



**Downtown Silver Spring, Project Plan Amendment 91998005C, Site Plan Amendment 81999002M**



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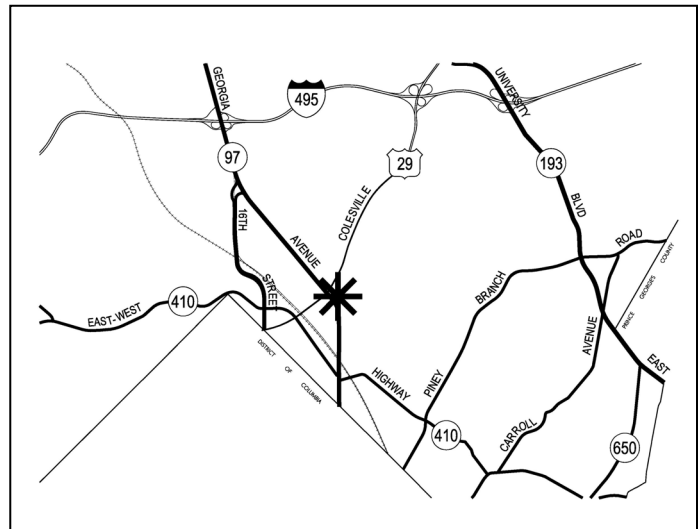


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**Description**

Staff Report Date: 6.08.2020

- Project Plan amendment to increase public use space by 10,242 square feet, from 268,758 square feet to 279,000 square feet;
- Site Plan amendment to redesign and increase public use space by 10,242 square feet, from 268,758 square feet to 279,000 square feet, restrict Ellsworth Drive access for non-essential vehicles, reduce parking by 11 spaces, decommission previously approved public art and install new public art, and update data table to reflect past amendments;
- Current use: mixed use development with parking lot and public plaza;
- Located within the blocks bounded by Colesville Road, Georgia Avenue, Cedar Street, and Wayne Avenue;
- 22.5 acres zoned CBD-0.5, CBD-1, CBD-2, CBD R-2 in the 2000 *Silver Spring CBD Sector Plan*;
- Applicants: 8515 Georgia Avenue Associates LLC, PFA-A Silver Spring LC, PF A-B Silver Spring LC, PF A-C Silver Spring LC, PF A-D Silver Spring LC, PF A-H Silver Spring LC, PF A Silver Spring Manager LC;
- Acceptance date: November 19, 2020.



**Summary**

- Staff recommends approval with conditions.
- The Planning Board approved Site Plan 819990020 by opinion dated March 2, 1999 with subsequent amendments.
- The proposed amendments are limited to Block C of the Project Plan, within the block bounded by Georgia Avenue, Colesville Road, Fenton Street and Ellsworth Drive.
- The proposed amendments would not result in any additional density or change in building footprints.
- The proposed amendments include removal of three public art pieces including the mosaic tile fountain, light web feature, and translucent stair panels within Ellsworth Plaza. The Applicant proposes to replace these art pieces with a new public art feature at the corner of Georgia Avenue and Colesville Road.
- The proposed amendments include permanently closing Ellsworth Drive to non-essential vehicular traffic and redesigning the right-of-way to allow for pedestrian and bicycle enjoyment.
- Pursuant to the grandfathering provision of Section 59.7.7.1.B.3 of the Zoning Ordinance, this Amendment was reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014.
- The Director approved an administrative review period extension to allow the Project Plan to be reviewed concurrently with the Site Plan. The Planning Board subsequently approved extensions for both the Project Plan and Site Plan through June 25, 2020.

## SECTION 1: RECOMMENDATIONS & CONDITIONS

### **Project Plan Amendment 91998005C**

Staff recommends approval of Project Plan Amendment 91998005C, to allow an increase in public use space by 10,242 square feet, from 268,758 square feet to 279,000 square feet. The site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required.

1. Department of Transportation

The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated June 1, 2020 and hereby incorporates them as conditions of the Project 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 Project Plan approval.

### **Site Plan Amendment 81999002M**

Staff recommends approval of Site Plan Amendment 81999002M, to redesign and increase public use space by 10,242 square feet, from 268,758 square feet to 279,000 square feet, restrict Ellsworth Drive access for non-essential vehicles, reduce parking by 11 spaces, decommission previously approved public art and install new public art, and update data table to reflect past amendments. The site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the conditions below. The following conditions are in addition to all other conditions, which remain in full force and effect:

1. Abandonment of Public Right-of-Way

- a. Prior to issuance of right-of-way permit, the Applicant must receive approval from County Council for the Abandonment Application No. AB-771 for the public right-of-way within Ellsworth Drive.
- b. The Certified Site Plan must include an alternative design for Ellsworth Drive without synthetic turf, to be implemented if the County Council does not approve Abandonment Application No. AB-771.

2. Department of Permitting Services-Right-of-Way

The Planning Board has reviewed and accepts the approval of the Montgomery County Department of Permitting Services Right-of-Way Permitting (DPS-RPP) Section in its memo dated May 20, 2020. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Site Plan approval.

3. Department of Permitting Services-Fire Department Access

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated May 26, 2020, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Site Plan approval.

4. Maintenance

In addition to the maintenance agreement integrated into the MCDPS FDA approval, the Applicant must provide the Manufacturer's Care and Maintenance Manual within the Certified Site Plan and regularly maintain the synthetic turf according to the latest version of this Manual.

5. Public Art

The Planning Board has reviewed and accepts the recommendations of the Art Review Panel as described in their letter dated May 4, 2020 and incorporates them as conditions of approval.

- a. The Applicant must install the public art concept designed by artist Foldhaus, as presented to the Planning Board's Art Review Panel on April 8, 2020, and illustrated in the Certified Site Plan.
- b. The Certified Site Plan must include the schematic design and the name of the artist, as well as the overall dimensions, prescribed materials, and general description of associated lighting fixtures, footers, and fasteners.
- c. Any significant changes to the concept must be presented to the Art Review Panel and approved by M-NCPPC Staff before Certified Site Plan.
- d. Significant changes to the concept may require a Site Plan Amendment.
- e. Prior to issuance of the first building permit for installation of the public art, the Applicant must notify the Art Review Panel per page 15 of the Art Review Panel's Policies and Procedures about the final location for the following art pieces: "Lightweb" by Craig Kraft; "A Celebration of Life: Homage to Food Plants of the World" by Jorge Somarriba (2004).
- f. Prior to issuance of the first building permit for installation of the public art, the Applicant and Artist(s) must execute a maintenance agreement for the public artwork and submit the executed document to the Montgomery County Planning Department.
- g. The building permit for the art installation must be issued prior to Use and Occupancy permit for the building alterations.
- h. Prior to final Use and Occupancy Permit for the artwork, the Applicant must provide and install the public art illustrated on the Certified Site Plan.
- i. Prior to final inspection of the public artwork, the Applicant must submit to the Public Art Coordinator of the Montgomery County Planning Department for inclusion in the County inventory of public artworks at least three images of the artwork on-site and the following information: the associated project number; title of the artwork; date of completion; description of materials used; and the address.

6. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement may be phased and must include a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, synthetic turf, on-site lighting, site furniture, public amenities, public art, trash enclosures, associated improvements of development, including sidewalks, bikeways. The surety must be posted before issuance of any building permit of development and will be tied to the development program.

- c. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

7. Public Use Space and Amenities

- a. The Applicant must provide a minimum of 279,000 square feet of public use space on-site.
- b. Before the issuance of final use and occupancy certificates for the renovations, all public use space areas on the Subject Property must be completed.
- c. The Applicant must provide public amenities on-site as shown on the Certified Site Plan, these amenities may be updated and replaced from time to time with approval by MNCPPC staff.
- d. On the clock tower facade above the breezeway to the Wayne Avenue garage, Applicant may install either an electronic screen or scrim, as shown on the Certified Site Plan. The final design of the amenity must be compatible with the overall building facade and may be updated and replaced from time to time with approval by MNCPPC staff. The Visual Amenity is limited in use for artistic display, and must not be utilized for advertisement or information purposes unless approved by the Sign Review Board.
- e. The Applicant must install landscaping no later than the next growing season after completion of site work.

8. Lighting

- a. Prior to certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b. All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c. Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.
- d. Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by street lights within the right-of-way.
- e. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

9. Bikeway

The Applicant must clearly demonstrate the shared street bikeway along Ellsworth Drive as illustrated on the Certified Site plan and address the following:

- a. Demonstrate a minimum travel width of 12 feet.
- b. Revise dimensions for sidewalk bicycle markings to be a minimum of 18 inches by 18 inches.
- c. Provide a detail demonstrating safe transition at the following locations for review by staff and MCDOT:
  - 1. On Ellsworth Drive from the shared bikeway along the public plaza to the shared sidewalk bikeway
  - 2. Ellsworth Drive at Fenton Street
  - 3. Ellsworth Drive at the private alley.

10. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Add a note to Sheet L0802 stating that "Milling of the roadway is limited to the areas of turf installation. Any milling must maintain free flow of water from the roadway surface to the storm drain system to avoid standing water on Ellsworth Drive roadway."
- b. Ensure consistency of all details and layout between Site and Landscape plans.
- c. Modify data tables to reflect development standards approved by the Planning Board.
- d. Include all applicable approval letters, development program and related Sketch Plan, Preliminary Plan, Site Plan resolutions on the cover sheets.
- e. Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."

## SECTION 2: VICINITY & SITE ANALYSIS

### Vicinity

The Site is located in the core of Silver Spring's Central Business District, which is characterized by office, retail, transit, and medium-density multi-family residential uses. The Silver Spring Transit Center is located to the southwest, and future Purple Line and station is located to the south of the Property at the Silver Spring Library.

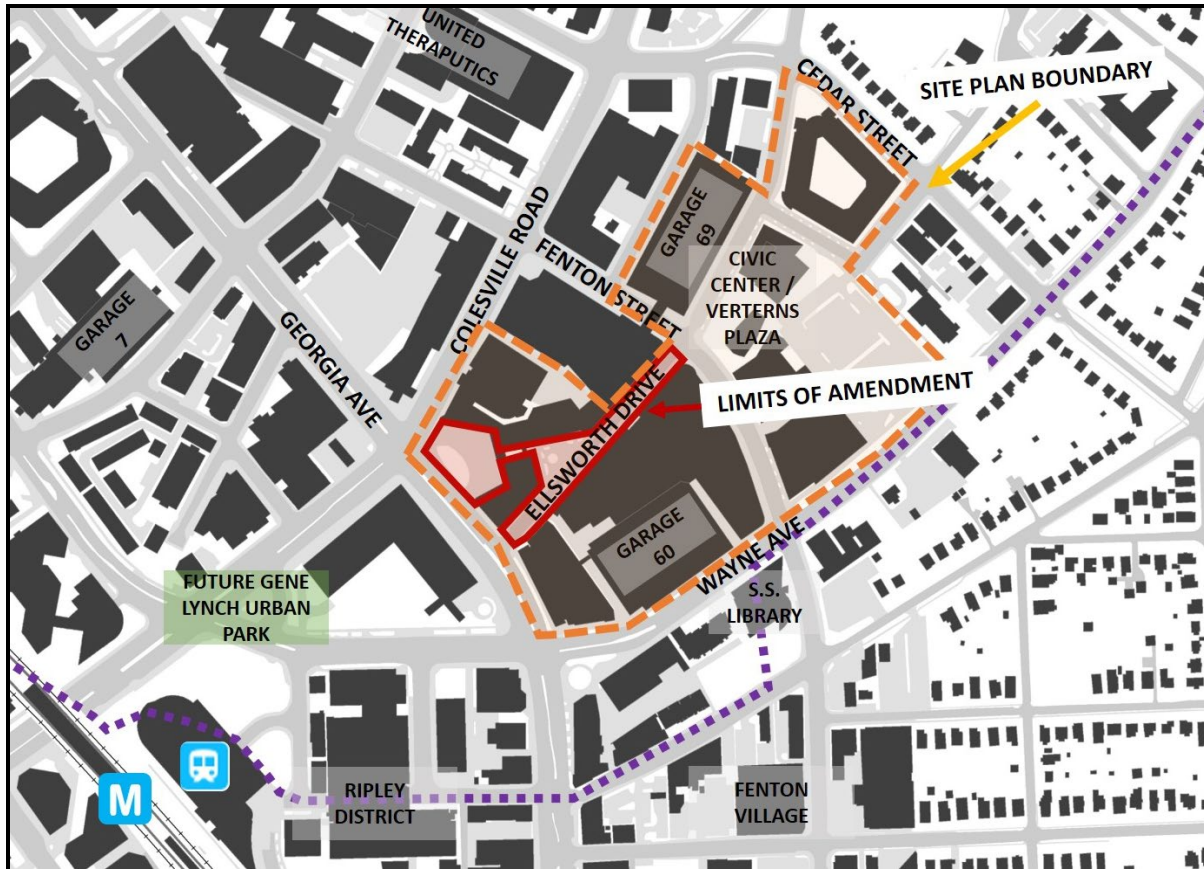


Figure 1 - Vicinity Map

### Subject Property

The larger Subject Site totals 22.5 acres in size, is zoned CBD-0.5, CBD-1, CBD-2, CBD R-2 within the 2000 *Silver Spring Central Business District Sector Plan*. The approved Site Plan covers a large area bounded by Georgia Ave, Colesville Road, Roeder Road, Cedar Street, Pershing Drive, Veterans Place, Wayne Avenue (See Figures 1 & 2). These amendments cover only the portion of the development along Ellsworth Drive between Georgia Avenue and Fenton Street, approximately 1.75 acres zoned CBD-2 (Subject Property or Property).



