



Ellsworth Place (nee City Place), Site Plan Amendment 81988046F

Elza Hisel-McCoy, Regulatory Supervisor, Area 1, elza.hisel-mccoy@montgomeryplanning.org, 301.495.2115

Robert Kronenberg, Chief, Area 1, robert.kronenberg@montgomeryplanning.org, 301.495.2187

Staff Report Date: 12.1.2017

Description

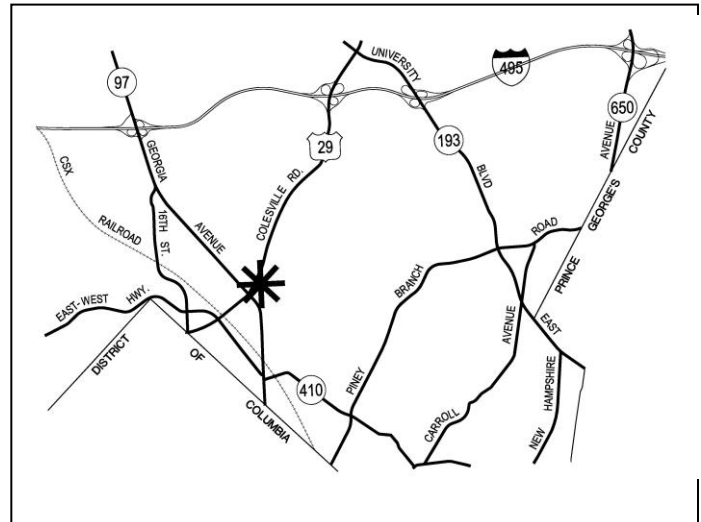
Request to update plan for design and location of installed streetscape furnishings and elements in response to a Notice of Violation; 2.48 acres, zoned CBD-3, located south of Fenton Street, between Colesville Road and Ellsworth Drive, *Silver Spring CBD Sector Plan* area.

