



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

**Staff Report: Project Plan 920100040
Preliminary Plan 120100260, Fillmore Music Hall & LDG
Office/Hotel**

ITEM #s: 12a & 12b

MCPB HEARING

DATE: June 10, 2010

REPORT DATE: May 28, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Robert Kronenberg, Supervisor *RAK*
Cathy Conlon, Supervisor *CAC*
Development Review Division

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**APPLICATION
DESCRIPTION:**

Three lots for 219,700 square feet of office use, 135,300 square feet of hotel use (189 rooms), 5,500 square feet of retail use, and a 22,882 square-foot performance hall, on 2.07 gross acres in the CBD-2 zone; located within the Silver Spring Central Business District Sector Plan.

APPLICANT: Lee Development Group

FILING DATE: March 10, 2010

RECOMMENDATION: Approval with conditions.

**EXECUTIVE
SUMMARY:**

The proposed development requests approval to create 3 lots for a 3-story music hall housed within the historic J.C. Penney facade on Colesville Road; a 14-story hotel fronting on Fenton Street, and an 11-story retail/office building fronting on Georgia Avenue. These uses would comprise a total floor area ratio (FAR) of 4.0. The music hall and associated lot will be donated to Montgomery County to be leased by a third party. Structured parking would be provided and accessed via an alley with loading being served by an additional alley on Georgia Avenue at existing curb cuts and one drop-off/access point on Fenton Street. Only the streetscapes along the frontages of the property will be improved.

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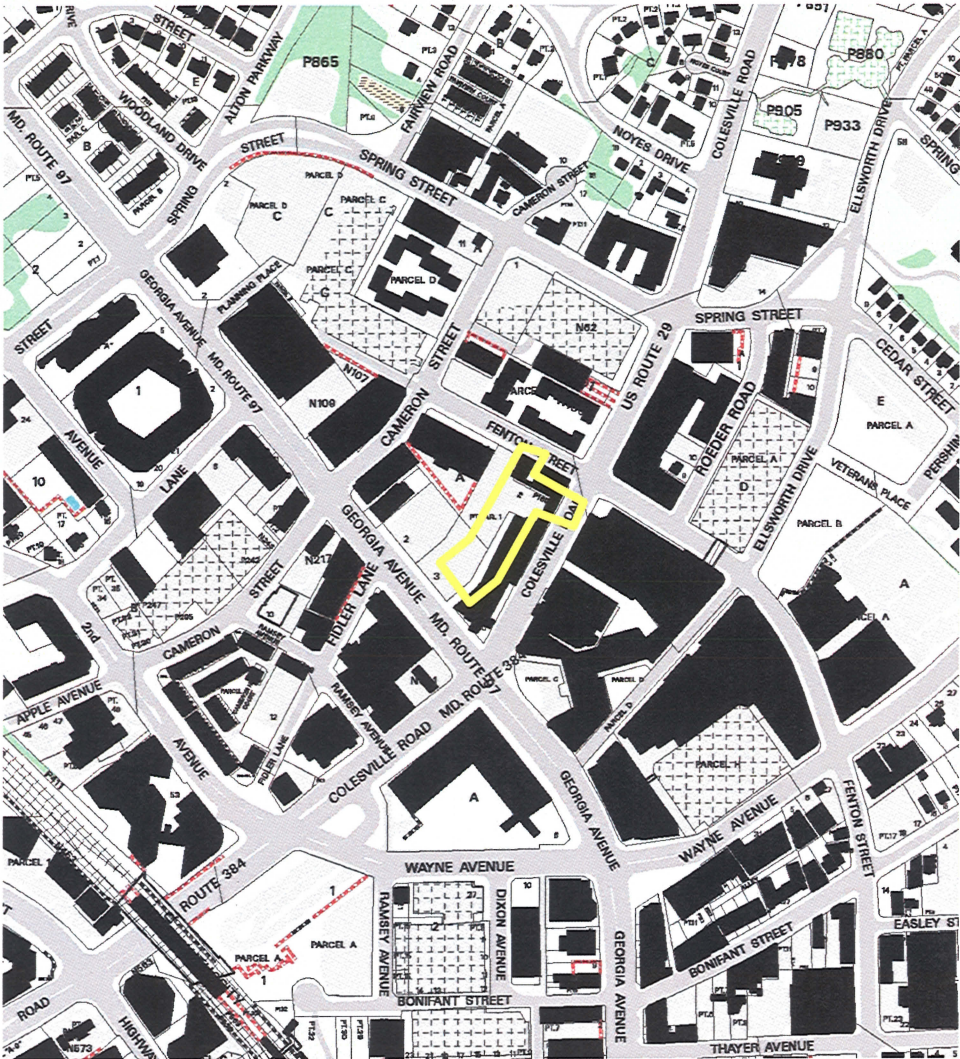
SITE DESCRIPTION

Site Vicinity

The subject property consists of one platted lot and one platted parcel that together comprise 90,143 square feet. The primary site address is located on the east side of Georgia Avenue (MD 97), 250 feet north of Colesville Road (US 29). The site has street frontage on Georgia Avenue, Colesville Road, and Fenton Street.

Surrounding uses include mostly retail and office uses with a historic housing complex, the Montgomery Arms, facing the proposed hotel site from across Fenton Street and the AFI Silver Theatre facing the proposed music hall from across Colesville Road. The Silver Spring Metro station is located approximately 1,600 feet to the southwest, and two bus stops on the block are served by numerous bus routes along Georgia Avenue and Colesville Road.

The zoning on the property is CBD-2 and the adjacent and confronting properties are zoned CBD R-1, CBD-2, and CBD-3.



Vicinity Map

Site Analysis

The site is currently improved with a portion of the vacant J.C. Penney building, which is an historic resource; the remainder of the property houses surface parking that serves the existing office and retail uses along Colesville Road. These surface parking uses and the vacant building are inefficient uses for a lot this close to transit facilities, retail facilities, and cultural resources.

The existing site lacks any on-site stormwater management, pervious area, or tree canopy. The site is relatively flat, sloping roughly 12 feet down from Fenton Street to Georgia Avenue (approx. 3%). Any redevelopment of this site will improve stormwater quality and should provide facilities that reduce permeable area and heat-island effects (e.g., green roofs).

The façade of the J.C. Penney building is a historic resource but, given the specifications of the application plans, will not require a historic area work permit (HAWP) for any improvements and modifications.



