommodated within the master planned right-of-way and pavement width of Dixon Avenue. Specific details regarding the facility design will be determined by MCDOT at the time right-of-way permits are issued for this Application. Furthermore, construction of the Sector-Planned Dixon Avenue extended and Silver Spring Avenue connection will facilitate vehicular connectivity between the CBD core to the north, Fenton Village to the east, and to South Silver Spring.

- *Incorporate one or more recreational facilities sized and programmed to meet community interests, and that make use of their urban location.*

The Application's public plaza at the curve where Dixon Avenue and Silver Spring Avenue meet provides the opportunity for a sitting and gathering space. In addition, the Applicant will be constructing the next segment of the Metropolitan Branch Trail along the eastern edge of the Subject Property. The building also includes recreational facilities and amenities for its residents such as a rooftop pool and fitness center.

- *Create open spaces designed to form a new image for this neighborhood, and contribute to an improved visual quality along Georgia Avenue.*

The public open space plaza at the curve where Dixon Avenue meets Silver Spring Avenue provides the opportunity for a sitting and gathering space and will be the central open space for Dixon Avenue. Continuing the streetwall established by recent development on the west side of Dixon Avenue, the plaza will transform the street from a service road to a Ripley District main street. The Applicant will also continue the extension of the Metropolitan Branch Trail southward, constructing that portion adjacent to the Subject Property. The standard Silver Spring streetscape treatment (including pavers, street trees, and lighting) along the Subject Property frontage on Dixon Avenue as well as extending on both sides of the curve where Dixon and Silver Spring Avenues meet will be provided. Further, the Applicant has proffered to provide the Silver Spring streetscape treatment on the south side of Dixon Avenue extending up to its intersection with Ripley Street, in order to complete the streetscaping on Dixon Avenue south of Ripley Street and improve the pedestrian experience along the entirety of this portion of Dixon Avenue.

- *Building heights along Dixon Avenue and Ripley Street should contribute to an attractive street with adequate light and air.*
 - *To be in proportion with the 70- to 80-foot street widths, building height should be limited to 80 feet at the property line.*
 - *Beyond 80 feet, the building may step back and its height may be increased up to 143 feet, provided they are contained within a 2: 1 slope.*

The Application fulfills the intent of this Sector Plan recommendation and is compatible with building heights and the street edge already established by the recently constructed Solaire Silver Spring and Eleven55 Ripley projects directly to the north, along Dixon Avenue. Both the Solaire Silver Spring and Eleven55 Ripley projects were designed and constructed in ways that addressed the intent of the Sector Plan, but the Planning Board did not require strict adherence to the step-back language of the Sector Plan.

In the case of Eleven55 Ripley, the Planning Board found that there were mitigating factors that made it impractical to explicitly conform to the step-back guideline in the Sector Plan. The parcel was constrained in depth as well as by required street dedication and infrastructure for the Ripley Street and Dixon Avenue rights-of-way and the urban park. The building design featured a three-story townhouse façade on the street, with an angled tower bar above, set back from the street. The Planning Board also found that the project met the Zoning Ordinance criteria for an increase in height because it was within 800 feet of the Silver Spring Metro Station and within the Silver Spring CBD Revitalization Area; the height was consistent with the guidelines for the Subject Property to initiate redevelopment of the Ripley District with a mixed-use development near transit that will provide interconnectivity and public open spaces; the Eleven55 Ripley Project was compatible with the existing and potential surrounding development; and the Eleven55 Ripley Project would provide significant public facilities and amenities.