Staff Recommendation: Approval with Conditions

Applicant: Chris Duffy

Acceptance Date: 10.25.2017

Review Basis: Chapter 59

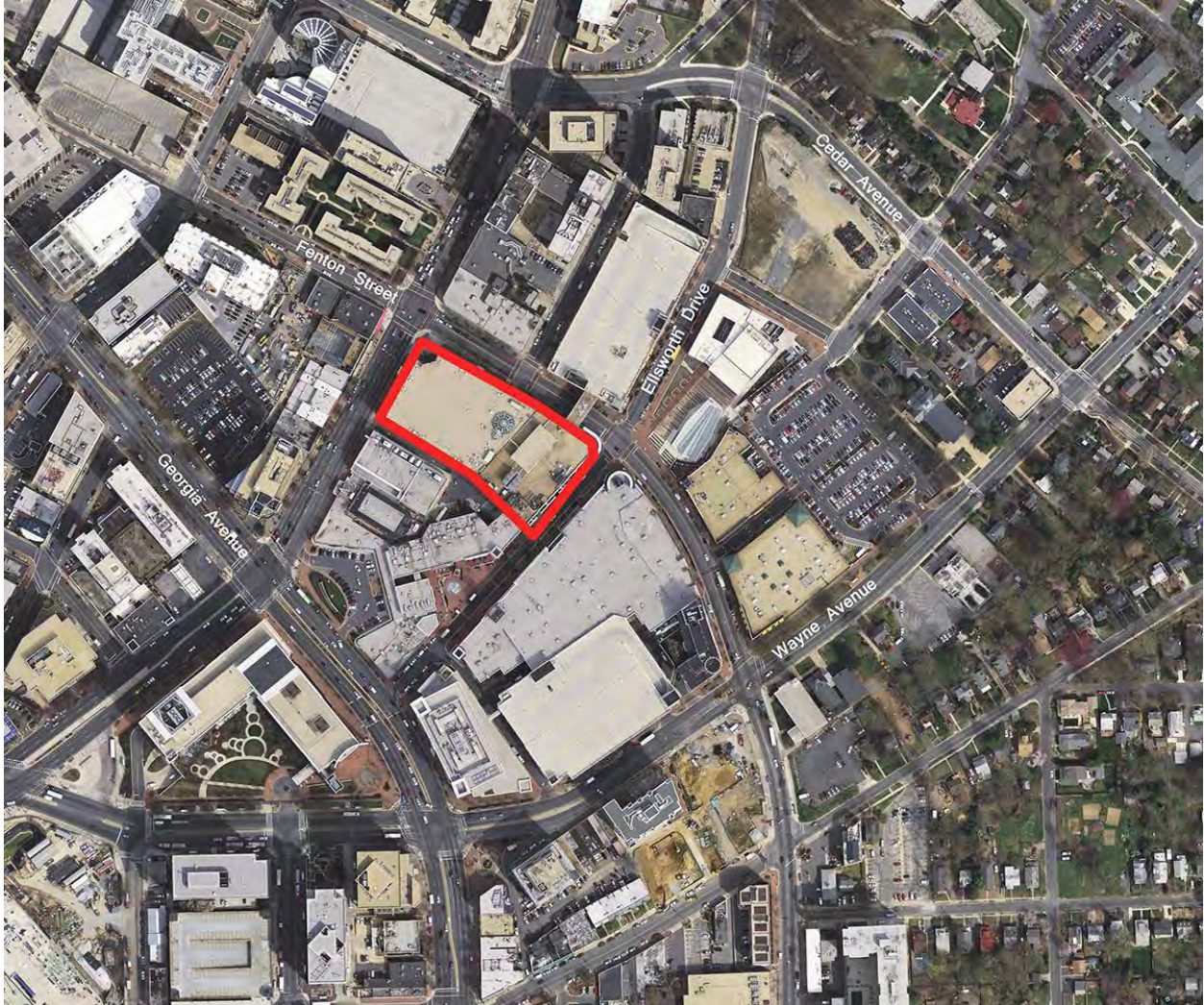


- Under Section 59.7.7.1.B.3.a., until October 30, 2039, an Applicant may apply to amend any plan approved before October 30, 2014, under the development standards and procedures of the property's zoning on October 29, 2014, subject to certain provisions. While this site is currently zoned CR-8.0 C-6.0 R-7.5 H-200T, it meets the requirements of the above section and is being reviewed under the provision of the CBD-3 zoning and related requirements in place on October 29, 2014.
- The Applicant has submitted this Site Plan Amendment in response to an July 24, 2017, Administrative Citation stemming from a May 25, 2016, Notice of Non-Compliance.
- **Staff recommends APPROVAL of the Site Plan Amendment.**

SECTION 1 - SITE DESCRIPTION

Vicinity

The subject site occupies most of the block along Fenton Street between Ellsworth Avenue and Colesville Road within the commercial center of downtown Silver Spring.



Vicinity Map

The properties surrounding the site include a mix of civic, commercial, and residential uses, presently CR-zoned with densities between 1.5 and 8.

Site Analysis

The subject site is currently improved with the City Place shopping experience. There are no known rare, threatened, or endangered species on site. There are no known historic properties or features on site.

SECTION 2 - AMENDMENT DESCRIPTION

Previous Approvals

The Planning Board approved Project Plan Amendment 91987001A, Preliminary Plan Amendment 11987190A, and Site Plan Amendment 81988046B on October 16, 2007, for 299,307 square feet of office space and 439,962 square feet of retail space, and 91,772 square feet of cellar area devoted to retail uses.

On May 14, 2008, the Planning Director administratively approved Site Plan Amendment 81988046C to remove one tree and relocate a bus shelter.

On March 4, 2010, the Planning Board approved Site Plan Amendment 81988046D to address architectural and streetscape- and entry-related modifications.

On January 2, 2014, the Planning Director administratively approved Site Plan Amendment 81988046E to address façade improvements and revisions to public use and amenity space.