Aerial Photo

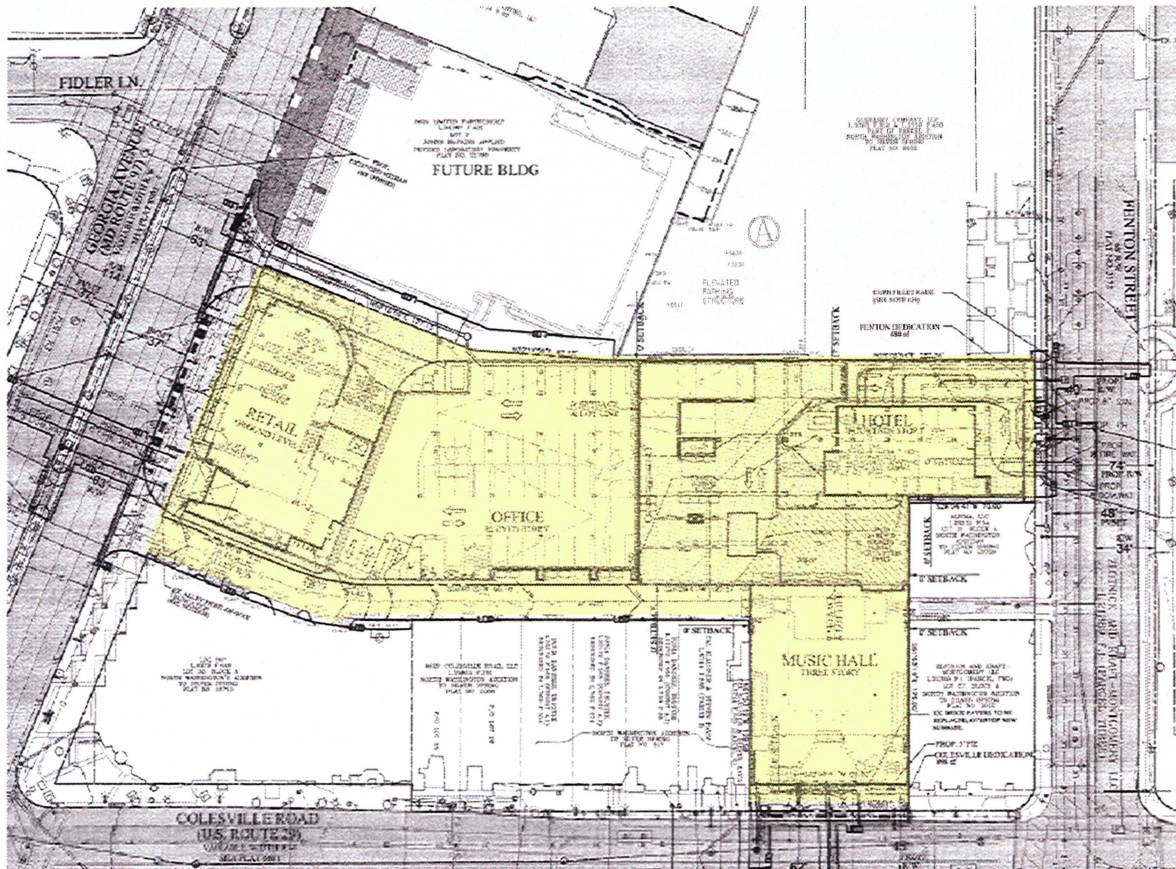
PROJECT DESCRIPTION

Proposal

The application proposes the creation of a 12-story office building and 14-story hotel building with parking above grade, and connected by a 3-story Music Hall in the original JC Penny Store. Parking and loading will be accessed via an alley that spans from Fenton Street to Georgia Avenue. A shared loading area is also proposed from Georgia Avenue with a future office/retail building to the north of the site. Public use space requirements will be satisfied through the donation of the Music Hall to the County and portions of the sidewalk on the three street frontages will be improved to meet the Silver Spring streetscape standards. Recreation facilities are not required since this is a commercial development.

Subdivision of Land

The Applicant proposes to subdivide the property into three lots measuring 35,221 square feet for proposed Lot A, 24,762 square feet for proposed Lot B, and 10,649 square feet for proposed Lot C. Proposed Lot A will be developed with an eleven-story building containing 219,700 square feet of office uses and 5,500 square feet of ground-floor retail uses; proposed Lot B will be developed with a 14-story, 135,300 square-foot hotel building containing 189 guest rooms; and proposed Lot C will be developed with a 22,882 square-foot performance hall, which will serve as the project's public use space. The existing façade of the former J.C. Penney store will be retained and incorporated into the performance hall building.



Preliminary Plan

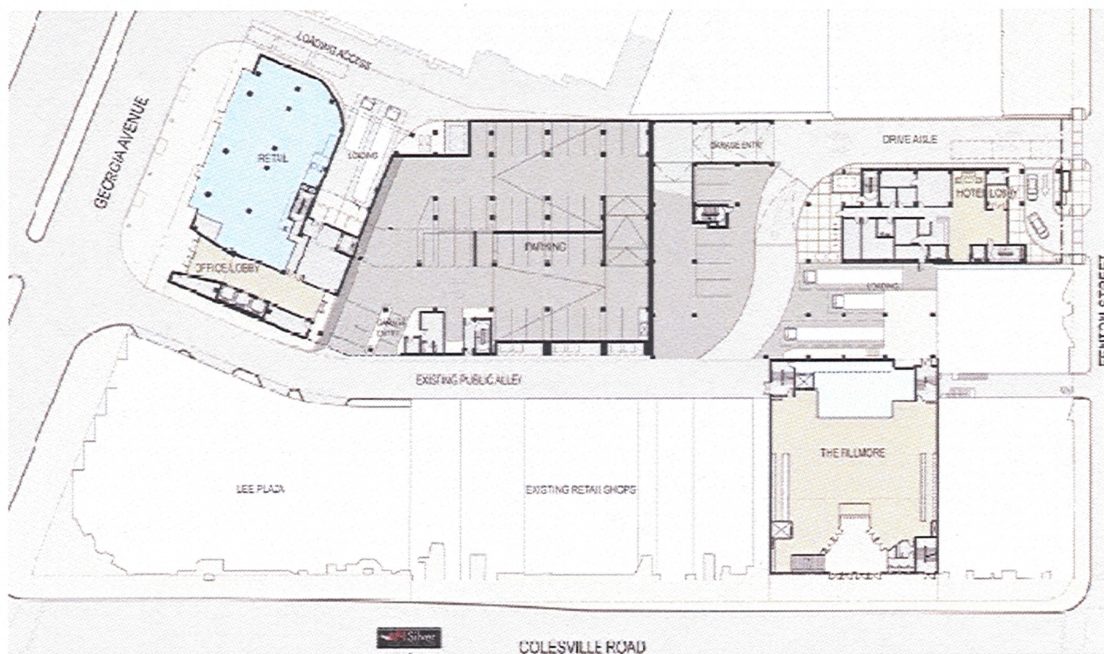
Summary of Lot and Use Square Footage

- Tract
 - Gross Tract Area = 90,143 sf
 - Previous Dedication = 18,133 sf
 - Current Dedication = 1,378 sf
 - Net Tract Area = 70,632
- Proposed Lots
 - Net Lot A = 35,221 sf., or 0.80857 acres (Office/Retail)
 - Net Lot B = 24,762 sf., or 0.56844 acres (Hotel)
 - Net Lot C = 10,649 sf., or 0.24448 acres (Music Hall)
- Uses
 - Gross Floor Area (GFA) Music Hall = 22,882 sf
 - GFA Retail = 5,500 sf
 - GFA Office = 219,700 sf
 - GFA Hotel = 135,300 sf

Land Use

The proposed development would provide a mix of office, retail, hotel, and entertainment uses within the core of downtown Silver Spring. The frontage along Georgia Avenue would be occupied by a retail bay and office lobby between the two existing curb-cuts, which will be retained for alley access. Above the first floor, the building would house structured parking and office space.

The rather narrow frontage along Fenton Street would serve as a drop-off area for the proposed hotel. With a small porte-cochere and garage access, significant portions of this frontage will be shared by both vehicles and pedestrians. An important aspect of this area will be provision of proper signage and other safety measures.