In the case of Solaire Silver Spring, the Planning Board also determined that there were mitigating factors that did not require the building to conform strictly to the step-back guideline. The building design featured a tower element at the intersection of Ripley Street and Dixon Avenue and then set the building back from Ripley Street to provide a significantly deeper sidewalk that expanded into a public plaza where the Metropolitan Branch Trail and Ripley Street met. Along with the shallowness of the Subject Property and voluntary setback to accommodate a potential Purple Line tail track, the design produced a building face-to-building face distance of roughly 100 feet (30 feet greater than the ROW) across Ripley Street to the Eleven55 Ripley project. The Planning Board found that the project would further the

revitalization of the Ripley District and contribute to the supply of residential choices in the Silver Spring CBD and the height of 200 feet was compatible with the scale of residential and commercial development across the railroad tracks, with the proposed Eleven55 Ripley development across Ripley Street, and the commercial buildings on the northern end of the Ripley District and adjacent CBD Core. The Planning Board found that while these two buildings astride Ripley Street were proposed for the maximum height of 200 feet, given their distance from lower density development west of East-West Highway, east of Fenton Street, and north of Spring Street, there was no concern about the compatibility of this design to the Fenton Village and South Silver Spring communities.

The Subject Property is similarly constrained, with the adjacent CSX railroad tracks to the west and significant portions of the Subject Property (nearly the entirety of Parking Lot 20) being dedicated to right-of-way for the connection of Dixon Avenue to Silver Spring Avenue. The building is designed to extend the existing street wall on Dixon Avenue and provides a generous public plaza between the buildings and the curved rights-of-way of Dixon Avenue and Silver Spring Avenue. The public plaza to be constructed on the east side of the curve will ensure adequate light and air and will contribute to an attractive street. The Subject Property has frontage on both Dixon Avenue and Silver Spring Avenue and the building is set back from the property line a considerable distance. While at the narrowest point along Dixon Avenue, the building is set back from the property line approximately six feet, as one travels south on Dixon Avenue, which curves and becomes Silver Spring Avenue, the building is set back approximately 96 feet from the property line, allowing for the substantial public plaza and pulling the building away from the property line.

Additionally, the Applicant has met the intent of Sector Plan design guidelines through articulation of the massing on Dixon Avenue and Silver Spring Avenue in a variety of ways, using material changes and vertical and horizontal step-backs. Specifically:

- Along Dixon Avenue, the building is comprised of a 21-story recessed glazed bar punctuated by a narrow 21-story masonry tower and an 18-story masonry screen to break down the mass of the building. Where the building meets the Solaire Silver Spring building, a shorter all-glass “gasket” element further modulates the perceived roofline and sets off the 21-story tower element.
- The base of the building also features a 2- to 4-story datum line to accentuate the alignment of the building base with Solaire Silver Spring and Eleven55 Ripley directly to the north. This datum line emphasizes the commercial zone and pedestrian scale.

- The 18-story masonry volume steps back five (5) feet to a larger glass volume approximately 165 feet above grade level along Dixon Avenue.
- The 21-story tower element is positioned four (4) feet in front of the larger glass volume.
- Each visual massing element is articulated with a different color or material.

The building's Dixon Avenue scale and massing strongly relates to the Solaire Silver Spring and Eleven55 Ripley buildings to the north, and continues the consistent building streetscape that has been established by the recent development along Dixon Avenue specifically and in the Ripley District as a whole.

In addition, although the 2000 Sector Plan limited heights along Dixon Avenue to 80 feet with additional height of up to 143 feet contained in a 2:1 slope, the County Council approved a zoning text amendment (ZTA) in 2007 to allow heights up to 200 feet for the CBD-2 portion of the Ripley/South Silver Spring Overlay Zone. For new development along Georgia Avenue, the ZTA reinforced the Sector Plan's step-back guidelines. The ZTA did not make specific mention of the step-back guidelines for new development along Dixon Avenue.

The Applicant has provided significant right-of-way through the eastern half of the Subject Property, public plazas on both sides of that right-of-way, and articulation in building massing, thereby achieving many of the same objectives envisioned in the design guidelines. Given the Applicant's efforts to achieve compatibility with the redeveloped properties to the north, the Subject Property constraints, the Sector Plan objective to maximize housing opportunities in the Ripley District, and the Sector Plan's recommendation for Progress Place to maintain its presence and purpose in the Ripley District, the Planning Board finds that the Application achieves the intent of, and conforms to the Sector Plan.

