



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

**Item #**  
**01/24/08**



**MEMORANDUM**

**DATE:** January 8, 2008

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief *RK*

**FROM:** Catherine Conlon, Subdivision Supervisor (301-495-4542)  
Development Review Division *CC*

**REVIEW TYPE:** Preliminary Plan Review

**APPLYING FOR:** Subdivision Amendment

**PROJECT NAME:** The Galaxy

**CASE #:** 12005089A

**REVIEW BASIS:** Chapter 50, Montgomery County Subdivision Regulations

**ZONE:** CBD-1 & Ripley/South Silver Spring Overlay Zone

**LOCATION:** Located at the southeast quadrant of the intersection of Eastern Avenue and 13<sup>th</sup> Street

**MASTER PLAN:** Silver Spring CBD Sector Plan

**APPLICANT:** RST Development

**ENGINEER:** VIKA, Inc.

**ATTORNEY:** Holland and Knight

**FILING DATE:** September 27, 2007

**HEARING DATE:** January 24, 2008

**STAFF RECOMMENDATION:** Approval of Preliminary Plan Amendment No. 12005089A, including a waiver of Section 50-26(a)(4) pursuant to Section 50-38 of the Subdivision Regulations to permit a reduced right-of-way width for 13<sup>th</sup> Street, and subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 241 multi-family residential dwelling units, including a minimum of 12.5% moderately priced dwelling units (MPDUs).
- 2) The proposed development must comply with the conditions of approval for the Project Plan (#92005005A).
- 3) The Applicant must dedicate, and show on the final record plat, additional right-of-way of 41 feet from the 13th Street centerline across the property frontage, as shown on the plan. An additional 9 feet of the Subject Property is to be dedicated as a public improvement easement (P.I.E.) for a total of 80 feet.
- 4) The Applicant must provide three super bus shelters and two real-time transit information signs as specified in the Transportation Management Agreement (TMAg), dated August 1, 2006.
- 5) Prior to approval of the certified Site Plan, the Applicant must update its existing TMAg for the project, dated August 1, 2006, to reflect changes in land use and any other pertinent information such as names and contact data. However, the substantive portions of the agreement, which involved considerable negotiations between the applicant, Planning Board staff and Montgomery County Department of Public Works and Transportation (MCDPWT), remain in effect and will not be modified by this plan amendment.
- 6) The record plat must reflect the abandonment of the existing alleyway located within Block D of Silver Spring, with connection to 13th Street, in accordance with County Council Resolution No. 15-1360.
- 7) The Applicant must provide and maintain, in perpetuity, a north-south pedestrian connection along the eastern edge of the property between 13th Street and King Street in accordance with the Silver Spring Central Business District (CBD) Sector Plan.
- 8) The Applicant must provide 160 public parking spaces in a structured parking garage per negotiated agreement with MCDPWT.
- 9) The Applicant must provide a Class III Bikeway (on-road, signed shared roadway) along 13th Street.
- 10) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 11) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff:
- 12) Final number of MPDUs as per condition #1 above to be determined at the time of site plan.
- 13) Compliance with conditions of MCDPWT letter, dated July 14, 2005, unless otherwise amended by MCDPWT.
- 14) The Applicant must provide for access and improvements as required by MCDPWT prior to record plat.

- 15) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval, dated January 7, 2008.
- 16) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for ninety-six (96) months from the date of mailing of the Planning Board opinion for Preliminary Plan 120050890, or until October 21, 2013.
- 17) The record plat must show other necessary easements.

**SITE DESCRIPTION:**

The property, identified as Parcels N156, N157, N159, P169, Lot 1, Lot 5A, Lot 3 and Lot 4 (“Subject Property” or “Property”), is located at the southeast quadrant of the intersection of Eastern Avenue and 13<sup>th</sup> Street (Attachment A). The Subject Property contains a total tract area of 2.62 acres and is zoned CBD-1. The Property is also subject to the Ripley/South Silver Spring Overlay Zone. Several structures currently exist on the property and will be removed.

**PREVIOUS APPROVAL:**

A Preliminary Plan for The Galaxy (#120050890) was presented to the Planning Board on July 28, 2005, along with a concurrently filed Project Plan application (#920050050), for approval of 1 lot for the construction of 328 multi-family residential dwelling units, including a minimum of 12.5% moderately priced dwelling units (MPDUs) (Attachment B). The Planning Board granted approval of the Project and Preliminary Plans subject to conditions as set forth in the Opinions of the Board, both dated October 21, 2005 (see Attachment C for Preliminary Plan Opinion). The Board also approved a subsequently filed Site Plan application (#820060130) for a total of 321 multi-family dwelling units including 41 MPDUs.

**CURRENT PROJECT DESCRIPTION:**

This is an application to amend the approved preliminary plan to reduce the number of multi-family residential dwellings from a maximum of 328 to 241. Project Plan and Site Plan amendments for the same purpose are also being concurrently reviewed. As a result of this reduction in density, the previous layout of proposed buildings and onsite public use space has been modified (Attachment D). There are now two buildings proposed instead of four, and onsite public use space is now 23,468 square feet (27% of the site) instead of 27,000 square feet (31% of the site). The application continues to exceed the minimum requirement for 20% onsite public use space, and provides an additional 17,291 square feet of offsite public use space and improvements, including improvements within the Eastern Avenue right-of-way in the District of Columbia.

Site access remains via driveways from 13<sup>th</sup> Street and King Street. The proposal includes underground, structured parking facilities that will provide both public and private spaces. The specific parking to be provided will be determined with the Site Plan.