Administrative Citation for Noncompliance with the Certified Site Plan

On July 24, 2017, the Planning Department issued the Applicant an Administrative Citation, No. SP004, for continued non-compliance with the Certified Site Plan 81988046E, dating back to an original Notice of Non-Compliance from May 25, 2016. (Appendix A) The inspectors found that numerous streetscape elements, including seating, plantings, lighting, and bicycle racks, and other elements shown on the Certified Site Plan, had not been installed as illustrated on those approved plans. The Applicant has submitted this Site Plan Amendment to address the outstanding issues.

Conformance to Conditions of Approval

The proposed development must comply with the conditions of approval for Site Plan 81988046B, as amended, except as modified herein.

Description of Amendment

The Applicant requests the following modifications to the Site Plan:

- 1) Update plans to show size and current location of all planter boxes, trash cans, lighting, landscaping, and entrance amenities;
- 2) Add notes to the plans to indicate which items relate to the future office tower development;
- 3) Replace existing installed bike racks with County standard “U” shaped rack and update plans accordingly.

SECTION 3 - PUBLIC NOTICE

A notice regarding the subject amendment was sent to all parties of record by the Applicant on October 30, 2017. The notice gave interested parties 15 days to review and comment on the amended site plan per Montgomery County Zoning Ordinance Section 59.7.3.4.J.2. Staff received no inquiries regarding the proposed amendment.

SECTION 4 - RECOMMENDATION AND CONCLUSION

The proposed modifications to the site plan will not alter the overall character or impact of the development with respect to the original findings of approval. Further, these modifications will not affect the compatibility of the development with respect to the surrounding neighborhood. Staff recommends approval of Site Plan Amendment 81988046F.

APPENDICES

- A. Notice of Violation



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

July 24, 2017

Christian Duffy
Silver Spring Retail, LLC
c/o Petrie Ross Ventures
1919 West Street
Annapolis MD 21401

Re: Site Plan 81988046E
Site Plan Violation
Administrative Citation

Sent by Certified Mail

Dear Mr. Duffy:

This letter and the attached Administrative Citation directs the resolution of the outstanding violations to Site Plan 81988046E for the site plan known as City Place in Silver Spring.

On May 25, 2016, the Site Plan Inspector issued a Notice of Non-Compliance to Silver Spring Retail, LLC for failure to install bike racks in accordance with site plan 81988046E. That Notice of Non-Compliance required corrective actions to be implemented within 30 days. On December 30, 2016, the Site Plan Inspector conducted another inspection and found numerous items that needed to be installed in order to complete the project. In his summary notes, the Site Plan inspector identified a re-inspection date of February 6, 2017. On February 7, 2017, the Site Plan inspector issued a second Notice of Non-Compliance. To date those activities have not occurred the Inspection Agency has forward non-compliance issues to me for enforcement. As a result, the Montgomery County Planning Department is issuing the attached Administrative Citation because Silver Spring Retail, LLC is still not in compliance with certified site plan 81988046E. The Administrative Citation includes a \$500 civil fine. If the remedial actions are not completed and inspected by the Site Plan Inspection staff by September 1, 2017 there will be an additional penalty of \$500 per day until the violations are remediated.

If you have any questions concerning the Administrative Citation, please contact me at 301 495-4730, or mark.pfefferle@montgomeryplanning.org.

Sincerely,



Mark Pfefferle
Chief, Development Applications and Regulatory Coordination
M-NCPPC, Montgomery County Planning Department

CC: Greg Nichols, DPS

Attachments:

Administrative Citation No. SP004
May 25, 2016 Notice of Non-Compliance
January 6, 2017 Inspection Summary
February 7, 2017 Notice of Non-Compliance



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Citation No. SP004

Administrative Citation - Site Plan The Maryland-National Capital Park and Planning Commission

vs.