Circulation Systems

The Sector Plan recommends creating a system of trails and bike routes, implementing streetscape to create a safe and pleasant pedestrian environment to assess, and where appropriate, reuse public parking facilities, and to make circulation improvements to local roads. (Page 93)

The Application will provide the Sector-Planned connection of Dixon Avenue to Silver Spring Avenue and improve the existing street frontages along Dixon Avenue adjacent to the Subject Property. The Applicant will also voluntarily improve the eastern side of Dixon Avenue just south of Ripley Street and a portion of Silver Spring Avenue, providing an enhanced pedestrian environment

through wide sidewalks and attractive streetscaping features. The Applicant will construct the portion of the Metropolitan Branch Trail adjacent to the Subject Property; the final trail design and section to be determined at Site Plan. The Application will improve the interconnectedness of the Ripley District with South Silver Spring to the south, Fenton Village to the east, and the core of the CBD to the north, primarily through construction of the Sector-Planned Dixon Avenue-Silver Spring Avenue connection, as well as through the extension of the Metropolitan Branch Trail southward adjacent to the Subject Property. In addition, the Applicant will be providing improvements to the frontage of the Subject Property with separated bike lanes and will coordinate with the Department of Transportation (MCDOT) to implement the bicycle facility as part of the Application. The Applicant provided an illustrative sketch detailing how the separated bike lanes could be accommodated within the master planned right-of-way and pavement width of Dixon Avenue. Specific details regarding the facility design will be determined by MCDOT at the time right-of-way permits are issued for this Application.

The Application will upgrade the physical environment in the Ripley District by replacing a surface parking lot and aging building with a mixed-use project, providing vital street and pedestrian linkages between the core of the CBD and other areas of the CBD south and east of the Subject Property and will continue the redevelopment of the Ripley District toward South Silver Spring. The Application conforms to the Sector Plan recommendations for Circulation Systems.

Community Facilities

The Sector Plan's vision for community facilities is a well-rounded downtown where people come to live, work, shop and participate in the community. Incorporating civic facilities into downtown Silver Spring will make it a more complete community. (Page 115)

The Sector Plan notes that Progress Place and the County have co-located services to serve medical, job training and placement, and emergency needs of a varied and growing low-income and homeless population. The Sector Plan also emphasizes the importance of maintaining Progress Place's presence and purpose in the Ripley District. Thus, while the Sector Plan did not specifically envision Progress Place relocating to the Fire Station site, it recommended the site as a location for public/quasi-public uses and also encourages support for Progress Place and other needed services. Relocation of Progress Place to the Fire Station site provides the opportunity to better serve the needs of the community in a modern facility located in a transit-proximate, pedestrian-oriented location.

The existing Progress Place building is significantly aging and in disrepair, and the services provided and needs of the clients have vastly outgrown the existing facilities. The new Progress Place facility will be comprised of approximately 39,119 gross square feet, located in a four-story building. The first three floors will house Progress Place. The fourth floor will be comprised of 21 Personal Living Quarters (PLQ). The Applicant will also construct an approximately 775 square-foot storage barn (for storage of bicycles) and an approximately 80 square-foot flare building on the site for use by the Montgomery County Police Department substation located at the Fire Station.

Maintaining Progress Place in the Silver Spring CBD is compatible with the goals of the Sector Plan and the Ripley District, which indicates that a pedestrian friendly downtown with access to mass transit options allow the efficient provisions of services to a growing low income and homeless population. In addition, relocating Progress Place to an under-utilized parking lot behind the existing Fire Station will help realize the Sector Plan's goals for the Ripley District as "a revitalized, mixed-use district..." with "an interconnected street system" by providing the necessary space to allow these goals to be fulfilled. The Application conforms to the Sector Plan recommendations for Community Facilities.

The Preliminary Plan Application complies with the specific density recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan and the Guidelines.

- 2. Public facilities will be adequate to support and service the area of the approved subdivision.*

Roads and Public Transportation Facilities

Vehicular access to the Subject Property is directly from a new street, Dixon Avenue extended. This new street will extend the existing Dixon Avenue (formerly Colonial Lane) approximately 160' south to intersect with Silver Spring Avenue at the southeast corner of the Subject Property. Vehicular access to the parking and loading entrances will be provided via two full-movement driveway aprons at the northeast corner of the Subject Property adjacent to the loading and garage entrance for the building to the north. Resident vehicular parking will be contained within a structured subgrade garage beneath the building.