## **ANALYSIS AND FINDINGS:**

### **Master Plan Compliance**

The Silver Spring Central Business District (CBD) Sector Plan identifies a portion of the Subject Property as a potential site for housing which is an important component of the revitalization efforts. The 241-unit multi-family development continues to comply with the high-density residential land use recommended in the Sector Plan. The proposal also continues to provide the recommended landscaped public open spaces, public art and streetscapes.

### **Public Facilities**

#### Roads and Transportation

The traffic impact study reviewed for the previously-approved preliminary plan remains valid since the current proposal is for less density. The previous Local Area Transportation Review (LATR) of three nearby intersections<sup>1</sup> indicated that all are estimated to operate at or below the congestion threshold of 1,800 Critical Lane Volume (CLV) except the intersection of Georgia Avenue (US 29) and East-West Highway (MD 410) in the morning peak-hour period.

To mitigate the impact to this intersection, the applicant entered into an agreement with MCDPWT and the Planning Board to construct three “super bus shelters,” two of which will be equipped with real-time transit information signs. A “super bus shelter” is larger in capacity than standard shelters, with four walls, heating and lighting elements, and an overall higher level of design. “Real-time transit information signs” provide updated information regarding bus arrival times, delays, changes to route and schedules and other necessary information for transit riders. The trip credit total for these measures, per the LATR guidelines, is 20 trip credits per super bus shelter, and 20 trip credits per real-time information sign. The total of 100 trip credits offsets the estimated trips generated by the development, and meets the applicable LATR guidelines. The amendment is not subject to the 2007-2009 Growth Policy requirements because the application reduces the previously approved density.

#### a. Alley Abandonment

Per the previous preliminary plan approval and subsequent County Council action, the existing alley located within the proposed site has been abandoned. The abandonment allows for the design of an integrated site plan, including provision of pedestrian access through and across the property by means of passageways, sidewalks and a dedicated Arts Walk connecting 13<sup>th</sup> and King Streets.

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<sup>1</sup> The three intersections which were analyzed were Georgia Avenue (US 29) at Eastern Avenue/Blair Road, Georgia Avenue (US 29) at East-West Highway (MD 410)/Burlington Avenue/13<sup>th</sup> Street, and 13<sup>th</sup> Street at Eastern Avenue.

b. **Right-of-Way Dedication**

King Street is classified as a Business Street with a 60-foot right-of-way. No additional dedication is required. The Sector Plan also classifies 13<sup>th</sup> Street as a Business Street with a recommended right-of-way of 80 feet. Per the previously granted waiver, the applicant will dedicate 41 feet from the centerline of 13<sup>th</sup> Street and an additional 9 feet of right-of-way for a public improvement easement (P.I.E.), in order to comply with the Sector Plan requirement of 80 feet.

**Other Public Facilities**

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and sewer systems. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are operating according to the applicable Growth Policy resolution<sup>2</sup> and will be adequate to serve the Property. Gas, electrical and telecommunications services are also available to serve the Property.

**Adequate Public Facilities (APF) Validity Period**

The Planning Board previously granted approval of an eight-year validity period for the APF review beginning on the date of mailing for the Preliminary Plan Opinion, October 21, 2005. Staff recommends no further extension of this validity period as part of the proposed amendment because a new APF test was not done for the amendment. As recommended, the APF validity for the plan will expire on October 21, 2013.

**Environment**

The site does not contain any environmentally sensitive areas. Forest conservation law planting requirements will be met by offsite planting or payment of a fee in lieu. Some credit for onsite landscaping may be given.

**Stormwater Management**

The MCDPS Stormwater Management Section granted approval of the stormwater management concept for the amended plan on January 7, 2008. The proposed stormwater management plan provides on-site water quality control via two proprietary filters and possibly using green roof technology. Onsite recharge is not required since this is a redevelopment proposal. Control of channel protection volume was waived because the site is within a CBD, and a partial waiver of water quality requirements was granted for a very small area.

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<sup>2</sup> This application is not subject to the new 2007-2009 Growth Policy because it was submitted prior to January 1, 2007.

## **Compliance with the Subdivision Regulations and Zoning Ordinance**

Staff's review of Preliminary Plan Amendment #12005089A, The Galaxy, indicates that the plan conforms to the Silver Spring CBD Sector Plan. The proposed preliminary plan is consistent with the master plan goal to encourage revitalization and high density development in the central business district. Staff also finds that the proposed amendment complies Montgomery County Code, Chapter 50, the Subdivision Regulations, and Chapter 59, the Zoning Ordinance and meets the applicable requirements. Access and public facilities will be adequate to support the proposed lots and uses. The lot was reviewed for compliance with the dimensional requirements specified in the Zoning Ordinance for the CBD-1 and Overlay zones and, as proposed, will meet all applicable dimensional requirements for area, frontage, and width. A summary of this review is included in attached Table 1. Staff further finds that the size, width, shape, and orientation of the proposed lot is appropriate for the location of the subdivision.

### **CONCLUSION:**

Staff concludes that the application conforms to the land use objectives of the Silver Spring CBD Sector Plan and meets all necessary requirements of the Subdivision Regulations. As such, Staff recommends approval of the preliminary plan amendment, subject to the conditions above.