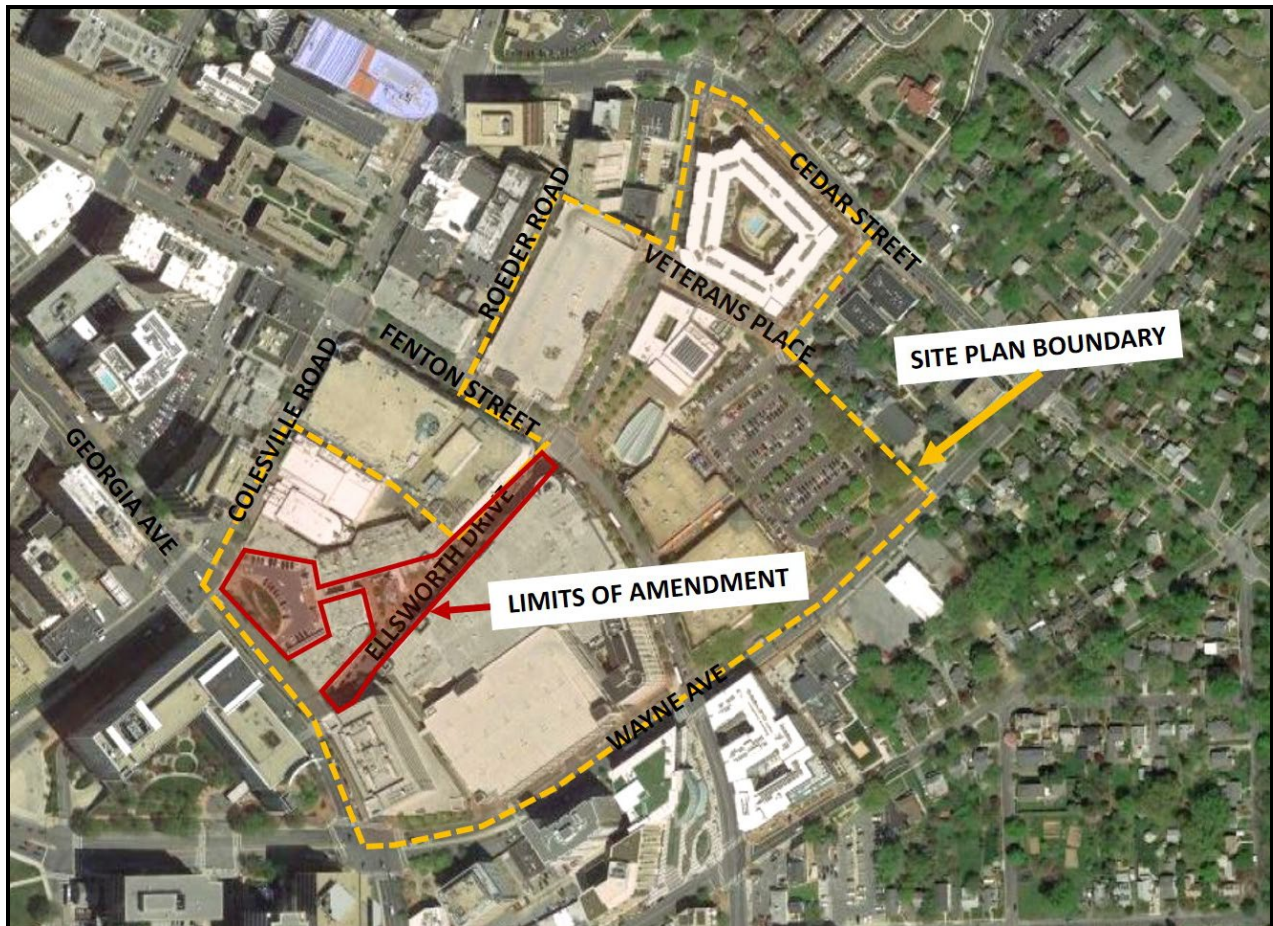


Figure 2 - Aerial Photo

### Existing Conditions

The larger Subject Site is currently developed with office, retail, hotel, and residential uses as well as the Civic Center. The limits of this amendment are almost entirely outside of the existing building footprints and limited to the surface parking lot and landscaped island at the intersection of Georgia Avenue and Colesville Road, and the public use space interior to the site fronting on Ellsworth Drive, including the existing public and private right-of-way along Ellsworth Drive between Georgia Avenue and Fenton Street.

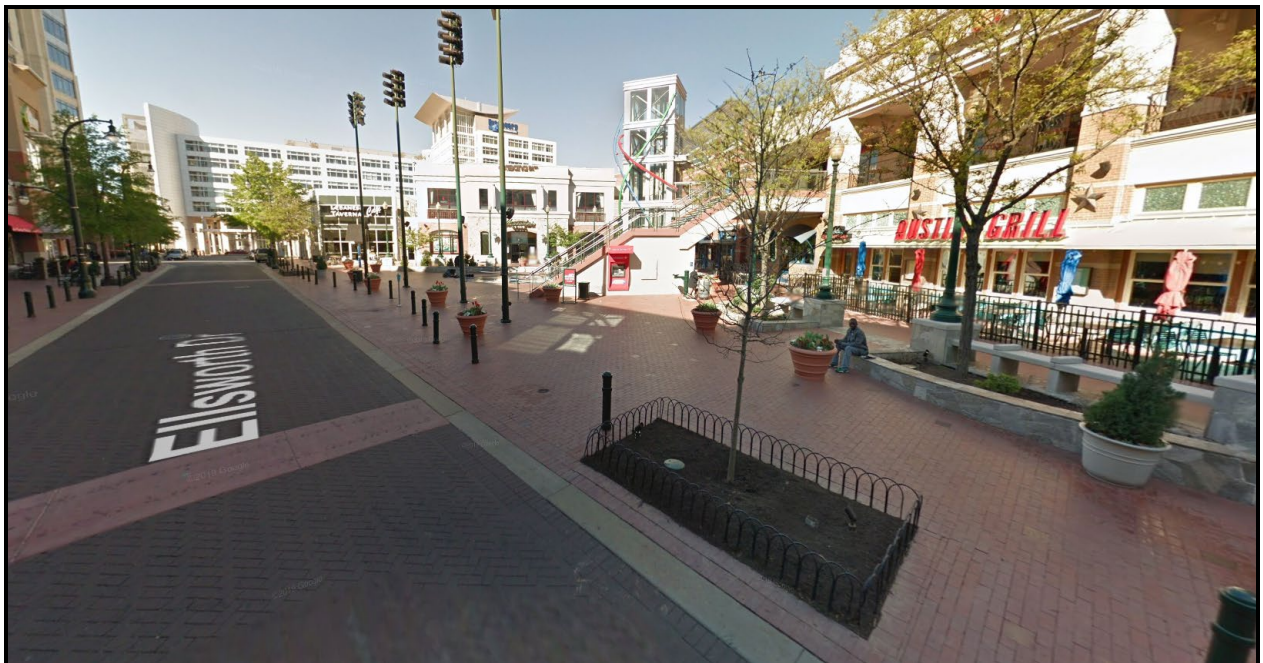
The area at the intersection of Georgia Avenue and Colesville Road is under a historical easement for the Silver Spring Shopping Center, and is developed as a surface parking lot containing 20 parking spaces with the landscaped island containing a monument sign marking the Downtown Silver Spring development (See Figure 3).