Name: Christian Duffy
First Middle Last

Company/Position: Silver Spring Retail, LLC, c/o Petrie Ross Ventures

Address: 1919 West Street, Annapolis, MD 21401

Phone Number: 443.569.6980

Fax Number: _____

Email: cduffy@petrieross.com

Location and Description of Violation:

Address/location of site: City Place – Silver Spring

Pursuant of the M-NCPPC's authority under the Land Use Article of the Annotated Code of Maryland and Chapters 50 and 59 of the Montgomery County Code, it is formally charged that the above named defendant on **July 24, 2017** at the stated site location did commit the following: Failed to comply with landscaping, lighting, and recreation amenities in accordance with certified site plan 81988046E.

In violation of:

☐ Montgomery County Code, Chapter 22A

☐ Montgomery County Code, Chapter 59

☒ Approval of certified site plans 81988046E

☐ Other: _____

Civil Fine and Compliance:

1. (a) ☒ You shall pay a fine of \$500.00 by August 14, 2017 and complete the remedial action listed on the accompanying page.

(b) ☒ You shall pay a daily fine of \$50.00 if the original fine has not been paid by August 14, 2017. The daily fine shall accrue until the original fine is paid.

2. ☒ You shall pay a daily fine of \$500.00 until all the remedial actions listed on the accompanying page are complete. This fine will start accruing if the remedial actions are not complete by September 1, 2017 and must be paid within 15 days of completion of the remedial action.

Checks should be made payable to M-NCPPC and shall be paid during normal business hours at the information Counter of M-NCPPC's Montgomery Regional Office located at 8787 Georgia Avenue, 2nd Floor, Silver Spring, MD 20910, 301-495-4610. Failure to comply with this citation may result in an administrative enforcement hearing or issuance of additional citations including additional fines. You may also contest the administrative citation by requesting a hearing. If you request a hearing, you must notify the M-NCPPC Office of the General Counsel, in writing, at 8787 Georgia Avenue, Suite 205, Silver Spring, MD 20910, within 15 days of the citation. The Montgomery County Planning Board will thereafter notify you of the hearing date.

Remedial Action:

Please see attached sheet for the remedial actions and compliance date associated with this Administrative Citation.

Administrative Civil Penalty:

If the Montgomery County Planning Board finds you in violation of Chapters 50 or 59, you may be subject to an Administrative Civil Penalty. An Administrative Civil Penalty may include an additional monetary fine in addition to corrective measures.

Acknowledgment:

I sign my name as a receipt of a copy of this Administrative Citation and not as an admission of guilt. I will comply with the requirements set forth in this Citation. I have a right to request a hearing for the offense(s) charged. If I do not exercise my right to request a hearing, I agree to entry by the court judgment on affidavit for the amount of the fine.

Defendant's Signature

Date

Affirmation:

I solemnly affirm under the penalties of perjury, and upon personal knowledge or based on the affidavit, that the contents of this Administrative Citation are true to the best of my knowledge, information and belief and that I am competent to testify on these matters.