### **ATTACHMENTS:**

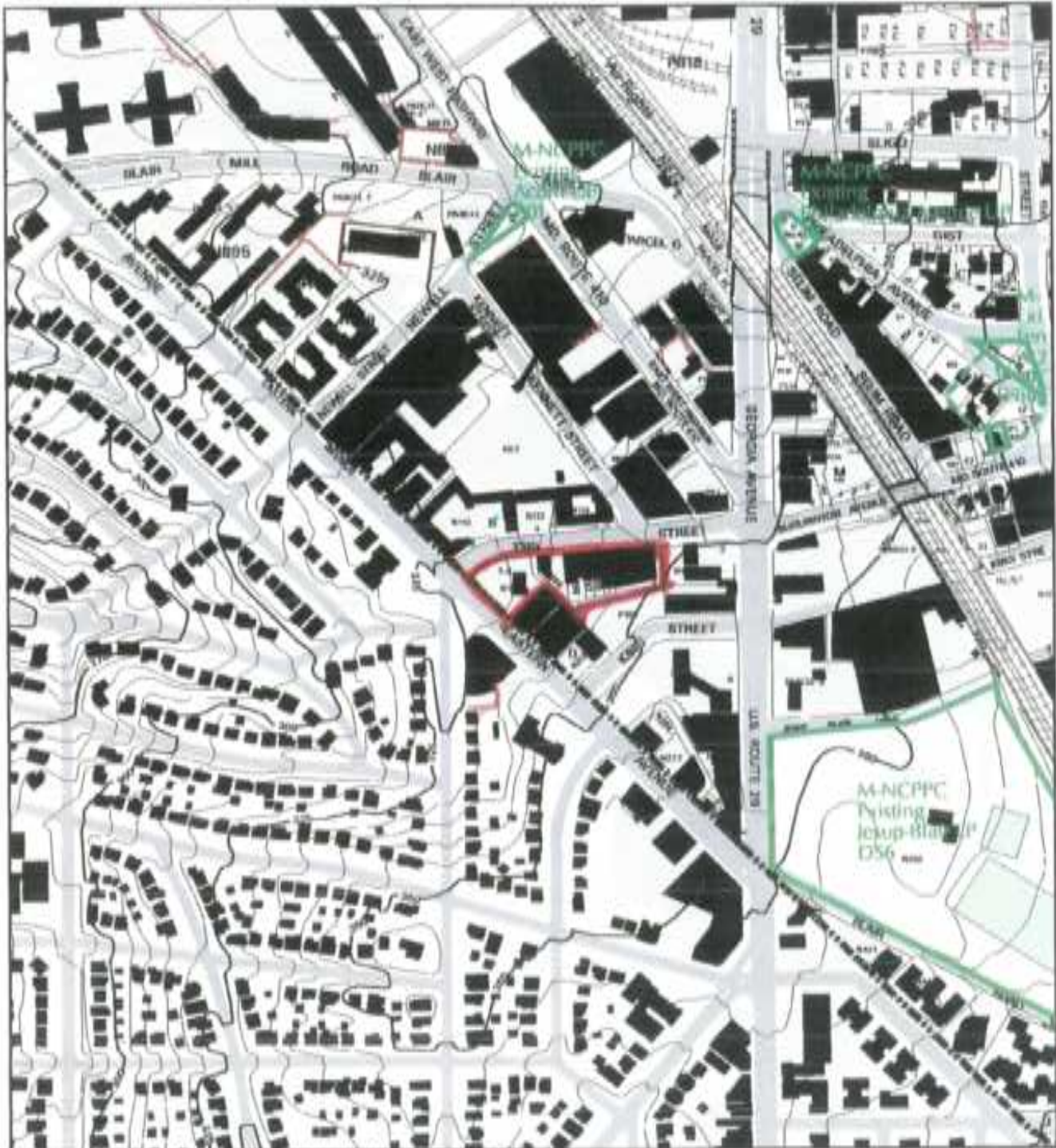
Attachment A	Vicinity Map
Attachment B	Preliminary Plan
Attachment C	Preliminary Plan Opinion
Attachment D	Proposed Preliminary Plan Amendment

Table 1: Preliminary Plan Data Table and Checklist

<b>Plan Name: The Galaxy</b>				
<b>Plan Number: 12005089A</b>				
<b>Zoning: CBD-1 &amp; Ripley/South Silver Spring Overlay Zone</b>				
<b># of Lots: 1</b>				
<b># of Outlots: N/a</b>				
<b>Dev. Type: Multi-family Residential</b>				
<b>PLAN DATA</b>	<b>Zoning Ordinance Development Standard</b>	<b>Proposed for Approval by the Preliminary Plan</b>	<b>Verified</b>	<b>Date</b>
Minimum Lot Area	20,000 s.f.	86,834 s.f. proposed	CAC	1/11/08
Lot Width	Not specified	N/a	CAC	1/11/08
Lot Frontage	Not specified	N/a	CAC	1/11/08
Setbacks	Not specified	N/a	CAC	1/11/08
Height	45 ft. Max. on Eastern Ave. 125 ft. Max on 13 <sup>th</sup> Street	May not exceed maximum <sup>1</sup>	CAC	1/11/08
Onsite Public Use Space	20% of Net Tract	27% onsite 15% offsite	CAC	1/11/08
Max Reid's d.u. or Comm'l s.f. per Zoning	328	241	CAC	1/11/08
MPDUs	12.5% minimum	12.5%	CAC	1/11/08
TDRs	N/a		CAC	1/11/08
Site Plan Req'd?	Yes	Yes	CAC	1/11/08
<b>FINDINGS</b>				
<b>SUBDIVISION</b>				
Lot frontage on Public Street		Yes	CAC	1/11/08
Road dedication and frontage improvements		Yes	Agency letter	7/26/05
Environmental Guidelines		Yes	Staff memo	11/13/07
Forest Conservation		Yes	Staff memo	11/13/07
Master Plan Compliance		Yes	Staff memo	11/13/07
Other (i.e., parks, historic preservation)		N/a	CAC	1/11/08
<b>ADEQUATE PUBLIC FACILITIES</b>				
Stormwater Management		Yes	Agency letter	1/7/08
Water and Sewer (WSSC)		Yes	Agency comments	11/13/07
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	11/13/07
Well and Septic		N/a	CAC	1/11/08
Local Area Traffic Review		Yes	Staff memo	7/20/05 1/7/08
Policy Area Mobility Review		N/a	CAC	1/11/08
Transportation Management Agreement		Yes	Staff memo	1/7/08
School Cluster in Moratorium?		N/a	CAC	1/11/08
School Facilities Payment		N/a	CAC	1/11/08
Fire and Rescue		Yes	Agency letter	12/17/07
Other (i.e., schools)		N/a		