*Figure 3 - Existing parking lot at Georgia Avenue and Colesville Road*

The interior public use space is developed as a plaza surrounded by two-story retail, restaurant and service establishments. Several public art features are integrated into the plaza including a mosaic fountain, a light feature wrapping the exterior elevator, and translucent panels along the stair walls. Ellsworth Drive runs through the public plaza, and while it is composed of both public and private right-of-way, the street is generally closed to vehicular traffic and is utilized as a pedestrian thoroughfare that is often used for Farmers Markets and other outdoor events.



*Figure 4 - Existing public plaza on Ellsworth Drive looking west towards Georgia Avenue*



## SECTION 3: PROJECT DESCRIPTION

### Previous Approvals

The Planning Board approved Project, Preliminary, and Site Plans in 1998 and 1999 for the construction of 1,175,935 gross square feet of retail, office, entertainment, restaurant, hotel and housing uses and 354,023 square feet of public amenities over 22.5 acres, which are broken into five blocks. The Planning Board has since approved several site plan amendments for each block's development, as well as other amendments for modifications to the public amenity space and public art, see Attachment F for an index of previous approvals. The Board approved the most recent Site Plan Amendment in 2016 to modify the existing stairs including the public art component located in the plaza area near Ellsworth Drive.

### Proposal

The Applicant proposes to redesign and enhance the existing public plaza fronting on Ellsworth Drive and the corner of Georgia Avenue and Colesville Road (See Figure 5). This involves permanently restricting non-essential vehicular movement along Ellsworth Drive, increasing available public use space by 10,242 square feet, reducing parking at the corner of Georgia Avenue and Colesville Road and along Ellsworth Drive from 33 spaces to 22 spaces to allow temporary café seating, installation of new public art, and decommissioning of three existing public art pieces. This Proposal would not expand any existing building footprint or approved density for any elements of the previously approved Site Plan.



Figure 5 - Illustrative Plan

### *Vehicular restriction on Ellsworth Drive*

Currently, Ellsworth Drive is a through street with two travel lanes in either direction and street parking

on either side closer to Georgia Avenue. Moving towards Fenton Street, Ellsworth Drive transitions into a narrowed shared street that gradually becomes flush with the public plaza and then transitions back to a curbed roadway towards Fenton Street. This portion of Ellsworth Drive is commonly closed off on either side to accommodate full pedestrian movement and public events such as farmers markets and live music events. The Applicant proposes to formally restrict vehicular movement along Ellsworth Drive, through the abandonment of the remainder of public right-of-way that exists in this area, limiting access for emergency vehicles and deliveries only. The Applicant has submitted an abandonment application to the Montgomery County Department of Transportation, that is currently under review.