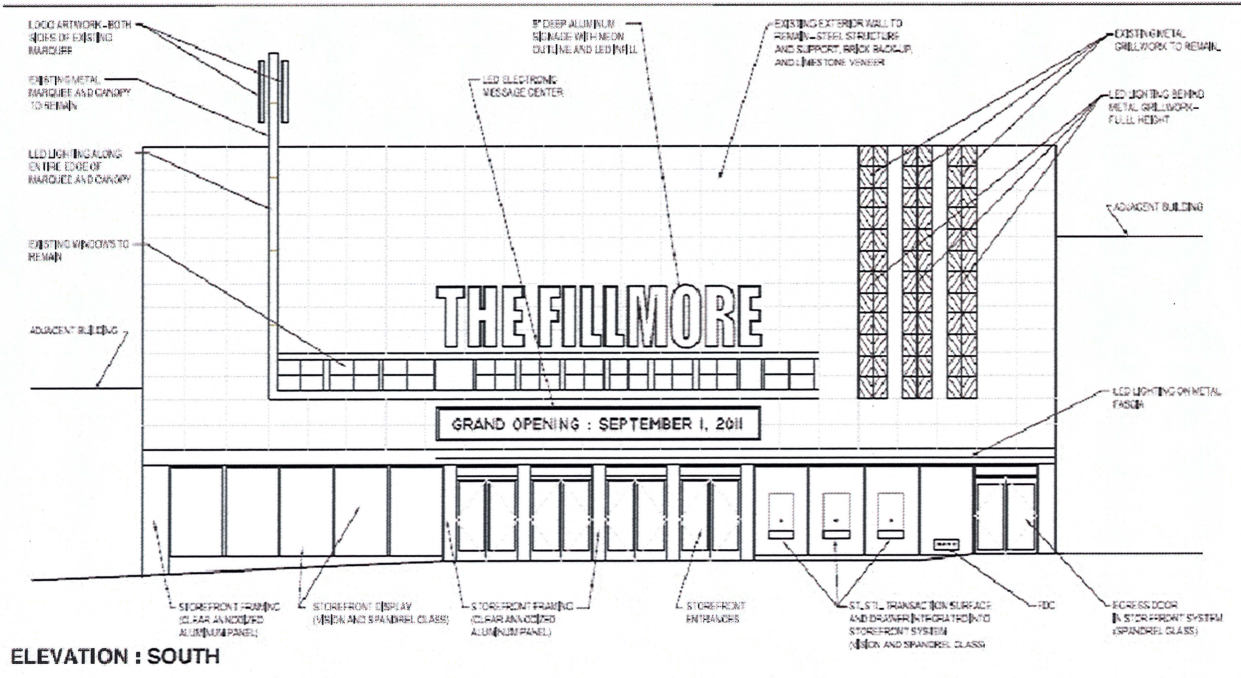


Project Plan

The music hall would occupy the entire property frontage along Colesville Road and has been designed to enhance the historic J.C. Penney building's façade. This façade will replace much of the glass as was used in the previous design and will preserve many of the existing features such as the signage fin and grill work.



The J.C. Penney Building in 1948

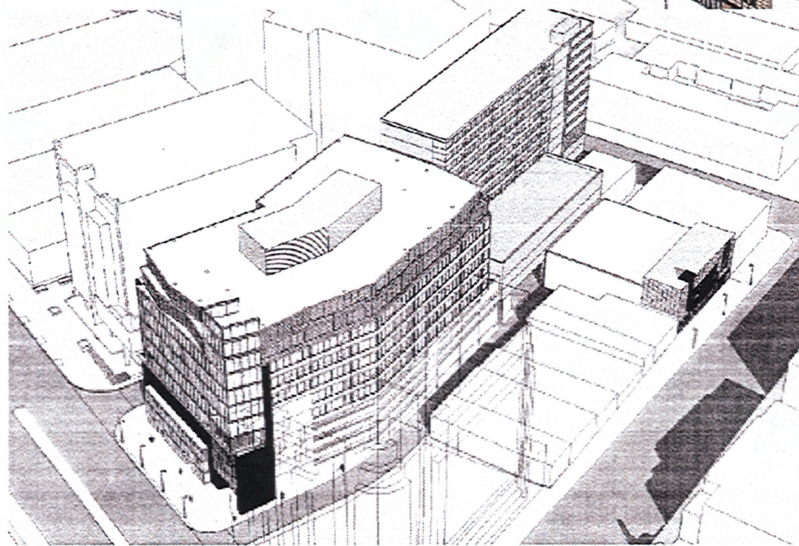
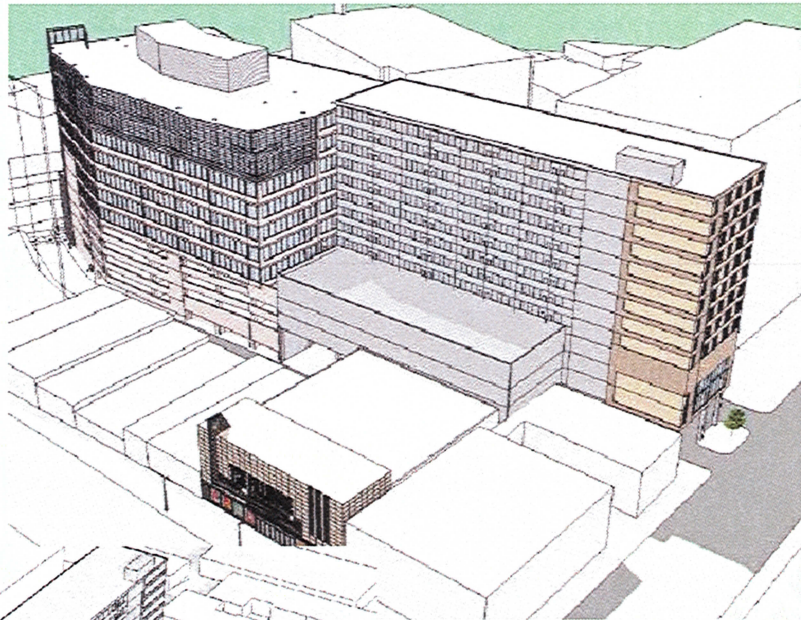


Proposed Music Hall Elevation

Building Design

The footprints of all the proposed buildings will be built at or near the property boundary and will have direct pedestrian access, fenestration, and detailing to enhance the pedestrian environment. Curb cuts to provide access to loading areas and the parking garages are minimized; there are no curb cuts proposed on Colesville Road.

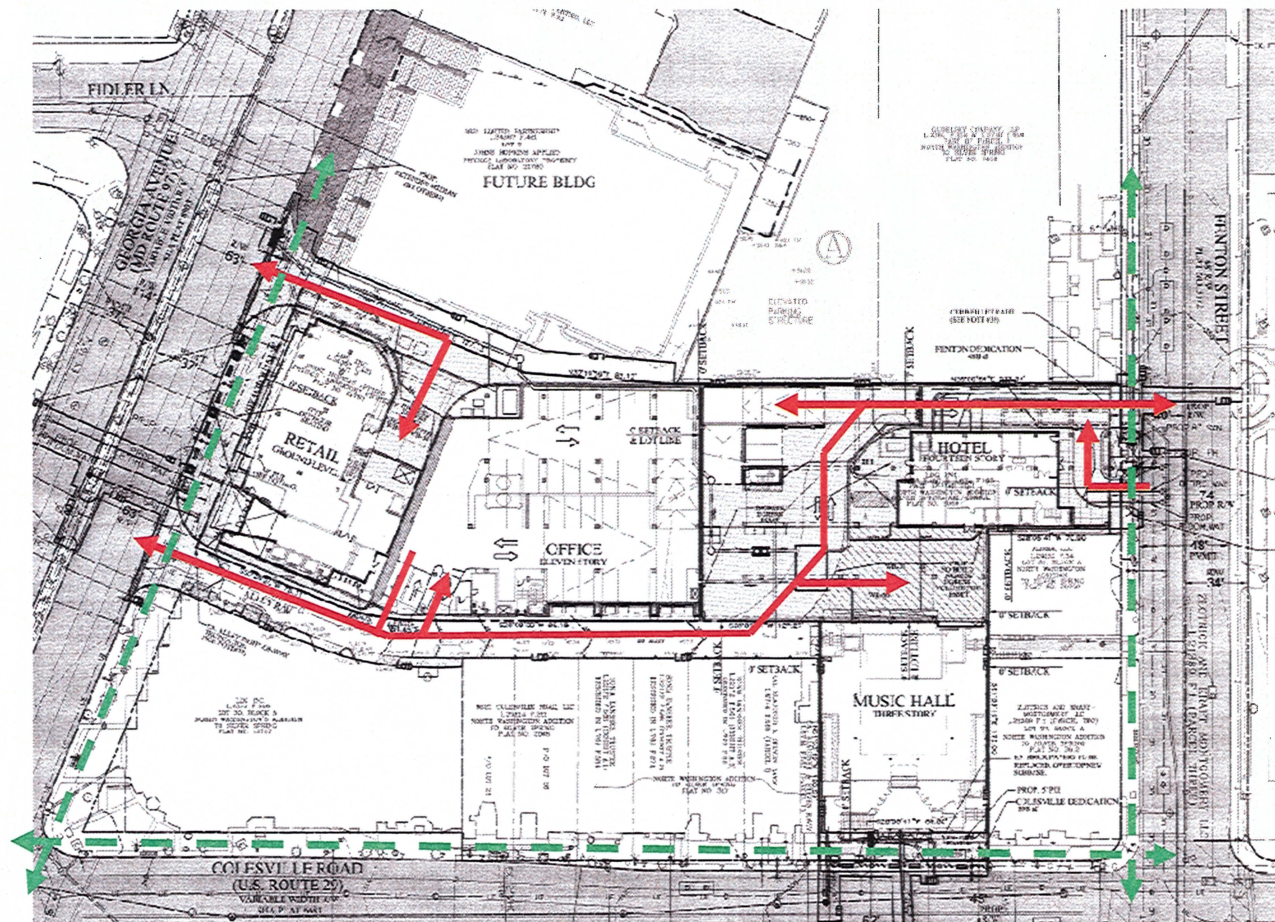
The building massing is typical of the surrounding buildings, largely square without tower setbacks or significant differentiation of materials. The brick façade of the hotel facing the Montgomery Arms apartments has detailing that reflects fenestration comparable to that era. The office building has more glass along the frontage of Georgia Avenue and a tower feature over the office lobby entrance.