<sup>1</sup> As determined by MCDPS at the time of building permit.

**THE GALAXY (12005089A, 82006013A & 92005005A)**



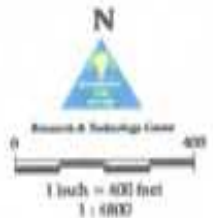
Map compiled on September 27, 2007 at 4:03 PM | Site located on base sheet no - 20000001

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**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**  
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 400 Sharp Avenue - Silver Spring, Maryland 20904-0001





M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

**Public Hearing Date: July 28, 2005**

**Date Mailed: OCT 21 2005**

**Action: Approved Staff  
Recommendation**

**Motion of Commissioner Bryant,  
seconded by Commissioner Wellington,  
with a vote of 4-0;  
Chairman Berlage and Commissioners  
Perdue, Bryant and Wellington voting in  
favor; Commissioner Robinson was  
necessarily absent**

**MONTGOMERY COUNTY PLANNING BOARD**

**OPINION**

Preliminary Plan No.: 1-05089  
NAME OF PLAN: The Galaxy

The date of this written opinion is OCT 21 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

On April 19, 2005, RST Development ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the CBD-1 zone. The application proposed to create 1 lot on 2.62 acres of land located at the southeast quadrant of the intersection of Eastern Avenue and 13<sup>th</sup> Street, in the Silver Spring CBD Master Plan Area ("Property"). The application was designated Preliminary Plan #1-05089 ("Application"). The Applicant filed a concurrent Project Plan application #9-05005 ("Project Plan") with the Planning Board; and, additionally, associated with the review of the Application, Applicant filed with the Montgomery County Department of Public Works and Transportation, a Petition for the abandonment of a public alley located within the Property.<sup>1</sup> On July 28, 2005, Preliminary Plan #1-05089 was brought before the Montgomery County Planning Board for a public hearing. At the public

<sup>1</sup> The Petition for Abandonment was captioned AB667.

hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

### **THE SUBJECT PROPERTY**

The Property, identified as Parcels N156, N157, N159, P169, Lot 1, Lot 5A, Lot 3 and Lot 4, is located at the southeast quadrant of the intersection of Eastern Avenue and 13<sup>th</sup> Street. The Property contains a total tract area of 2.62 acres and is zoned CBD-1. Several structures currently exist on the Property and will be removed.

### **PROJECT DESCRIPTION**

The Application proposed the creation of one lot for the construction of 328 multi-family dwelling units, including 41 MPDUs, with private and public parking facilities. The proposed development requires the abandonment of an alley currently located within the Property.<sup>2</sup> The Preliminary Plan was reviewed concurrently with Project Plan #9-05005. The Applicant proposed to complete development of the site in three phases, as discussed below. Access to the site will be directly from 13<sup>th</sup> Street and King Street. The proposed development will generate more than 30 peak hour weekday vehicle trips; and, therefore, the Application was subject to a Local Area Transportation Review ("LATR").

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<sup>2</sup> Transportation Planning Staff submitted a packet of materials, including a staff recommendation, to the Planning Board concerning the proposed abandonment. At the public hearing, Transportation Planning Staff presented the abandonment request to the Board and, consistent with the recommendation in its staff report, recommended that the Board support approval of the alley abandonment. Following the public hearing on the Application, the Board voted unanimously to support the abandonment of the subject alley.

## **BACKGROUND**

### **1. Master Plan Compliance**

The Silver Spring Central Business District ("CBD") Sector Plan ("Sector Plan") identifies a portion of the Property as a potential site for housing, which is an important component of the revitalization efforts. High-density residential land use is recommended in the Sector Plan for the CBD. The Application complies with the recommendations adopted in the Sector Plan in that it is a request for multi-family residential development. The 328-unit multi-family development also proposes opportunities for landscaped public open spaces, public art and streetscapes.

### **2. Adequate Public Facilities Validity Period**

The Applicant has requested an 8-year adequate public facilities (APF) validity period, pursuant to Montgomery County Code § 50-20 (c)(3)(iii). A determination of adequate public facilities made under this section of the Code is timely and remains valid "[f]or no less than 5 and no more than 12 years, as determined by the Planning Board at the time of subdivision . . . ."