Dixon Avenue does not currently extend along the Subject Property frontage, however, the Applicant will provide full-width dedication along its frontage to support an 80 foot-wide ultimate right-of-way width. As a result of this Application, Dixon Avenue will be improved as a two-lane minor arterial

roadway configured to accommodate two-way traffic and separated bicycle lanes. Silver Spring Avenue, located along the Subject Property's southeast frontage, is not currently dedicated or improved within the Subject Property's limits. Silver Spring Avenue is currently improved as a 25 foot-wide public alley between the existing Subject Property frontage and Georgia Avenue (US 29), a distance of approximately 200 linear feet. As part of this Application, the Applicant will provide full-width dedication along its frontage to achieve the master plan recommended width for Silver Spring Avenue. Additionally, the segment of Silver Spring Avenue within the Subject Property's limits will be improved to an interim condition in anticipation of future development on the adjacent property (7-Eleven *et al*). The rights-of-way described in this section for both Dixon Avenue and Silver Spring Avenue are consistent with the minimum right-of-way requirements described in both the 2000 *Silver Spring CBD Sector Plan*.

Pedestrian and bicycle access to the Subject Property will be provided along the Subject Property's Dixon Avenue frontage. As part of the development, the Application will dedicate and construct the segment of Metropolitan Branch Trail within the Subject Property's limits, along the west side of the building. Additional master planned share use paths are recommended on both Dixon Avenue and Silver Spring Avenue.

The immediate area is well served by transit that includes the Red Line Silver Spring Metrorail Station, Metrobus, RideOn, and the Silver Spring VanGo Circulator. Future transit in the area includes a proposed Purple Line station at the existing Silver Spring Metrorail Redline station to the northwest, and a Purple Line station at the new Silver Spring Library to the east.

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

LATR/TPAR

A traffic study, dated January 2016 was submitted for the subject application per the *LATR/TPAR Guidelines* since the development was estimated to generate more than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

Since the development is within the Silver Spring CBD Policy Area, the Application is exempt from both the roadway and transit tests set forth in the 2012-2016 *Subdivision Staging Policy*. As a result, the development is not required to pay the transportation impact tax to satisfy the TPAR requirement.

Other Public Facilities

Public facilities and services are available and will be adequate to serve the development. The Subject Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Subject Property. The Subject Property is located in the Blair School Cluster. Currently, the Blair School Cluster is inadequate (over 105%) at the high school level. Ripley East is exempt from the School Facilities Payment because it is located in the former Silver Spring Enterprise Zone even though the Blair School Cluster is over the 105% utilization rate at the high school level (per Section 52-94 and 52-89(c)(5) of the County Code). Electrical, telecommunications, and gas services are also available to serve the Subject Property.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The size, width, shape, and orientation of the lot is appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated. The Application substantially conforms to the 2000 *Silver Spring CBD Sector Plan*. The Application complies with the specific density recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. As evidenced by the Preliminary Plan, the Subject Property is sufficiently large to efficiently accommodate the mix of uses.

Under Section 59-4.5.4 of the Zoning Ordinance, the dimensional standards for the lots will be determined with approval of the subsequent site plan.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

A. Forest Conservation

This Application is subject to the Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(1) because the proposed activity

occurs on a tract of land less than 1.5 acres with no existing forest, or existing specimen or champion tree, and the afforestation requirements are not in excess of 10,000 square feet.

5. *All storm water management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The MCDPS Stormwater Management Section approved the stormwater management concept on April 1, 2015. According to the approval letter, the stormwater management concept meets stormwater management requirements via a green roof and micro-bioretenion planter boxes.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

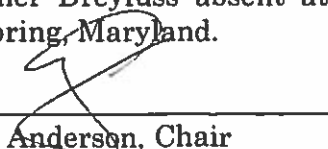
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is OCI 19 2016 (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, October 6, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board