Illustrative Renderings

Vehicular and Pedestrian Circulation

Vehicular access to the site will be provided via an alley from Fenton Street that will wind its way to Georgia Avenue under the hotel garage and along the office building. This alley will be wide enough and have the necessary vertical space to accommodate dump trucks, entertainer's buses and large trucks, and fire and rescue equipment. Pedestrian access will be provided via existing sidewalks on Colesville Road, Georgia Avenue, and Fenton Street.



Circulation Plan

Public Amenities

Public amenities are required under section 59-C-6.2356 of the zoning ordinance, “Special Standards for Optional Method of Development Projects that Include an Arts or Entertainment Use”:

- (a) In the CBD-1, CBD-2, and CBD-3 zones, the land or building space for an arts or entertainment use satisfies the entire public use space requirements under Sections 59-C-6.233 [minimum 20% public use space requirement] and 59-C-6.234 [maximum density of development¹] and the entire public facility and amenity requirement for the Optional Method of Development required under Section 59-C-6.215(b) [optional method of development approval procedure²] if when the applicant files the original application for an optional method project:
 - (1) The arts or entertainment use is located in an area designated as an Arts and Entertainment District under State law;
 - (2) The proposed total interior area for all floors of the arts or entertainment building space conveyed or dedicated is at least 20 percent of the net lot area;

¹ In this case, 4.0 FAR.

² Which reads, in part: “Under the optional method, greater densities may be permitted and there are fewer specific standards, but the developer must provide certain public facilities and amenities. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted.

- (3) The applicant agrees to the conveyance of land or floor area for arts or entertainment use and has a signed conveyance agreement with the County; and
- (4) The County Council by resolution has recommended that the Executive accept a conveyance or dedication of land or a building space to accommodate an arts or entertainment use. The Council in the resolution must find that the arts and entertainment use will:
 - (A) Have a positive economic revitalization or economic impact in the Arts and Entertainment District;
 - (B) Provide an opportunity for public use; and
 - (C) Create unique cultural opportunities for the public in the Arts and Entertainment District.
- (b) After land or building space for an arts or entertainment use is transferred to the County:
 - (1) The entire public use space and amenity space requirement is satisfied for any amendment to the original project plan; and
 - (2) The Executive may transfer or lease the land or building space without any effect on the approval of the project plan or site plan.
- (c) Standard streetscaping improvements along the frontage of the phase of the project that is intended to accommodate an arts or entertainment use must be required during the phase of the project that contains the arts or entertainment use. Standard streetscaping improvements, beyond the improvements required for the frontage of the phase of the project associated with the arts or entertainment use, must be required with the phase of the project associated with the standard streetscaping improvements being required.

The proposed development will convey the land comprising the newly created Lot C and the constructed music hall to the County to meet the public amenity requirement of the CBD-2 zone under the above-quoted section. The entire proposed interior area exceeds the 20% minimum requirement and meets all other requirements of this section. County Council resolution 16-743 recommends that the County Executive accept the subject arts and entertainment use and makes the required findings indicated above.

Streetscape improvements will be made along each of the frontages along with each development phase, but some modifications – such as different tree locations, additional bike racks, and alternative bench placement – from the standard improvements are being discussed and will be finalized with the site plan.

PROJECT ANALYSIS

Sector Plan

The subject property is located within the core area of the Silver Spring Central Business District (CBD), as defined by the Silver Spring CBD Sector Plan. The Sector Plan intends for the core section of the CBD to be revitalized into a commercial, civic, and entertainment center for the Silver Spring area. The core is envisioned as an active center with a variety of public and private uses. The proposed land use map on page 30 of the sector plan and the urban design section on page 83 provide land use guidance specific to the subject property. The Sector Plan's land use map shows that the site is recommended for mixed use development. In the urban design section, the Sector Plan provides detailed recommendations for the subject property, which is known as the Lee block:

Develop the Lee Block with a mix of uses.... Buildings here should incorporate street-activating uses, be designed with sensitivity to the historic Montgomery Arms Apartments along Fenton Street, and incorporate the J.C.

Penney façade into new development. The remainder of the block should be included in the Silver Spring Historic District evaluation, and be configured to create through-block pedestrian paths.

As reasoned below, the project substantially conforms to the objectives of the Sector Plan. It sufficiently meets both the specific recommendations for the Lee block and the general recommendations for the core area. The mix of retail and office uses and the music venue will help attract people to the core and make the area an entertainment destination.

In 2008, the County Council passed Zoning Text Amendment 08-15 and Subdivision Regulation Amendment 08-03 which directly affect this application. SRA 08-03 created specific provisions for the validity periods of the preliminary plan and the adequate public facilities review which are reflected in the recommended conditions of approval. ZTA 08-15 permits the applicant to fulfill the public use space and public amenities requirements by giving the proposed arts and entertainment space – the theater – to the County. The ZTA also created a provision that eliminates the requirement that the applicant provide the Sector Plan’s recommended pedestrian path. This is explained in Section 59-D-2.42 of the Zoning Ordinance which states that an optional method of development project need not conform to the applicable sector plan’s or urban renewal plan’s recommendation to provide a mid-block pedestrian path on private property if the applicable plan does not recommend the continuation of the mid-block pedestrian path on confronting private property.

As a high-density, mixed-use development, this project will bring more people to the core of the Silver Spring CBD. The project’s proximity to transit and its streetscape improvements will further improve the area’s pedestrian accessibility. By attracting more people to the area, the project should benefit the surrounding businesses and attract further development to the area. The Sector Plan envisions the core as a commercial, civic, and entertainment center for Silver Spring and this project should further help make this vision a reality.

Public Facilities

Roads and Transportation Facilities

The subject property has frontage on three streets – Georgia Avenue (MD 97), Colesville Road (US 29), and Fenton Street. Each proposed building’s primary entrance will front onto and have pedestrian lobby access to one of these three streets – the hotel will front on Fenton Street, the Fillmore will front on Colesville Road, and the office building will front on Georgia Avenue. There will be no vehicular access to the Fillmore from Colesville Road; the entire frontage will be pedestrian sidewalk.

The 2000 Approved and Adopted *Silver Spring CBD Sector Plan* describes these master-planned roadways as follows:

1. Georgia Avenue (MD 97), along the western property boundary, as a six-lane major highway (M-8) with a minimum right-of-way width of 126 feet between Spring Street to the north and Colesville Road to the south.

2. Colesville Road (US 29), along the southern property boundary, as a six-lane major highway (M-10) with a minimum right-of-way width of 100 feet.
3. Fenton Street, along the eastern property boundary, as an arterial (A-264) with a minimum right-of-way width of 80 feet.