The Application proposes 328 multi-family dwelling units, with a private parking facility and a 200-car public parking facility. The parking facilities will accommodate the proposed Galaxy and the adjacent, existing, Aurora Condominiums. In accordance with a general development agreement entered into between Applicant and Montgomery County (the "General Development Agreement"), the County agreed to convey a portion of the Subject Property currently owned by the County and used for surface parking (Lot No. 16) to the Applicant; and, in exchange, Applicant agreed to construct a 200-car below-grade parking facility for the County. The Applicant requested that the Board approve an extended validity period of eight years for its determination of adequate public facilities, citing the scope of the proposed development, unpredictable market factors, and the complexity of the project. The Applicant proposed specific adequate public facilities validity periods for each phase of development: Phase I – three years; Phase II – three years; and Phase III – two years.

### **3. Transportation**

#### **a. Alley Abandonment**

As is noted above, the Applicant filed with the DPWT a petition to abandon an existing alley, which is located within the Property. Staff advised the Board that the proposed abandonment will allow for the design of an integrated site plan, including provision of pedestrian access through and across the Property by means of passageways, sidewalks and a dedicated Arts Walk connecting 13<sup>th</sup> and King Streets.

b. Parking

All parking for the development will be provided through the use of structured public and private parking garages. The public garage will replace a county-owned surface parking lot on King Street.

c. Local Area Transportation Review (LATR)

The proposed development is estimated to generate approximately 98 peak-hour vehicle trips. Staff advised the Board that the threshold for the LATR analysis is 30 vehicle trips during the weekday peak period; and, consequently, in accordance with (LATR) guidelines, a traffic impact study was required because the number of projected vehicle trips exceeded the threshold.

Staff informed the Board that, in conducting the LATR, three intersections were analyzed: Georgia Avenue (US 29) at Eastern Avenue/Blair Road, Georgia Avenue (US 29) at East-West Highway (MD 410)/Burlington Avenue/13<sup>th</sup> Street, and 13<sup>th</sup> Street at Eastern Avenue.

A table presented in the Staff Report demonstrated that, with the exception of the intersection of Georgia Avenue (US 29) and East-West Highway (MD 410), all the aforementioned intersections are projected to operate at or below the threshold of 1,800 CLV during the morning peak period. Staff informed the Board that the 29/410 intersection will approach 1,800 CLV after construction of the developments included in the background traffic calculations and, therefore, mitigation would be required at that location.

As a mitigation measure, the Applicant proposed to construct three "super bus shelters,"<sup>3</sup> two of which will be equipped with real-time transit information signs.<sup>4</sup> Staff advised the Board that the locations for the super bus shelters must be reviewed and agreed upon by the staff from Transportation Planning and DPWT. The trip credit total for the above measures, per the LATR guidelines, is 20 trip credits per super bus shelter and 20 trip credits per real-time information sign, resulting in a total of 100 trip credits, which will offset the estimated 98 trips generated by the proposed development. Staff advised the Board that Transportation Planning staff accepted Applicant's mitigation proposal and determined that such mitigation measures would place the Applicant in compliance with LATR guidelines.

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<sup>3</sup> A "super bus shelter" is larger in capacity than standard shelters, with four walls; heating and lighting elements, and an overall higher level of design.

<sup>4</sup> "Real-time transit information signs" provide updated information regarding bus arrival times, delays, changes to route and schedules and other necessary information for transit riders.

d. Right-of-Way Dedication

King Street is classified as a Business Street with a 60-foot right-of-way. No additional dedication is required. The Sector Plan also classifies 13<sup>th</sup> Street as a Business Street with a recommended right-of-way of 80 feet. The Applicant proposed a dedication of only 41 feet from the centerline of 13<sup>th</sup> Street and the placement of a public improvement easement ("PIE") over an additional 9 feet along the Property's 13<sup>th</sup> Street frontage, in order to comply with the Sector Plan requirement of 80 feet. Because the Applicant proposed less than full dedication, Staff recommended that the Planning Board approve a waiver of Section 50-26 (a)(4)—which section requires a minimum right-of-way width of 80 feet for, among others, business streets—under its general waiver authority in Code § 50-38 (Waivers from requirements of this chapter), in order to permit a reduced right-of way width for 13<sup>th</sup> Street.

**SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD**

Development Review Staff ("Staff") recommended approval of the Application in its memorandum dated July 22, 2005 ("Staff Report"). Staff presented its findings consistent with the Staff Report at the hearing.

Staff discussed several Preliminary Plan issues associated with the project. First, Staff presented the Applicant's request for an 8-year adequate public facilities (APF) validity period to accommodate the three-phase staging of site development, including development of the public parking structure. Second, Staff discussed the requested waiver of the requirement for a minimum 80 foot right-of-way for 13<sup>th</sup> Street, allowing instead for a 71-foot right-of-way and a PIE over a 9-foot coterminous portion of the Property's 13<sup>th</sup> Street frontage. Staff advised the Board that the Application substantially conformed to the Sector Plan and recommended approval of the Preliminary Plan with revised conditions.

Staff also recommended approval of the proposed alley abandonment. Staff presented its findings that the alley abandonment would meet the need for pedestrian access and would not result in any landlocked parcels.

Applicant appeared at the hearing represented by legal counsel. The Applicant testified that it accepted Staff's recommendations and conditions regarding the Preliminary Plan. Applicant noted that minor changes in metes and bounds from the original alley abandonment plan were made to reflect dedication of 13<sup>th</sup> Street right-of-way. Applicant commented on the extent of its community outreach and the support expressed by various organizations and property owners.