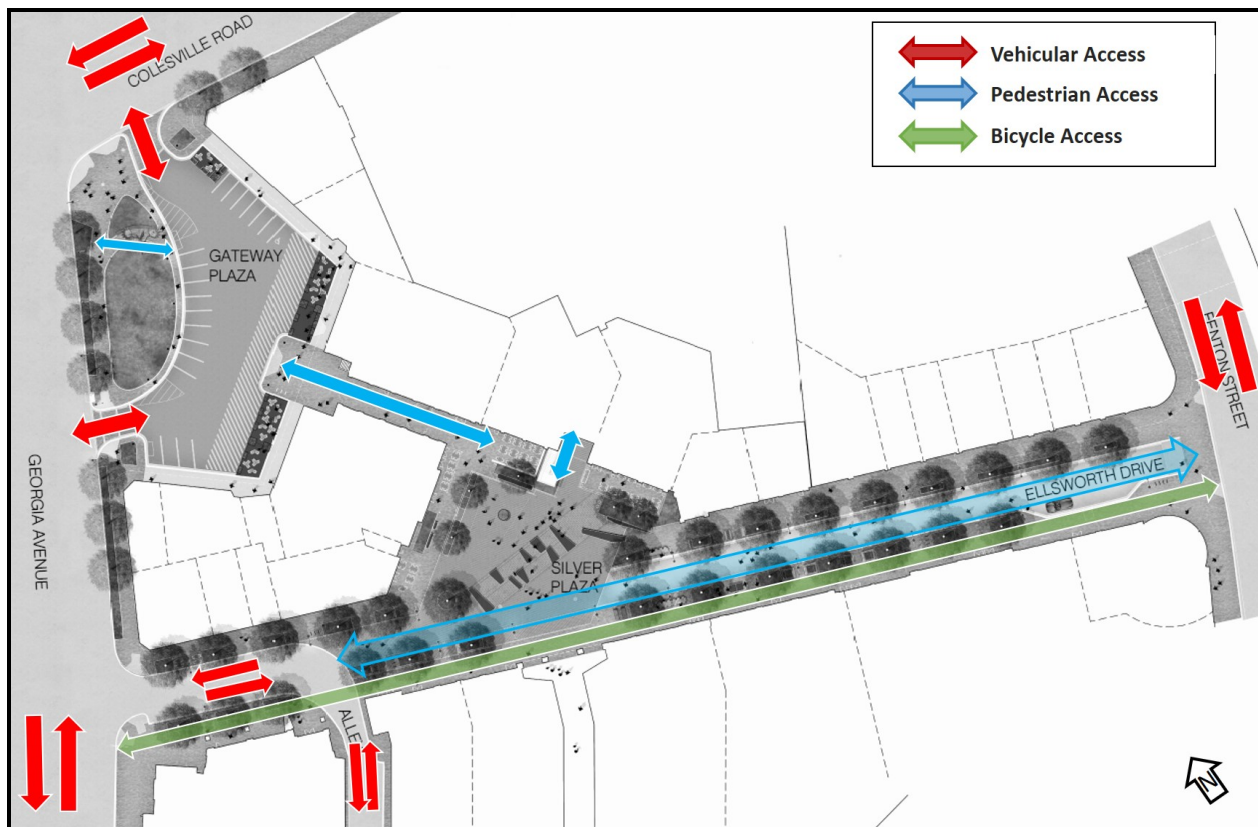


Figure 6 - Proposed Circulation

#### *Redesign and enhancement of public use space*

The requested right-of-way abandonment will allow the Applicant to fully redesign Ellsworth Drive and increase the amount of public use space. The redesign of the public plaza includes removing the existing public art fountain, hardscape, stairwell, and exterior elevator located within the existing plaza space. The Applicant proposes to relocate the elevator and stairwell in a more compact design directly adjacent to the existing building façade, which would allow the space previously dedicated to these elements to be redesigned into additional landscaping and public seating. Within this area the Applicant proposes to provide new hardscape, various forms of public seating, two new tree pits, a water feature, and a seating element that can transition from dispersed individual seating into a stage for various public events and concerts (See Figures 7 & 8). The Project has been conditioned to receive County Council approval of the abandonment prior to any permit for grading or construction.





*Figure 7 - Perspective of proposed redesigned plaza looking east with mobile stage set up*



*Figure 8 - Aerial view of proposed redesigned plaza with stage dispersed as seating*

Along Ellsworth Drive, the Applicant proposes to lay synthetic turf product on top of the existing asphalt roadway to create a park-like setting and destination (See Figure 9). In addition to the turf material, the Applicant proposes to enlarge the existing tree pits to allow for additional shrubs and vegetation, and proposes additional programming elements between the street trees. These elements include vintage pony rides, ping pong tables, large porch swings, and other eclectic seating (See Figure 10). The Project has been conditioned to submit an alternative design within the Certified Site Plan without the synthetic turf product which must be utilized if the County Council does not approve the associated abandonment application.





Figure 9 - Perspective of proposed redesigned Ellsworth Drive looking west

The Applicant also proposes to integrate several new amenities within the public use space that are not considered public art, however the amenities will assist in the activation of the open space and creation of a destination. These amenities include a 'Silver Spring' water feature, mobile stage, community chalkboard, kiddy horse rides, ping pong tables, porch swings and a variety of public seating (bistro, café, benches, etc).

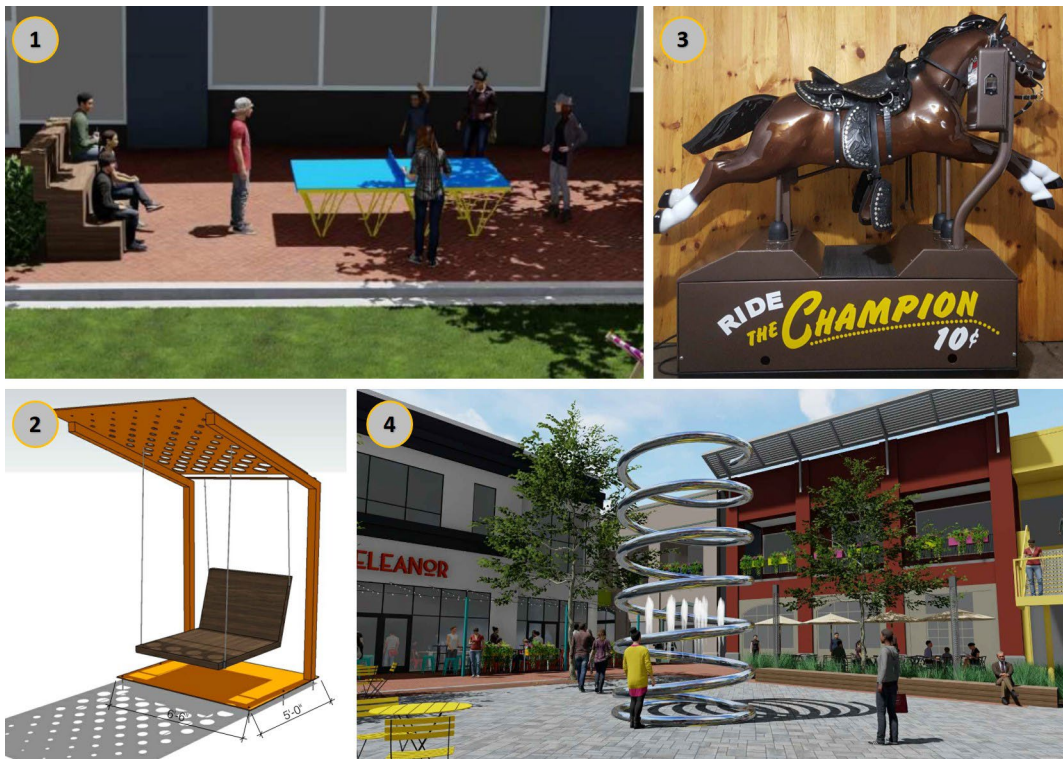


Figure 10 - Amenity Elements: (1) ping pong tables, (2) large porch swings, (3) pony rides, (4) Silver Spring water feature

*Corner of Georgia Avenue and Colesville Road*

The Applicant proposes to redesign the existing landscaped island at the corner of Georgia Avenue and Colesville Road to remove the existing monument sign 'Downtown Silver Spring' and create a newly landscaped space for the installation of new public art (See Figures 11, 14, and description below). This landscaped island will provide a new pedestrian path directing those into the public plaza and bench seating to view and interact with the public art feature.



*Figure 11 – Corner Plaza Design*

This corner, referred to as Gateway Plaza, is within the Silver Spring Historical District and under an existing historic preservation easement with the Maryland Historic Trust, therefore alterations in this area are limited. The Applicant proposes to remove a handful of parking spaces and construct temporary raised wooden platforms, similar to a wood deck, with planters to allow for outdoor dining and seating (see Figure 12). These platforms are intended to be temporary and can be removed at any time. The Applicant has received approval from the Maryland Historic Trust and Historic Preservation Commission at their February 12, 2020 meeting for this proposed redesign.





*Figure 12 – Perspective of proposed wood deck seating adjacent to parking lot*

#### *Public Art*

The Site currently contains the following artworks:

- 1) *Fearless Flier* by David Carlson, translucent acrylic glass panels on the railings of the stairwell in the public plaza
- 2) *Silver Creek* by Deidre Saunder, a mosaic tile fountain that has been in place since 2004 and heavily used by the public. Over the years the fountain has required significant maintenance and replacement of mosaic tiles
- 3) *Lightweb* by Craig Kraft, three LED spires that wrap around the existing exterior elevator in the public plaza

The Public Art Review Panel requested the Applicant also address *A Celebration of Life*, by Jorge Somarriba (Figure 13, picture 4), which is a mural originally located on the wall near Whole Foods, that was removed in 2017 due to wind damage and is now in storage awaiting restoration and relocation.