Vehicular access to the site will be provided by both private driveways and an existing public alley. A two-way, full-movement private driveway from Fenton Street will provide access to the internal, three-story, above-grade hotel parking structure, and to shared loading spaces for the hotel and the Fillmore. Adjacent to this driveway will be a one-way, clockwise driveway that will connect to the main hotel driveway to facilitate drop-offs/pick-ups in front of the hotel. The existing public alley will provide a right-in/right-out, shared entrance/exit to Georgia Avenue for the proposed office building's eight-level internal parking structure, and the structured parking entrance/exit to the existing Lee Plaza. The public alley will also serve as egress to Georgia Avenue for the shared hotel/music hall loading spaces. Vehicular access to loading spaces for the proposed office building will be provided via a right-in/right-out, private driveway from Georgia Avenue that will be shared with the adjacent property to the north. Staff has determined that these facilities will provide safe and adequate vehicular access to the proposed and existing developments. The public alley and private driveways all will have sufficient width and turning radius to permit circulation of cars, loading trucks and fire/rescue vehicles, as necessary.

Pedestrian access to the proposed buildings will be provided via existing sidewalks on Georgia Avenue, Colesville Road, and Fenton Street which will be improved with each phase to meet Silver Spring Streetscape standards. These sidewalks, with some modifications from the standard treatemtn, will provide safe and adequate access to the proposed office and hotel uses, but Staff had concerns about pedestrians attending performances at the Fillmore Music Hall.

Performances at the entertainment venue are scheduled to begin at 8:00 p.m. with doors opening between 6:00 p.m. and 7:00 p.m. The entertainment venue is proposed to accommodate a maximum of 2,000 patrons for a standing-room only event and will include a separate seating area for 40 patrons at a below-grade area. The number of attendees at the venue will vary depending on the event type. Additionally, depending on the type of show and the opening act, 10% to 60% of the patrons may arrive after the 8:00 p.m. start time.

Approximately 65% of the Fillmore patrons are anticipated to arrive at the venue by auto (i.e., drivers and passengers) and the remaining 35% are anticipated to use public transit and other non-auto modes to arrive at the venue. Since public parking is not provided for the Fillmore Music Hall on the site, patrons who drive to Silver Spring for an event are anticipated to park at several of the existing public parking garages located within walking distance of the site, and walk to the site. All of the Fillmore patrons will therefore be walking to the venue from some place in the vicinity of the site, such as area restaurants, office buildings, residences, Metrobus and Metrorail stations, and parking garages.

Many arrivals to the Fillmore are anticipated to occur over a period of two hours prior to the start of a performance. Approximately 90% of the patrons purchase tickets online and arrive ready to enter the venue.

In response to Staff concerns regarding the management of pedestrian traffic to and from the Fillmore before and after an event, the Applicant is proposing a pedestrian management approach that includes both design and operational elements. As noted above, since only minimal on-site box office ticket sales will occur at the venue, it is not anticipated that patrons waiting to purchase tickets will block pedestrians entering the venue. Prior to performances, pedestrian control barriers (such as movable bike racks or stanchions) will be erected between the curb and the center of the sidewalk to allow for queuing space along the front building façade. This will allow for continued access to adjacent businesses and a clear pedestrian path along Colesville Road, to the front of the Fillmore. The event operator will have security personnel stationed at entrances and exits to ensure that all patrons are properly ticketed and to assist them during an emergency evacuation. Upon completion of an event, security personnel will open the doors and will move out to the Colesville Road sidewalk opposite the front doors to direct patrons along the street and away from the roadway, toward area transit stations, parking garages, restaurants/other businesses, and residences. Typically, 20% of the patrons will leave prior to the end of an event and 10% of the patrons will stay on-site after an event. Permanent design features that are proposed along Colesville Road to manage pedestrian traffic into and out of the Fillmore include street furniture such as benches, bike racks, street light stanchions, and trash receptacles along Colesville Road street frontage.

Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed improvements.

Adequate Public Facilities Review

Because the development proposed on the site generates 30 or more total peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods, a traffic study is required. A study dated April 1, 2010, was submitted for the preliminary plan for adequate public facilities (APF) review purposes.

The site trip generation estimate for the proposed office, hotel, and retail complex in the traffic study was based on the Silver Spring CBD trip generation rates included in the *Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) Guidelines*. For the proposed Fillmore Music Hall, the traffic study developed special trip generation estimates that considered the capacity of the facility, typical attendee arrival patterns, estimated non-auto mode share for the Silver Spring CBD, and observed vehicle occupancy rates for typical entertainment venues. Based on the study, the proposed development was estimated to generate 347 weekday peak-hour trips during the morning peak period and 532 weekday peak-hour trips during the evening peak period.

For comparison purposes, the study also determined that if non-Silver Spring CBD trip generation rates/assumptions were applied to the proposed development, the development would generate 491 weekday peak-hour trips during the morning peak period and 732

weekday peak-hour trips during the evening peak period. The development, therefore, generates fewer trips during the morning (by 144 peak-hour trips) and evening (by 200 peak-hour trips) peak periods as a result of being located within the Silver Spring CBD.

The CBD and non-CBD trip generation estimates for the proposed development are summarized in Table 1.

*Table 1: Summary of Site Trip Generation
Fillmore Music Hall and LDG Office/Hotel/Retail Complex*

Trip Generation	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
<i>Based on Silver Spring CBD Rates</i>						
219,700 SF Office	260	46	306	46	260	306
189 Room Hotel	23	115	38	21	17	38
5,500 SF Retail	2	1	3	6	5	11
Fillmore Music Hall	0	0	0	177	0	177
Total Trips	285	62	347	250	282	532
<i>Based on non- Silver Spring CBD Rates</i>						
219,700 SF Office	316	47	363	57	278	335
189 Room Hotel	68	50	118	56	58	114
5,500 SF Retail	5	5	10	20	18	38
Fillmore Music Hall	0	0	0	245	0	245
Total Trips	389	102	491	378	354	732

Source: The Fillmore Traffic Impact Study. Kimley-Horn Associates, Inc. April 1, 2010.

Local Area Transportation Review

Thirteen key intersections were analyzed as part of the LATR. Table 2 provides a summary of the resulting capacity/Critical Lane Volume (CLV) for the study intersections during weekday morning and afternoon peak-hours.

*Table 2: Summary of Capacity Calculations (CLV)
Fillmore Music Hall and LDG Office/Hotel/Retail Complex*

Intersection	Traffic Conditions					
	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
Georgia Ave/Spring St	1,333	1,065	1,494	1,422	1,522	1,557
Georgia Ave/Cameron St	901	840	1,147	1,106	1,240	1,219
Georgia Ave/Colesville Rd	1,207	1,044	1,274	1,151	1,277	1,157
Georgia Ave/Wayne Ave	984	1,137	1,103	1,361	1,108	1,370
Colesville Rd/Wayne Ave/Second Ave	727	730	783	798	786	803
Colesville Rd/Fenton St	963	923	1,059	1,082	1,131	1,178
Colesville Rd/Spring St	1,108	1,390	1,475	1,685	1,566	1,718
Cameron St/Second St	354	473	392	493	394	500
Cameron St/Fenton St	522	700	693	1,028	793	1,163
Cameron St/Spring St	483	801	591	997	616	1,051
Fenton St/Ellsworth Dr	303	423	466	620	469	630
Georgia Ave/Site Drwy	--	--	--	--	594	851
Fenton St/Site Drwy	--	--	--	--	340	293

Source: The Fillmore Traffic Impact Study. Kimley-Horn Associates, Inc. April 1, 2010.

Congestion Standard for Silver Spring CBD Policy Area: 1,800 CLV

As shown in Table 2, the analysis indicates that under total traffic conditions (i.e., existing plus background and proposed site development), CLVs at the study intersections will be below the applicable congestion standard for the Silver Spring CBD Policy Area (1,800 CLV). The preliminary plan, therefore, satisfies the LATR requirements of the APF test.