The Planning Board heard testimony during the hearing in support of the proposal with respect to additional public parking, public use space and improvements to a neglected

area of South Silver Spring. Mr. Rick Siebert, Chief of Parking Operations, DPWT, testifying on behalf of the Silver Spring Parking Lot District, commented that the result of a year-long negotiation with Applicant was a proposed development that would allow the County to provide approximately 140 additional public parking spaces in an underground public parking facility on the site, which presently houses a public surface parking lot.

The Advisory Neighborhood Commissioner for Shepherd Park in the District of Columbia, testified in support of the additional parking, streetscape improvements and public use/open space the Applicant is providing with the application. She commended the Applicant for the outreach made to her community during the Project Plan process. She also commended the Applicant for its redevelopment of existing dilapidated buildings along Eastern Avenue. She voiced concern that there was insufficient proposed parking for the size of the proposed development; about the height of the proposed buildings; and about the impact of the traffic in the area for this project and others in the pipeline. The Commissioner also questioned the accuracy of the traffic impact analysis for number of trips generated by this development and expressed preferences concerning the locations of the super bus shelters proposed as mitigation by the traffic analysis.

Representatives of Eastern Village CoHousing testified at the hearing in support of a livable and walkable community in south Silver Spring. These speakers testified to their desire that the project be developed as a mixed-use project, incorporating a street-level retail component. The speakers also requested that the design of the proposed development adhere to Crime Prevention Through Environmental Design principles ("CP-TED") in order to reduce the potential for crime.

The Board discussed with the speakers, Applicant, and Staff the potential for viability of additional retail and commercial use in the area in terms of marketing and other projects in the pipeline that have been approved or submitted that contained retail and commercial. The Applicant responded that it had considered retail and commercial space in this location but had concluded that there did not exist viable opportunities for retail development on the subject site. The Applicant testified that live-work units along the Art Walk are being considered to activate the edge of the building. Staff testified that a number of projects currently under construction and in the approval process at the intersection with East-West Highway, Blair Mill Road and Newell Street include commercial, retail and a grocery store. The Applicant responded to Board questions regarding crime prevention and street-friendly design, testifying as to the positioning of entrances to the project and design features in the project and public use areas intended to create activity on the site.

## **FINDINGS**

Having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference; the recommendations of the applicable public agencies<sup>5</sup>; the Applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds:

- a) Based on uncontested evidence of record, the Preliminary Plan No. 1-05089 substantially conforms to the Silver Spring CBD Sector Plan. As discussed above, among other things, the proposed high-density multi-family residential development in the Preliminary Plan complies with the recommendations adopted in the Sector Plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision. Based on evidence of record, including staff memoranda, the Board finds that its Staff utilized the appropriate guidelines in analyzing the proposed development with respect to trip generation. As discussed above, the results of the LATR demonstrate that, as a consequence of the proposed development, one intersection will exceed the maximum permissible CLV. However, the Board finds that the mitigation measures proposed by the Applicant, and discussed above, consistent with LATR guidelines, will provide the necessary mitigation to support a finding that adequate public facilities exist to support the proposed development. Based on the provisions of the AGP as it pertains to the number of residential units, and the required coordination between the County and Applicant pertaining to the public parking facility, the Board approves Applicant's request for an 8-year adequate public facilities (APF) validity period, pursuant to Section 50-20 (c)(3)(iii) of the Subdivision Regulations.
- c) Based on uncontested evidence of record, the size, width, shape, and orientation of the proposed lot are appropriate for the location of the subdivision.
- d) Based on uncontested evidence of record, the application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.

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<sup>5</sup> The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.



- e) Based on uncontested evidence of record, the application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) Any objection concerning a substantive issue that was not raised prior to the closing of the Record is waived.

### **CONDITIONS OF APPROVAL**

Finding Preliminary Plan No. 1-05089 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-05089, including a waiver of Section 50-26 (a)(4) pursuant to Section 50-38 of the Subdivision Regulations to permit a reduced right-of-way width for 13<sup>th</sup> Street and subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 328 multiple-family dwelling units including 41 MPDUs.
- 2) Compliance with conditions of approval for Project Plan #9-05005.
- 3) Dedicate, and show on the final record plat, additional right-of-way of 41 feet from the 13<sup>th</sup> Street centerline across the property frontage, as shown on the plan. An additional 9 feet of the Subject Property is to be dedicated as a public improvement easement (P.I.E.) for a total of 80 feet.
- 4) Applicant to reach an agreement with Montgomery County Department of Public Works and Transportation (DPWT) on use and location of three super bus shelters and two real-time transit information signs and present agreement to Development Review and Transportation Planning Staff before record plat.
- 5) Construct three super bus shelters and two real-time transit information signs and upon completion of the construction, transfer ownership to DPWT prior to issuance of a building permit for Building B with written notification to Development Review and Transportation Planning Staff.
- 6) Approval of this preliminary plan is conditioned upon Montgomery County Council abandonment of the alleyway located within Block D of Silver Spring, with connection to 13<sup>th</sup> Street, in accordance with DPWT Docket No. AB 667.
- 7) Record plat should reflect the abandonment of the existing alley.
- 8) Provide and maintain, in perpetuity, a north-south pedestrian connection along the eastern edge of the property between 13<sup>th</sup> Street and King Street in accordance with Silver Spring Central Business District (CBD) Sector Plan.