Inspector's Signature

Date

Print Name: Mark Pfefferle

Phone Number: 301 495-4730

SENT VIA CERTIFIED MAIL

7-24-17

Remedial Action for Administrative Citation SP004

July 24, 2017

1. Install all planter boxes in the location shown on site plan 81988046E and install only the planter boxes that are shown on sheet SP-4 of the certified site plan.
2. Attach ADA truncated dome detectable warning strips as shown on the certified site plan for both crosswalks across Fenton Street. See Sheet SP-4 of the certified site plan.
3. Install entrance features (trash receptacles, benches, stone planters, plants, wall sconces) as shown on sheets LA-1 and LA-2 of the certified site plan.
4. Install trash cans in locations identified on sheets SP-4 and SP-5 of the certified site plan.
5. Replace existing shoe box light attached to signal light with pendant lamp to match existing streetlight fixtures as shown on sheet SP-3 of the certified site plan.
6. Install four showers that are accessible to employers that bike or walk to work as per condition 6c of Montgomery County Planning Board Resolution 07-185 for site plan 819988046B and sheet SP-5 of the certified plan.
7. Install bike lockers as shown on the certified plan as shown on sheet SP-5 of the certified plan.
8. Install bike racks as shown on sheet SP-4 of the certified plan.
9. Install bike racks in the location shown on sheets SP-3 and SP-4 of the certified plan.
10. Install lighting fixtures as shown on the certified plan and in the locations shown on the certified plan.
11. Replace groundcover and install double hoop four-sided bed railing on all tree pits along property frontage per sheets SP-3 and SP-4 of the certified site plan.
12. Install the site plan amenities for the Colesville Road and Fenton Street entrance as shown on sheets SP-3 and A-2 of the certified site plans.
13. All remedial actions must be installed and inspected by the Planning Board's enforcement staff for compliance with site plan 81988046E by September 1, 2017.



MONTGOMERY COUNTY
DEPARTMENT OF PERMITTING SERVICES
SITE PLAN ENFORCEMENT SECTION
255 Rockville Pike, 2nd Floor
Rockville, MD 20850-4166

NOTICE OF NON-COMPLIANCE

FOR MONTGOMERY COUNTY, MARYLAND the undersigned issuer; being duly authorized, states that:

On 2/7/17, the site plan recipient of this NOTICE: Christian Duffy, who represents the site plan applicant/defendant, Silver Spring Retail, LLC.

is notified that Non-Compliant conditions exist under Section 8-26 (g) (Compliance with Zoning Regulations) and Section 8-50-41 (Enforcement) of the Montgomery County Code regarding the following:

M-NCPPC Certified Site Plan # 81988046E and Project Name: City Place

The Non-Compliance is described as:

- Some planter boxes are incorrect and missing, and also are in the wrong location.
- ADA truncated dome detectable warning strips are not attached.
- Existing trash cans are not removed and trash cans are not the correct type. Some installed trash cans are in the wrong location.
- The existing shoe box light attached to a signal pole is not replaced with a pendant lamp to match the existing streetlight fixtures.
- Four (4) showers that are accessible to employees that bicycle or walk to work are not installed (81988046B #6c).
- Bike Lockers are not installed. Bike racks that are not approved Bike racks that are not approved have been installed. Some bike racks are in the wrong locations.
- All lighting must be installed as shown on the Certified Site Plan. Various lighting as shown on the plan are missing and or changed.

The following corrective Compliance action(s) must be performed in: ☒ 30-Days ☐ 60-Days

Correct all non-compliant items in accordance with Certified Site Plan.

Failure to comply with this Notice of Non-Compliance may result in the issuance of one or more \$500.00 civil citations.

☐ A "STOP WORK ORDER" is issued this date at the above referenced project: All construction activities on these premises must cease immediately. Only those activities required to correct the non-compliance may continue. Permission from the Site Plan Enforcement Inspector is required to resume construction.

Issued by: ALVIN CLARKSON JR Alvin Clarkson 2-8-17 240 678-
Please Print Name Signature Date Phone 1738

Received by: Gary J. Brewer [Signature] 2/8/17 301-674-4928
Please Print Name Signature Date Phone
Manager (For Chris Duffy)

Call DPS SPZE Inspector Alvin Clarkson at 240-678-1738 to schedule a re-inspection.

☐ Sent by Registered Mail/Return Receipt on:

(Recipients signature acknowledges receipt of a copy of this notice of non-compliance only.) If you wish to contest/dispute this Notice of Non-Compliance, contact the DPS Site Plan Enforcement Manager Greg Nichols at 240-777-6278.

You have the right to a hearing before the Planning Board if you dispute this Notice.