Policy Area Mobility Review

To satisfy the PAMR requirements of the APF test, the Silver Spring CBD Policy Area requires mitigation of ten percent (10%) of “new” peak-hour trips generated by a development. The site trip comparison summary provided in Table 1 demonstrates that the proposed development, as a result of being located within the Silver Spring CBD, will generate approximately 29 percent fewer peak-hour trips during the weekday morning peak period and 27 percent fewer peak-hour trips during the weekday evening peak period, as compared to being located in a non-CBD area. Since these percentages are more than the required PAMR trip mitigation percentages for the Silver Spring CBD Policy Area, the preliminary plan satisfies the PAMR requirements of the APF test.

Other Public Facilities and Services

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. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services, are operating

according to the Growth Policy resolution currently in effect and will be adequate to serve the property. Electrical, gas, and telecommunications services are also available to serve the Property.

Environment

The site contains no environmentally sensitive areas, natural resources or forest, however, the Montgomery County Forest Conservation law applies to the subject property. The site's forest conservation requirement of 0.33 acres of forest planting is proposed to be entirely met by either off-site mitigation or in-lieu payment.

Existing street trees along Georgia Avenue and Colesville Road inside the public right-of-way will be impacted by the proposed limits of disturbance (LOD). These street trees are subject to issuance of a Roadside Tree Permit by the Maryland Department of Natural Resources prior to their removal. Any replacement street trees that are planted along Georgia Avenue and Colesville Road may not be counted toward credit of the site's afforestation requirement.

The MCDPS Stormwater Management Section approved the stormwater management concept on March 17, 2010. The stormwater management concept consists of on-site water quality control using green roofs. Channel protection and recharge requirements were waived due to site restrictions.

The Applicant proposes to create large areas of green roof on each of the buildings, which will help mitigate stormwater impacts and heat island effects, leaving the site in a better condition than that created by the current parking lot. Although only required to meet minimal LEED (or equivalent) standards for new development, Staff recommends that the Applicant meet a minimum LEED Silver (or equivalent) standard for at least the hotel and office buildings. Staff will continue to work with the Applicant through the site plan review to minimize the environmental impacts, while maximizing the environmental benefits of renovating the site in a sustainable manner.

Citizen Correspondence and Issues

The Applicant conducted a pre-submission community meeting on February 23, 2010. At the meeting, concerns were raised about the amount of parking being proposed for the office building and traffic circulation in the alley. The Applicant addressed these concerns by stating that the amount of parking provided is consistent with the zoning ordinance and that circulation patterns were developed based on traffic studies and pedestrian flow plans. In addition to the pre-submission meeting, written notice of the plan submittal and the public hearing dates was given by the Applicant and Staff. As of the date of this report, numerous emails in support of the project have been received by the Planning Department.

Development Standards

The subject project plan is zoned CBD-2, which is governed by the development standards in Section 59-C-6.1 of the Montgomery County Zoning Ordinance. The minimum lot size of 18,000 square feet for optional method projects is met. There is no maximum building coverage for optional method projects, but there is a requirement that a minimum of 20% of

the net lot area be devoted to public use space, which this project plan also satisfies by providing the arts and entertainment music hall as described above. The maximum density for 100% commercial optional method projects in the CBD-2 zone is 4.0 FAR, which this development is proposing.

Table 3: Project Data Table for the CBD-2 Zone

Development Standard	Permitted/ Required	Proposed for Approval
Maximum Building Height (feet)	143	143 ³
Minimum Setbacks (feet)		
Property Line	n/a	0
Minimum Site Area (square feet)		
Gross Tract Area	18,000	90,143
Net Site Area after dedications	n/a	70,632
Maximum Density		
Floor Area Ratio (FAR)	4.0	4.0 ⁴
Minimum Public Use Space (% of net lot)		
On-Site Public Use Space	20	N/A ⁵
Off-Site Amenity Space	n/a	11
Total Public Use & Amenity Space	20	N/A

As the data table shows, all of the requirements of the zone are met by the subject project plan. Because this project is within a Parking Lot District, parking spaces are not required to be provided but parking calculations have been provided based on the proposed mix.

Table 4: Parking Calculations

Minimum Total Parking Spaces	589	574
Handicapped Spaces	13	13
Motorcycle Spaces	12	12
Bicycle Spaces	29	63

³ Individual building height measuring points to be indicated for each building on the site plan; there is no proposed increase in height for the music hall.

⁴ Does not include 22,048 square feet of gross floor area (excluding cellar space) within the Music Hall under 59-C-6.234(b)(ii) footnote 23.

⁵ On-site public use space met by provision of 10,649 square feet of land for an arts and entertainment use with total interior floor area of 34,252 square feet (including cellar space) under 59-C-6.2356 and 1,816 square feet of on-site sidewalk improvements.

FINDINGS

Project Plan

According to Section 59-D-2.43 of the Montgomery County Zoning Ordinance, in reaching its determination on a project plan the Planning Board must consider the following:

- (a) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures, and its consistency with an urban renewal plan approved under chapter 56.
- (b) Whether the open spaces, including developed open space, would serve as convenient areas for recreation, relaxation and social activities for the residents and patrons of the development and are planned, designed and situated to function as necessary physical and aesthetic open areas among and between individuals structures and groups of structures, and whether the setbacks, yards and related walkways are located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation and necessary vehicular access.
- (c) Whether the vehicular circulation system, including access and off-street parking and loading, is designed to provide an efficient, safe and convenient transportation system.
- (d) Whether the pedestrian circulation system is located, designed and of sufficient size to conveniently handle pedestrian traffic efficiently and without congestion; the extent to which the pedestrian circulation system is separated from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and whether the pedestrian circulation system provides efficient, convenient and adequate linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities.
- (e) The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type of use and neighborhood.
- (f) The adequacy of provisions for construction of moderately priced dwelling units in accordance with chapter 25a if that chapter applies.
- (g) The staging program and schedule of development.
- (h) The adequacy of forest conservation measures proposed to meet any requirements under chapter 22a.
- (i) The adequacy of water resource protection measures proposed to meet any requirements under chapter 19.

As the following Findings demonstrate, the subject project plan adequately addresses each of these considerations, as conditioned by the Staff Recommendation.

Section 59-D-2.42 of the Zoning Ordinance establishes the findings that must be made by the Planning Board and in concert with the considerations enumerated above form the basis for the Board's consideration of approval. In accordance herewith, the Staff makes the following findings:

- (a) *As conditioned, the proposal complies with all of the intents and requirements of the zone.*

Intents and Purposes of the CBD Zones

The Montgomery County Zoning Ordinance states the purposes which the CBD zones are designed to accomplish. The following statements analyze how the proposed Project Plan conforms to these purposes:

- (1) *"To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal project plan is approved on review by the Planning Board."*

The project is in substantial conformance with the Sector Plan. It sufficiently meets both the specific recommendations for the Lee block and the general recommendations for the Core area. The mix of retail and office uses and the music venue will help attract people to the Core and make the area an entertainment destination.

The Sector Plan's recommendation vis-à-vis the type and intensity of development in the Core area is to develop the site as densely as appropriate given the adjacent uses and public use space requirements. This plan conforms to the sector plan objectives of providing jobs near transit, services, and entertainment uses.

- (2) *"To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents."*

The Sector Plan indicates that a mix of uses is appropriate for the site. The current application will provide office uses above retail, a hotel, and entertainment space; all of which are directly accessible to pedestrians. The intensity of development with this application is comparable to the intensity and diversity of land uses within the core vicinity and conforms to the Sector Plan recommendations: both the general goals of the Sector Plan and the specific objectives of the area advocate approval of optional method projects that provide employment and civic opportunities near both transit stations and other day-to-day necessities.

(3) *“To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas.”*

The proposed development will enhance pedestrian, cyclist, and vehicular circulation by improving sidewalks, providing bicycle facilities, and increasing the mix of uses to serve visitors, residents, and employees. The layout of doors, sidewalks, and lobbies will adequately serve pedestrians in and around the site.

The relationship of the proposed buildings to existing buildings is typical and appropriate for a central business district. In most cases in the CBD, adjacent buildings with windows are required to be at least 15 feet setback from each other; this proposal meets that standard. In order to minimize the visual impacts on the J.C. Penney building the larger and taller buildings are set behind an alley to the north of Colesville Road.