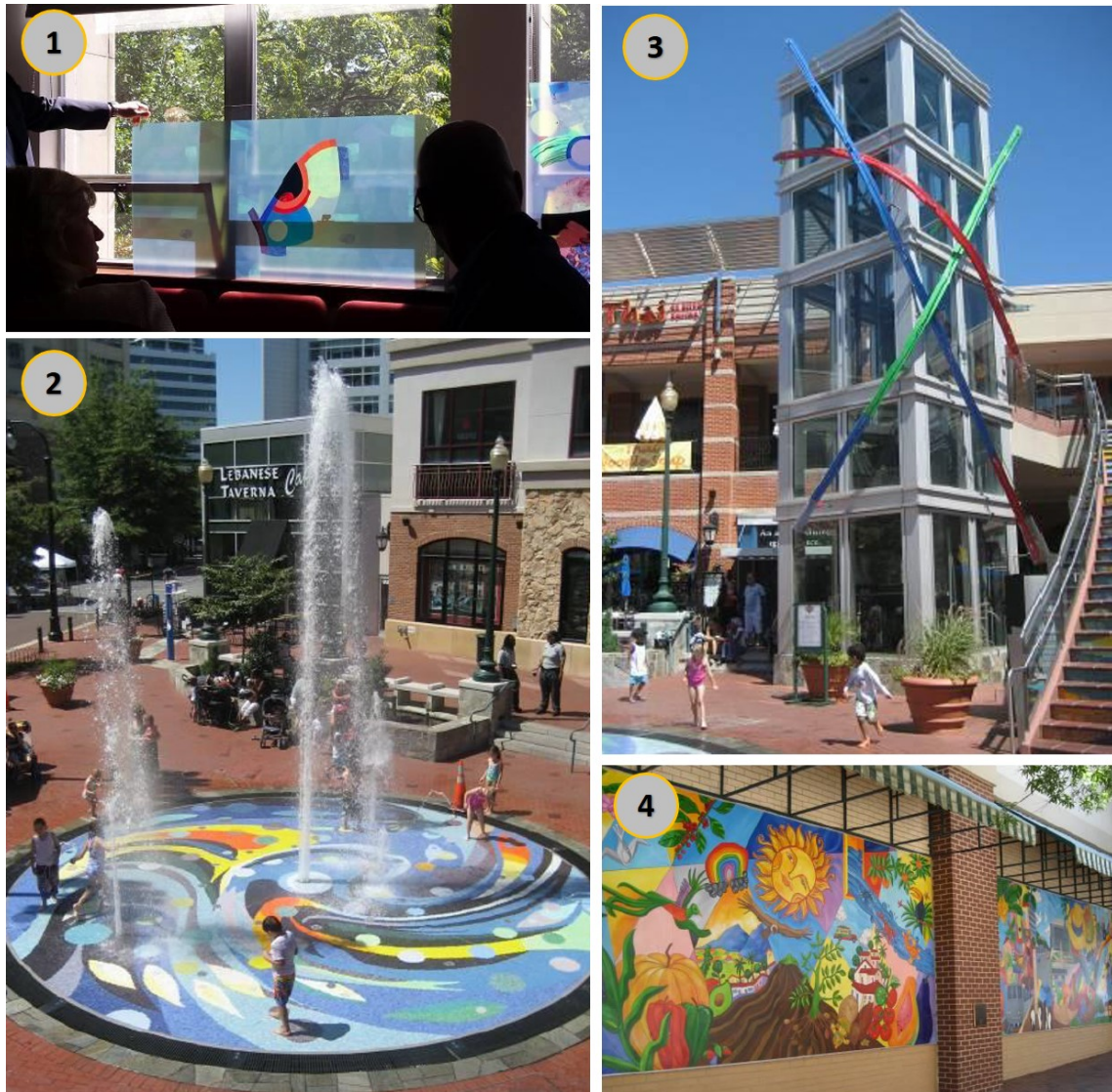


Figure 13 - Existing Public Artwork

The Applicant is seeking to decommission the mosaic tile fountain and translucent panels on the stairs, relocate the light web feature and mural, and install a new public art piece at the corner of Colesville Road and Georgia Avenue to highlight the entrance of the public plaza. The Applicant's intent is to refresh the look of the entrance from Colesville Road and Georgia Avenue, which includes the removal of the existing monument sign 'Downtown Silver Spring', redesign of the island with a new pedestrian path that will be fully landscaped, and installation of the new public art piece, 'Blumen Lumen II' a bouquet of oversized illuminated steel flowers ranging in height from 18 – 24 feet. The buds and stems of the flowers will be a mixture of steel and tubing with motion sensors, LED lighting, and interactive features (See Figure 14).



*Figure 14 – Proposed Public Art Installation, Blumen Lumen II*

The Public Art Review panel considered the decommissioning, relocating, and installation of new art at their February and May meetings, and unanimously recommended approval of the enhanced public space and the installation of the new public art piece along with amenities presented as one package, with recommended conditions that are incorporated as Condition 5, Public Art.

#### *Visual Amenity Mural Installations*

The Applicant has already undertaken numerous efforts to refresh this area of Downtown Silver Spring, which did not require amendments to their previous approvals (See Figure 15). These include painting many of the building facades with bright colors, and adding murals to their facades. The Applicant proposes to continue and expand these efforts through the installation of additional visual amenities on the clock tower facade above the breezeway to the Wayne Avenue garage. The Applicant proposes to install either an electronic screen or scrim. The final design of the amenity must be compatible with the overall building facade and may be updated and replaced from time to time with approval by MNCPPC staff. The Visual Amenity is limited in use for artistic display, and must not be utilized for advertisement or information purposes unless approved by the Sign Review Board.





*Figure 15 - Existing Murals in Downtown Silver Spring*

#### **SECTION 4: COMMUNITY OUTREACH**

The Applicant has met all proper signage, noticing, and submission meeting requirements. The Applicant held a pre-submission meeting on October 10, 2019 at the Courtyard Marriott in Downtown Silver Spring to discuss the proposed Project Plan and Site Plan amendments.

Staff has received numerous correspondence on these applications (See Attachment E), focused predominantly on the proposed installation of synthetic turf product. Staff also received a letter from the Silver Spring Citizen Advisory Board (SSCAB) with recommendations on the Proposal. The



letter highlighted concerns regarding the removal of the fountain within the public plaza as well as a general request to exceed the current ADA standards given the aging community. SSCAB is generally in support of the closure of Ellsworth Drive to vehicles and that any turf material should be environmentally friendly. The Proposal includes the redesign of the entire public plaza, including the mosaic tile fountain. The removal of the mosaic tile fountain was approved by Art Review Panel, and the Proposal will replace the fountain with new public art, the *Blumen Lumen*, and several interactive public amenities such as a water feature, ping pong tables, and pony horse rides (See Figure 10).