- 9) Construct structured 200-space public parking garage per negotiated agreement with DPWT. Agreement to use land beneath the public right-of-way must be obtained from DPWT in writing before record plat, or some other parking garage design submitted for review.
- 10) The applicant is to resolve any other outstanding issues and conditions raised by DPWT, with written notification provided to Development Review and Transportation Planning Staff, before approval of the site plan.
- 11) Provide a Class III Bikeway (on-road, signed shared roadway) along 13<sup>th</sup> Street.
- 12) Revise label on the preliminary plan from King "Avenue" to King "Street".
- 13) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 14) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff.
- 15) Final numbers of MPDU's as per condition #1 above to be determined at the time of site plan.
- 16) Compliance with conditions of MCDPWT letter dated, July 14, 2005 unless otherwise amended.
- 17) Access and improvements as required by MDSA approval letter dated July 18, 2005.
- 18) Compliance with the conditions of approval of the MCDPS stormwater management approval dated July 19, 2005.
- 19) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for ninety-six (96) months from the date of mailing of the Planning Board opinion.
- 20) Other necessary easements.

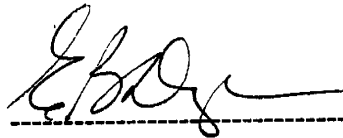
This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

APPROVED AS TO LEGAL SUFFICIENCY  
TAD  
M-NCPPC LEGAL DEPARTMENT  
DATE 10/13/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

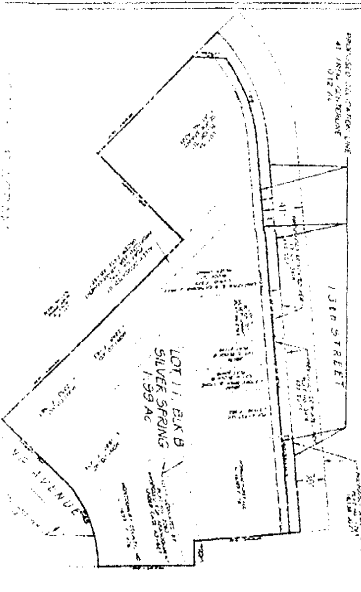
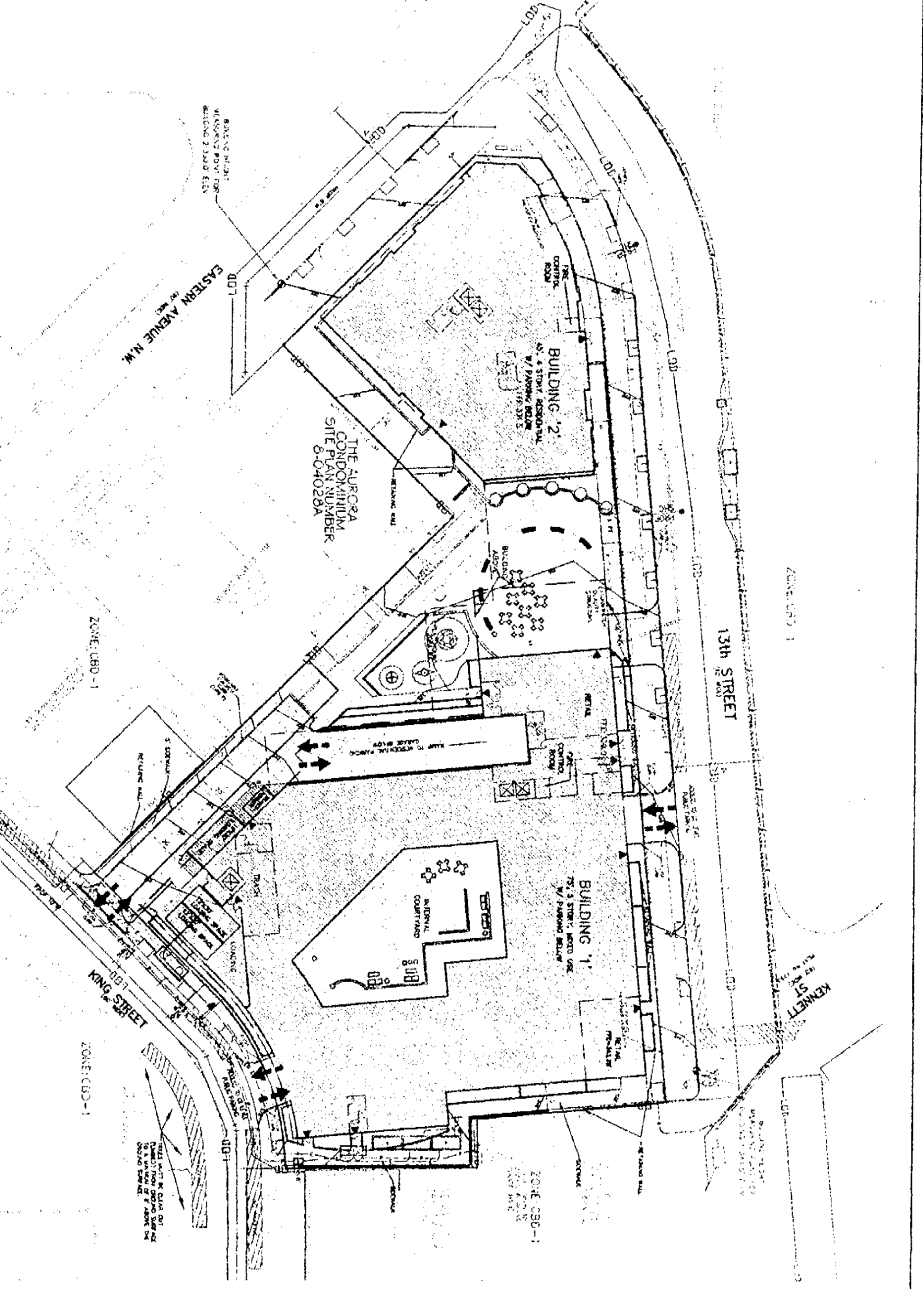
**CERTIFICATION OF BOARD VOTE ADOPTING OPINION**

At its regular meeting, held on Thursday October 20, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of Commissioner Bryant, seconded by Commissioner Wellington, with Chairman Berlage and Commissioners Bryant and Wellington voting in favor of the motion, ADOPTED the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for The Galaxy Preliminary Plan No. 1-05089. Commissioner Robinson abstained and Commissioner Perdue was absent.