(4) *“To promote the effective use of transit facilities in the central business district and pedestrian access thereto.”*

The proposed development is two blocks from Metro and has several bus stops on the block where it is located. It is a local and regional imperative that infill development is provided at such sites as an alternative to suburban sprawl. As conditioned, the location and accessibility of the proposed development to the local transit system is an excellent realization of the Sector Plan transit and sustainability goals, and will provide jobs and services within walking distance of the Metro and shopping areas.

(5) *“To improve pedestrian and vehicular circulation.”*

Vehicular and pedestrian circulation along the frontages of the site will be improved through the use of at-grade pedestrian sidewalks across driveways and the provision of benches and bicycle facilities.

(6) *“To assist in the development of adequate residential areas for people with a range of different incomes.”*

The proposed development does not provide any housing.

(7) *“To encourage land assembly and most desirable use of land in accordance with a sector plan.”*

The proposed development will re-subdivide the existing lots and parts of lots to meet the needs of three different tenants. Additional assemble is not necessary to further the goals of the Sector Plan.

Further Intents of the CBD-2 Zone

Section 59-C-6.213(b) of the Zoning Ordinance states:

In the CBD-R1, CBD-R2, CBD-2 and CBD-3 zones it is further the intent to foster and promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment.

The fact that the project plan area is being reviewed for all three proposed lots allows analysis of the impacts and relationships between buildings and uses to ensure the orderly development of the CBD. The proposed development provides the employment, service, and urban environment amenities to foster further redevelopment in the Core area.

Section 59-C-6.213(c) of the Zoning Ordinance states:

In the CBD-2 zone, it is further the purpose:

- (1) To provide a density and intensity of development which will permit an appropriate transition from the cores of central business districts to the less dense peripheral areas within and adjacent to the districts; and*
- (2) To provide an incentive for the development of residential uses to meet the needs of those employed within the central business districts and those who will be able to use the district transit facilities to travel to and from places of employment.*

The proposed development will provide employment, shopping, entertainment and hospitality opportunities for visitors, employees, and residents. The improved sidewalks, and more so, the diversity of uses will further enhance these opportunities for day-to-day interaction and enjoyment of the CBD.

The density is appropriate for the site - a transition to less dense peripheral areas is not necessary because both building heights and massing are similar to the north, west, and south. The narrow façade of brick along the eastern edge complements the lower buildings across Fenton Street and will have a minimal shade impact.

The project does not provide any residential uses.

Requirements of the CBD-2 Zone

The table on page 17 of the staff report demonstrates the conformance of the project plan with the development standards under the optional method of development. Among other standards, the proposed development meets the area, public use space, building height, and density requirements of the zone.

According to the Zoning Ordinance (59-C-6.215(b)) a further requirement of optional method projects is the provision of additional public amenities:

“Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities

must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted.”

Because of the provisions of section 59-C-6.2356 discussed above, the on-site public use space and other public amenities and facilities typically required of optional method projects are satisfied through the conveyance of property to the County to accommodate the future arts and entertainment use.

Streetscape improvements along each frontage, however, must be improved per the standards. For three reasons: 1) because Fenton Street is being improved by another developer (Cameron House); 2) the Applicant is asking for a waiver from the streetscape standard regarding trees and some details along Colesville Road; and 3) the trees on Georgia Avenue are existing and will not have to be replaced by the Applicant, Staff is recommending that the Applicant provide the following:

1. Payment to the Urban District for removal and replacement of 11 existing Zelkova trees along Colesville Road between Georgia Avenue and Fenton Street and installation of one additional tree at the eastern end of the block; and
2. Construction of the office/retail and hotel buildings to LEED Silver (or equivalent) or the combined building complex to LEED ND (or equivalent) standards.

(b) *The proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.*

Zoning and Land Use

The subject property is zoned CBD-2, which is recommended by the Sector Plan. All proposed uses are allowed in the CBD-2 Zone and the proposed development is in keeping with the general guidelines to provide employment uses in the Sector Plan. Specifically, the Sector Plan recommends a mix of uses. The proposed office, commercial and entertainment uses are appropriate for the subject site and conform to the Sector Plan.

Sector Plan Conformance

There are six general themes of the Sector Plan: a Transit-Oriented Downtown; a Commercial Downtown; a Residential Downtown; a Civic Downtown; a Green Downtown; and a Pedestrian-Friendly Downtown. The proposed plan is consistent with four of the six themes.

The proposed project is served by local (Ride-on) and regional (WMATA) bus services with bus stops located nearby and the Silver Spring Transit Center, now under construction, is approximately 1,880 feet away or an 8 – 10 minute walk, thereby serving – through proximity – the theme of a transit-oriented and pedestrian friendly downtown.

The plan is also consistent with the vision of a commercial downtown. It will include a

22,882 square feet music hall, a 219,700 s.f. office building, 5,500 s.f. of retail space and a 135,300 s.f. hotel with 189 guest rooms.

The conditioned payment for replacement of the street trees and LEED construction standards will help meet the goals of a green downtown.

Last, the vision of a pedestrian-friendly downtown is met by the anticipation that 35% of patrons will arrive on foot, bicycle or by mass transit.

- (c) Because of its location, size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood.*

The location is optimal for as much intensity of use and density as are found to be compatible with the context, i.e., the proposed development must be designed so as not to adversely affect adjacent buildings and uses. To this end, the architecture “fills the building envelope” and is set back from buildings only as necessary for light access and to address building code requirements.

The operational characteristics will enhance the safety and efficiency of the site by minimizing vehicular access points and providing sidewalks and entrances on each frontage of the property.

- (d) As conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.*

A traffic management agreement will be finalized prior to the release of any building permits. Further, requirements for all public facilities have been reviewed and approved by the applicable public agencies during the concurrent review of the preliminary plan.

- (e) The proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development.*

A standard method project would only allow a density of 2.0 FAR on this site. Further, the requirement for public use space, amenities and facilities would result in only 10 percent of the net lot area. Because infill development and density near transit hubs is a core value of smart growth and given the text amendment and agreements specifically worked out by the County and the Applicant for the proposed arts and entertainment use, the optional method of development is more desirable and more efficient for this particular site.

- (f) The proposal will include moderately priced dwelling units in accordance with Chapter 25A of this Code, if the requirements of that chapter apply.*

The proposed development does not require MPDUs because it does not provide any residential uses.

(g) When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from on lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Planning Board may approve the project plan only if:

- (1) The project will preserve an historic site, building, structure or area as shown on the Locational Atlas and Index of Historic Sites or the Master Plan for Historic Preservation; and/or*
- (2) The project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or*
- (3) The project will result in an overall land use configuration that is significantly superior in meeting the goals of the applicable master or sector plan and the zone than what could be achieved without the proposed transfer.*

The project will preserve a historic resource under the provisions of (g)(1) above and will re-subdivide several lots or parts of lots, and all gross floor area will be included and dispersed within the gross tract area under consideration. The application also meets the four special standards under Section 59-C-6.2351:

- The lots are adjacent to each other;
- No existing lots under consideration are less than 22,000 square feet;
- The density of development is equal to the total density otherwise permitted on the separate lots; and
- No additional public use space is required.

(h) As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A.

The project will satisfy the requirements of the forest conservation law through off-site afforestation or a payment-in-lieu.

(i) As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.

The proposed development is subject to water quality resources protection requirements. The stormwater management concept consists of on-site water quality control using green roofs. Channel protection and recharge requirements were waived due to site restrictions.