The Applicant proposes to lay a synthetic turf product over the existing roadway in an effort to transform the space from a roadway into a linear park-like connection. Correspondents raised concerns related to the safety of the material, potential pollutants related to synthetic turf, and drainage of those pollutants into the stormwater system feeding into Sligo Creek.

### **Regulatory Context**

In exploring the specific concerns identified by the commenters, Staff endeavored to identify the regulatory context for the use of synthetic turf products in private commercial development. Staff was not able to find any existing regulations within the Montgomery County Code, including Chapter 59 (Zoning Ordinance) and Chapter 19 (Erosion, Sediment, and Stormwater Management) or regulatory guidelines that guide, prohibit or restrict the utilization of synthetic turf products.

Recently, the Montgomery County Department of Environmental Protection (DEP) conducted a study to determine if the use of artificial turf products on activity fields created a violation of Chapter 19 (See Attachment B). This investigation was limited to visual observations and no chemical analyses were performed. The report noted that chemical analyses would require funding as well as the development of a monitoring protocol that requires technical expertise beyond the Department's current capabilities. This investigation concluded that DEP does not believe artificial turf fields creates a violation of County Code, so long as best management practices are applied. Those practices include regular maintenance of stormwater structures and locating stock materials away from these structures. These investigations were conducted at the existing synthetic turf fields managed by Montgomery County.

It should be further noted that synthetic turf is considered an impervious surface and therefore, if the project is subject to stormwater management requirements (based on disturbance area), the turf would be reviewed as an impervious surface similar to hardscape and require compliance with County and State regulations for management. There are currently no parameters or protocols within the State of Maryland Department of Environment (MDE) for measuring any potential leaching of pollutants related to synthetic turf; therefore the review is limited.

As discussed in greater detail below, without a regulatory standard or guidance to apply to the use of synthetic turf in this context, Planning and Reviewing Agency Staff must resort to standards deemed comparable and product maintenance recommendations from manufacturers.

### **Safety/Flammability**

Both the Department of Permitting Services and commenters raised concerns about safety related to elevated temperatures and flammability. In response, the Applicant provided Staff a heat map of Ellsworth Drive (based on readings taken July 15, 2019) that shows the portion of the roadway where the synthetic turf is proposed maintains a high degree of shade and is not expected to create unsafe heat conditions. The Applicant also provided supplemental information on the synthetic turf product

which details the testing that was conducted by the manufacturer, which passes the “Class A” requirements of ASTM E108-17 flammability test applied to roofing materials, meaning the material is effective against severe test exposure, affords a high degree of fire protection, and does not present a flying hazard in terms of spread of flame.

#### **Potential Pollutants and Impacts on drainage system**

Commenters also raised concerns about potential pollutant release from the product as well as impacts on the stormwater management system. The Applicant states that they selected the specific synthetic turf product based on a significant amount of research and that the product meets applicable EPA, Consumer Product Safety Commission, and California Prop 65 requirements which requires businesses to provide warnings for exposure to chemicals that cause cancer, birth defects or other reproductive harm. The selected product does not use rubber infill, but consists of durable woven polyethylene with anti-microbial, anti-static, and heat-block technology.

One concern stated that the existing stormwater structures were not created to withstand the pollutants related to the synthetic turf which would result in degradation of the system, and pollutants being carried into Sligo Creek. The stormwater structures include two large stormfilter structures and a diversion structure. These storm filters were last cleaned in 2018 and the diversion structure in 2017, and all structures are scheduled for inspection, cleaning, and repair of any deficiencies later this year. DEP is not aware of any degradation artificial turf may have on these systems but recommends regular maintenance of the turf to avoid material dislodging. The original Stormwater Management design was approved with the original Site Plan in 1999. The structures were then constructed according to the design and those as built plans were provided to the Department of Permitting Services (MCDPS) – Water Resources Section in 2004, and are currently inspected and maintained by the Department of Environmental Protection (DEP).

The proposed amendment was not subject to stormwater compliance review as the Amendment consists of less than 5,000 square feet of land disturbance, per Article II, 10-31(c), which was confirmed by MCDPS– Water Resources Section on October 30, 2019. Any future development that would exceed that threshold would be reviewed to determine if further stormwater compliance is required.

The Project has received approval from DOT, DPS Right-of-Way Permitting, and DPS Fire Access and Water Supply, which reviewed the supplemental material provided by the Applicant in response to many of these concerns (See Attachment C). The Fire Access Approval requires the Applicant to provide a long-term maintenance agreement which details how the Applicant will maintain the material during inclement weather, the Applicant also agrees to follow the synthetic turf manufacturers maintenance guidelines for routine cleaning.

## SECTION 5: FINDINGS

### **Project Plan Amendment 91998005C**

Pursuant to the grandfathering provision of Section 59.7.7.1.B.3 of the Zoning Ordinance, this Amendment was reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014, since the original Project Plan was approved prior to October 29, 2014, this Amendment was reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014. The proposed Amendment does not alter the intent of the previous findings except as modified below.

- (a) As conditioned, the proposed development complies with all of the intents and requirements of the CBD zones.*

The Project Plan complies with all intents, requirements, and standards in the respective zones comprised within the Property. This Amendment proposes to increase the amount of public use space from the previously approved 268,758 square feet to 279,000 square feet. This is an increase of 10,242 square feet, which is a result of enhancing public use plaza to Ellsworth Drive right-of-way.

- (b) As conditioned, the proposed development conforms to the applicable Sector Plan.*

The Subject Property and Amendment are subject to the 2000 *Silver Spring CBD Sector Plan* (Sector Plan). As proposed, the Amendment is in conformance with the Sector Plan, which specifically envisioned this area to develop as key revitalization of Downtown Silver Spring. The Sector Plan defines this area as the Core, which will be rejuvenated as Silver Spring's varied and active town center, with housing, office, and retail development in a pedestrian-friendly environment, enhanced with parks and open spaces. The originally approved project was in keeping with the Sector Plan and was key to the revitalization of Downtown Silver Spring, and the Amendment proposes to further increase the public use space area to allow for a more friendly pedestrian environment in a linear park-like connection. As conditioned, the proposed Amendment conforms to the Sector Plan.