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Certification As To Vote of Adoption  
Technical Writer

GENERAL NOTES	
1.	ALL DIMENSIONS ARE UNLESS OTHERWISE SPECIFIED.
2.	CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND LOCATIONS PRIOR TO CONSTRUCTION.
3.	ALL UTILITIES SHOWN ON THIS PLAN ARE THE PROPERTY OF THE CITY OF SILVER SPRING.
4.	CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
5.	ALL MATERIALS AND CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF SILVER SPRING DEPARTMENTAL ORDINANCES.
6.	CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS FROM THE CITY OF SILVER SPRING PRIOR TO CONSTRUCTION.
7.	ALL UTILITIES SHALL BE PROTECTED AND NOT TO BE CUT OR DAMAGED.
8.	CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES UNLESS OTHERWISE SPECIFIED.
9.	ALL CONSTRUCTION SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
10.	CONTRACTOR SHALL MAINTAIN ALL NECESSARY RECORDS AND DRAWINGS FOR THE LIFE OF THE PROJECT.
11.	ALL UTILITIES SHALL BE MARKED AND DEPTH NOTED PRIOR TO CONSTRUCTION.
12.	CONTRACTOR SHALL MAINTAIN ALL NECESSARY ACCESS AT ALL TIMES.



**DEVELOPMENT INFORMATION**

NO.	DESCRIPTION	AREA (SQ. FT.)	REMARKS
1	RESIDENTIAL UNIT	1,000	1 UNIT
2	COMMERCIAL UNIT	2,500	1 UNIT
3	GARAGE	1,500	1 GARAGE
4	OFFICE	2,000	1 OFFICE
5	PARKING	1,000	10 SPACES
6	LAWN	1,000	1 LAWN
7	DRIVEWAY	500	1 DRIVEWAY
8	PATIO	500	1 PATIO

**SURVEY LEGEND**

- EXISTING ROADWAY
- EXISTING UTILITY
- EXISTING STRUCTURE
- EXISTING LOT BOUNDARY
- EXISTING EASEMENT
- EXISTING CURB
- EXISTING SIDEWALK
- EXISTING DRIVEWAY
- EXISTING PATIO
- EXISTING LAWN
- EXISTING FENCE
- EXISTING GROUND SURFACE
- EXISTING GRADE
- EXISTING ELEVATION
- EXISTING DISTANCE
- EXISTING BEARING
- EXISTING AREA
- EXISTING VOLUME
- EXISTING MASS
- EXISTING MOMENT
- EXISTING FORCE
- EXISTING POWER
- EXISTING ENERGY
- EXISTING INFORMATION

**PROPOSED LEGEND**

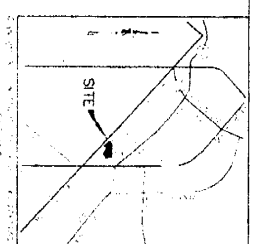
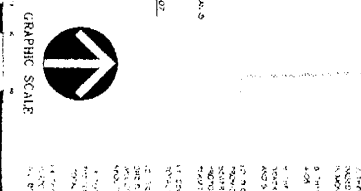
- PROPOSED ROADWAY
- PROPOSED UTILITY
- PROPOSED STRUCTURE
- PROPOSED LOT BOUNDARY
- PROPOSED EASEMENT
- PROPOSED CURB
- PROPOSED SIDEWALK
- PROPOSED DRIVEWAY
- PROPOSED PATIO
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- PROPOSED AREA
- PROPOSED VOLUME
- PROPOSED MASS
- PROPOSED MOMENT
- PROPOSED FORCE
- PROPOSED ENERGY
- PROPOSED INFORMATION

**SURVEYORS CERTIFICATION**

I, [Name], a duly Licensed Professional Surveyor in the State of Maryland, do hereby certify that the above is a true and correct copy of the original survey of the property shown on the attached plan, as the same appears in my files and records.

DATED: [Date]

SIGNED: [Signature]



**AMENDED PRELIMINARY PLAN**  
# 1-05089-A  
The Galaxy  
Silver Springs

13TH ELECTION DISTRICT, SILVER SPRING, MONTGOMERY COUNTY, MARYLAND

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**PROJECT I.D.**  
RST  
13TH ELECTION DISTRICT, SILVER SPRING, MONTGOMERY COUNTY, MARYLAND

**PREPARED BY:** RST  
13TH ELECTION DISTRICT, SILVER SPRING, MONTGOMERY COUNTY, MARYLAND

**SCALE:** 1" = 10'

**DATE:** [Date]

**REVISIONS:**

NO.	DESCRIPTION	DATE
1	ISSUED FOR DESIGN REVIEW	1/15/20
2	ISSUED FOR PERMITTING	1/20/20
3	ISSUED FOR CONSTRUCTION	2/10/20

8