MONTGOMERY COUNTY, MARYLAND

Department of Permitting Services
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850
PHONE: 240-777-6260
FAX: 240-777-6263



SITE PLAN ENFORCEMENT
INSPECTION REPORT
MNCPPC Certified Site Plan

Final Inspection: 12/30/2016

MNCP&PC Site Plan No. 81988046E

PROJECT NAME: City Place

INSPECTION SUMMARY

DATE 01/06/2017

CONTACT INFO:

Christian Duffy
Silver Spring Retail, LLC
c/o Petrie Ross Ventures
1919 West Street
Annapolis, MD 21401

Dear Sir/Madam

This is to inform you that the final inspection for the subject property has been done and to date the following items need to be installed/ corrected in order to complete the project:

- Some planter boxes are incorrect and missing, and are also in the wrong location.
- Installed benches are not approved and some are missing.
- ADA truncated dome detectable warning strips are not attached.
- Existing trash cans not removed and trash cans are the incorrect type. Some installed trash cans are in the wrong location.
- The existing shoe box light attached to a signal pole is not replaced with a pendant lamp to match the existing streetlight fixtures.
- Four (4) Showers that are accessible to employees that bicycle or walk to work are not installed (81988046B #6.c)
- Bike Lockers are not installed. Bike racks that are not approved have been installed. Some bike racks are in incorrect locations.
- All lighting must be installed as shown on the Certified Site Plan. Various lighting as shown on the plan are missing.

If you have any questions or require any additional information regarding this matter, please contact me, at 240 678-1738

Sincerely,

Alvin Clarkson

Site Plan Enforcement Inspector

Cc: Ehsan Motazedi, Site Plan Enforcement Manager
Greg Nichols, Site Plan Enforcement Manager
Victor Salazar, Site Plan Enforcement Field Supervisor
Mark Pfefferle- M-NCPPC

Re-inspection Date(s):

2/6/17

Inspector: ALVIN CLARKSON 240 678-1738 1/6/17
Printed Name Signature Phone No. Date
Received By: Christian Duffy 410-353-4149 1/6/17
Printed Name Signature Phone No. Date



MONTGOMERY COUNTY
DEPARTMENT OF PERMITTING SERVICES
SITE PLAN ENFORCEMENT SECTION
255 Rockville Pike, 2nd Floor
Rockville, MD 20850-4166

NOTICE OF NON-COMPLIANCE

FOR MONTGOMERY COUNTY, MARYLAND the undersigned issuer; being duly authorized, states that:

On 5/25/16, the site plan recipient of this NOTICE: Christian T. Duffy, who represents the site plan applicant/defendant, Silver Spring Retail, LLC.

is notified that Non-Compliant conditions exist under Section 8-26 (g) (Compliance with Zoning Regulations) and Section 8-50-41 (Enforcement) of the Montgomery County Code regarding the following:

M-NCPPC Certified Site Plan # 81988046E and Project Name: City Place

The Non-Compliance is described as:

Bike racks installed are not in compliance with Certified Site Plan 81988046E

The following corrective Compliance action(s) must be performed in: ☒ 30-Days ☐ 60-Days

Install bike racks in accordance with Certified Site Plan 81988046D Condition 5.b.

Failure to comply with this Notice of Non-Compliance may result in the issuance of one or more \$500.00 civil citations.

☐ A "STOP WORK ORDER" is issued this date at the above referenced project: All construction activities on these premises must cease immediately. Only those activities required to correct the non-compliance may continue. Permission from the Site Plan Enforcement Inspector is required to resume construction.

Issued by: ALVIN CLARKSON Alvin Clarkson 5-25-16 240 678-1738
Please Print Name Signature Date Phone

Received by: Chris D. H. [Signature] 5-25-16 410-353-4149
Please Print Name Signature Date Phone

Call DPS SPZE Inspector Alvin Clarkson at: 240-678-1738 to schedule a re-inspection.

☐ Sent by Registered Mail/Return Receipt on:
(Recipients signature acknowledges receipt of a copy of this notice of non-compliance only.) If you wish to contest/dispute this Notice of Non-Compliance, contact the DPS Site Plan Enforcement Manager Greg Nichols at 240-777-6278.
You have the right to a hearing before the Planning Board if you dispute this Notice.