The Amendment is also subject to the recently adopted 2018 *Bicycle Master Plan* (Bicycle Master Plan) which identifies Ellsworth Drive as a shared street. While the Amendment would restrict vehicles from Ellsworth Drive, the Amendment remains in keeping with the shared street concept as it will encourage the coexistence of bicycles and pedestrians. The Bicycle Master Plan states that each shared street will be based on the roadway, land use contexts, and the specific recommendations contained within the area Sector Plan. As previously stated, the Sector Plan envisioned an active town center in a pedestrian-friendly environment and as proposed, Ellsworth Drive will further activate the pedestrian realm. While the turf material in the roadway is not typical in a shared street environment, the Applicant proposes to install markers within the existing sidewalk, delineating a minimum clear width of 12-feet for bicyclists, on the southern portion of Ellsworth Drive to ensure bicyclists are intended users of the sidewalk and have proper circulation within the area. As conditioned, the Subject Amendment is consistent with the shared street recommended in the 2018 Bicycle Master Plan.

- (h) Any applicable requirements for forest conservation under Chapter 22A are met.*



As discussed in Site Plan finding 5, all applicable forest conservation requirements have been met.

- (i) *Any applicable requirements for water resource protection under Chapter 19.*

As discussed in Site Plan finding 5, all applicable water resource protections have been met.

#### **Site Plan Amendment 81999002M**

Pursuant to the grandfathering provision of Section 59.7.7.1.B.3 of the Zoning Ordinance, this Amendment was reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014, since the original Site Plan was approved prior to October 29, 2014, this Amendment was reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014. The proposed Amendment does not alter the intent of the previous findings except as modified below.

- 1. The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The Site Plan Amendment is in conformance with Project Plan 919980050, as amended.

- 2. The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Amendment is in keeping with the previous approvals for Downtown Silver Spring in regards to conformance with the CBD-0.5, CBD-1, CBD-2, and CBD R-2 zones. The Amendment will not alter any of the existing building heights, setbacks, or density. The Amendment proposes to increase public use space and reduce parking in Surface Lot Block C from 33 to 22 spaces, which has been reflected in the Project Data Table below.

*Project Data Table*

<b>Development Standard</b>	<b>Permitted/Required</b>	<b>Approved per 81999002L</b>	<b>Proposed for Approval</b>
<b>Lot Area (min. sf)</b>	20,000	980,100	980,100
<b>Net Lot Area (sf)</b>		932,659	932,659
<b>Gross Floor Area (sf)</b>			
Office		228,931	228,931
Retail-mixed use		507,340	507,340
Hotel		151,130	151,130
Civic Building		40,000	40,000
Residential		226,234	226,234
<b>Total (sf / FAR)</b>		<b>1,165,635 / 1.2</b>	<b>1,165,635 / 1.2</b>

<b>Amenities &amp; Facilities</b>			
Public Use Space	186,532	268,758	279,000
On-site seating		10,000	10,000
Off-site Improvements	80,586	92,278	92,278
<b>Total</b>	<b>267,118</b>	<b>376,036</b>	<b>386,278</b>
<b>Parking Spaces</b>			
Parking Garage Block B		1,812	1,812
Parking Garage Block D		1,341	1,341
Structure under Office Block B		257	257
Structure Under Residential Block E		146	146
Surface Lot Block C		33	22
Surface Lot Block A		281	281
<b>Total</b>	<b>3,775</b>	<b>3,870</b>	<b>3,859</b>
<b>Bike Parking</b>			
		<b>15</b>	<b>22</b>

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

The proposed Amendment will not alter any of the existing buildings or structures. The Amendment will increase the amount of public use space available to the public by expanding the limits of the space into existing Ellsworth Drive right-of-way, which is comprised of both public and private right-of-way. As conditioned, the Project must receive County Council approval for the abandonment of public right-of-way within Ellsworth Drive. Closure of Ellsworth Drive to thru traffic will not significantly impact the surrounding vehicular circulation system, as currently Ellsworth Drive is often informally closed to thru traffic. Ellsworth Drive will maintain accessibility to emergency services vehicles at all times and has received approval from the Department of Permitting Services Fire Department Access and Water Supply.

The Amendment will enhance pedestrian circulation by providing an extended area for outdoor active and passive enjoyment. The Applicant proposes to provide additional seating and activation elements such as ping pong tables, bistro café seating, a new water feature, and other elements to increase enjoyment of the space. The Applicant also proposes to increase landscaping by providing two new tree pits within the plaza and expanding tree pits along Ellsworth Drive to allow for additional shrubbery and vegetation. The Applicant proposes to extend the existing curb (rolled curb design) and sidewalk at the intersection of Fenton Street and Ellsworth Drive to provide an enhanced sidewalk area for pedestrians and indicate to vehicles that the street is not accessible. The rolled curb design will allow emergency access vehicles, as approved by MCDPS Fire Access and Water Supply Division.

There is existing street parking on the north and south side of Ellsworth Drive at the Georgia Avenue intersection, the Amendment proposes to remove the street parking on the northern side of Ellsworth Drive to expand the sidewalk area and provide street trees. This portion of Ellsworth Drive will remain open to vehicles, and a rolled curb will be installed after the private

alley to restrict vehicles on Ellsworth Drive yet allow those vehicles to circulate through the private alley to the Wayne Avenue parking garage entrance, or continue to Wayne Avenue. As conditioned, the Amendment maintains adequate, safe, and efficient pedestrian and vehicular systems.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The original Site Plan approval (819990020) included a Forest Conservation Plan, which required 3.08 acres of afforestation and was originally met through providing 3.25 acres of planting landscape trees and receiving credit for saving existing trees. This Project does not change the existing limits of disturbance (LOD), however the Applicant proposes to amend the Forest Conservation Plan to remove four landscape trees, and plant an additional nine landscape trees. This results in an additional 0.08 acres of landscape trees, bringing the total afforestation to 3.33 acres, exceeding the original 3.08 acre requirement.

The Amendment will redesign and reconfigure an existing hardscape public use space and right-of-way. As such, the Project The Project was not subject to stormwater compliance review as the Amendment consists of less than 5,000 square feet of land disturbance, per Article II, 10-31(c), which was confirmed by the Montgomery County Department of Permitting Services – Water Resources Section on October 30, 2019.

## **CONCLUSION**

The proposed modifications to the Project Plan and Site Plan will not alter the overall character or impact of the development with respect to the original findings of approvals. Further, these modifications will not affect the compatibility of the development with respect to the surrounding neighborhood. Staff recommends approval of Project Plan Amendment 91998005C and Site Plan Amendment 81999002M with conditions specified at the beginning of the staff report.

## **ATTACHMENTS**

- A. Art Review Panel meeting minutes
- B. DEP Synthetic Turf observations
- C. Supplemental information on Synthetic Turf
- D. Agency Letters
- E. Correspondence
- F. Index of Previous Approvals and Amendments