Preliminary Plan

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code Chapter 50, the Subdivision Regulations and meets all applicable sections. The proposed lot sizes, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the CBD-2 zone as specified in the Zoning Ordinance, which is further detailed below. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in Table 5. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Conclusion

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and comply with the recommendations of the Silver Spring CBD Sector Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Table 5: Preliminary Plan Data Table and Checklist

Plan Name: Fillmore Music Hall and LDG Office/Hotel Complex				
Plan Number: 120100260				
Zoning: CBD-2				
# of Lots: 3				
# of Outlots: N/a				
Dev. Type: Commercial				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Minimum Tract Area	18,000 sq. ft.	90,143 sq. ft. minimum	NB	6/4/10
Lot Width	Not specified	90 ft. minimum	NB	6/4/10
Lot Frontage	Not specified	61 ft. minimum	NB	6/4/10
Setbacks				
Front	0 ft. Min.	Must meet minimum ¹	NB	6/4/10
Side	0 ft. Min.	Must meet minimum ¹	NB	6/4/10
Rear	0 ft. Min.	Must meet minimum ¹	NB	6/4/10
Height	143 ft. Max.	May not exceed maximum ¹	NB	6/4/10
Max Comm'l s.f. per Zoning	360,572	360,500 ²	NB	6/4/10
MPDUs	N/a		NB	6/4/10
TDRs	N/a		NB	6/4/10
Site Plan Req'd?	Yes		NB	6/4/10

FINDINGS			
<i>SUBDIVISION</i>			
Lot frontage on Public Street	Yes	NB	6/4/10
Road dedication and frontage improvements	Yes	Agency letter	4/9/10
Environmental Guidelines	N/a	Staff memo	5/5/10
Forest Conservation	Yes	Staff memo	5/5/10
Master Plan Compliance	Yes	Staff memo	5/11/10
<i>ADEQUATE PUBLIC FACILITIES</i>			
Stormwater Management	Yes	Agency letter	3/17/10
Water and Sewer (WSSC)	Yes	Agency comments	5/10/10
10-yr Water and Sewer Plan Compliance	Yes	Agency comments	5/10/10
Well and Septic	N/a	Agency letter	4/12/10
Local Area Traffic Review	N/a	Staff memo	5/18/10
Policy Area Mobility Review	N/a	Staff memo	5/18/10
Transportation Management Agreement	No	Staff memo	5/18/10
School Cluster in Moratorium?	No	NB	6/4/10
School Facilities Payment	No	NB	6/4/10
Fire and Rescue	Yes	Agency letter	4/10/10

¹ As determined by MCDPS at the time of site plan.

² Per Section 59-C-6.234(b), the performance hall is not counted towards the project density.

RECOMMENDATION AND CONDITIONS

Project Plan

Approval of project plan 920100040, Fillmore Music Hall and LDG Office/Hotel Complex, as depicted on the plans stamped as received by M-NCPPC on May 4, 2010, subject to the following conditions:

1. Development Ceiling

The proposed development is limited to a maximum of 219,700 square feet of office use, 135,300 square feet of hotel use with 189 rooms, 5,500 square feet of retail use, and a 34,252 square-foot performance hall with a total gross floor area of 22,882 square feet.

2. Building Height and Mass

The proposed development is limited to the building footprint as delineated in the project plan drawings submitted to MNCPPC dated May 4, 2010 unless modified at site plan review and to 143 feet in height from the delineated building height measurement points.

3. Architecture

The final design of the building façade will generally conform to the illustrative architectural renderings presented in the project plan application unless modified at site plan review.

4. Environment

The Applicant must make a good-faith effort to achieve a LEED NC Silver rating for the office and hotel buildings individually or a LEED ND Silver rating for the entire complex, excluding the music hall, (or other certification based on equivalent energy and environmental design standards), unless the Planning Board finds at site plan review that this requirement may be waived in light of the final quantity, quality, and expense of the other design features and/or environmental mitigation provided by the Applicant.

5. Public Use & Amenity Space

- a. The Applicant must convey the proposed Lot C to Montgomery County for provision of an arts and entertainment use under the provisions of section 59-C-6.2356 of the Zoning Ordinance and in accordance with a written agreement with Montgomery County under 59-C-6.2356(a)(iii).
- b. The Applicant must provide a minimum of 17% of the net lot area for on-site public use space including the area for the music hall and a minimum of 8% of the net lot area for off-site public amenity space. The final design and details will be determined during site plan review.

6. Staging of Amenity Features

- a. The proposed development will be completed in up to three phases. A detailed development program will be required prior to approval of the certified site plan.
- b. The Applicant must complete the on-site and off-site public use space improvements within 6 months of the issuance of use-and-occupancy permits for each phase unless modified by the site plan development program.
- c. The Applicant must install any required landscaping no later than the next growing season after completion of the building and site work for each phase.
- d. The Applicant must make a payment not to exceed \$13,000 to the Urban District to replace 11 existing Zelkova street trees with honeylocusts and add one additional tree as will be delineated on the site plan. The site plan must note this work as being done others.

7. Maintenance

Prior to issuance of use-and-occupancy permits, the Applicant will create and implement a maintenance plan for all on-site streetscape area, exclusive of the music hall, unless an alternative arrangement is made with another entity.

8. Coordination for Additional Approvals Required Prior to Preliminary Plan and Site Plan Approval

The Applicant must obtain written approval from all applicable agencies for any improvements within the rights-of-way.

9. Historic Preservation

The plans submitted to M-NCPPC on May 18, 2010 provide a number of details regarding the J.C. Penney building façade and any construction must conform to the

materials, dimensions, and specifications of those plans. Any changes to these plans may result in a requirement to apply for a Historic Area Work Permit.

Preliminary Plan

Approval of Preliminary Plan 120100260 pursuant to Chapter 50 of the Montgomery County Subdivision Regulations and subject to the following conditions:

- 1) Approval under this preliminary plan is limited to three lots for 219,700 square feet of office use, 135,300 square feet of hotel use with 189 rooms, 5,500 square feet of retail use, and a 34,252 square-foot performance hall with a total gross floor area of 22,882 square feet.
- 2) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- 3) The Applicant must dedicate and the record plat must show dedication of the following rights-of-way and public improvement easements along the property frontage (consistent with the 2000 Approved and Adopted *Silver Spring CBD Sector Plan*):
 - a. Colesville Road (US 29) – 45 feet of dedication, as measured from the centerline of the right-of-way, plus 5 feet of public improvement easement;
 - b. Fenton Street – 40 feet of dedication, as measured from the centerline of the right-of-way; and,
 - c. Georgia Avenue (MD 97) – 63 feet of dedication, as measured from the centerline of the right-of-way.
- 4) Prior to release of the occupancy permit for the proposed office building, the Applicant must close the existing median opening, if approved by SHA, along Georgia Avenue across from the Public Alley.
- 5) The Applicant, jointly or separately with the property owner of 8621 Georgia Avenue (Project Plan 920100010; 8621 Limited Partnership), and in coordination with the Maryland State Highway Administration (MDSHA), must redesign/reconstruct the Georgia Avenue median opening at Fidler Lane. Strategies that must be considered to discourage traffic entering/exiting the proposed shared northern driveway from using the Georgia Avenue median opening include:
 - Modifying the Georgia Avenue median opening to 30 feet,
 - Redesigning the median opening to restrict use of the opening to only left turn traffic from Fidler Lane, and
 - Installing signage to prohibit turns from Georgia Avenue at the median opening.The median improvements, if approved by SHA, must be in place concurrent with the opening of the above shared driveway for public use.
- 6) The Applicant must enter into a Traffic Mitigation Agreement(s) (“Agreements”) with the Planning Board and Montgomery County Department of Transportation

- (MCDOT) to participate in the Silver Spring Transportation Management District (TMD) for the office and hotel uses. The final Agreement covering each of the proposed buildings must be executed prior to the release of any building permit for the building.
- 7) Common ingress/egress easements must be provided over all shared driveways and loading areas and be delineated or noted on the record plat.
 - 8) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated March 17, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
 - 9) The Applicant must comply with the conditions of the MCDOT letters dated May 10, 2010, and May 18, 2010. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
 - 10) The Applicant must comply with the conditions of the MDSHA letter dated April 9, 2010. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the preliminary plan approval.
 - 11) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s) and MDSHA prior to issuance of access permits.
 - 12) Only clearing and grading necessary for construction of the music hall is allowed prior to recording of plats and approval of the certified site plan approval.
 - 13) Final approval of the number and location of buildings, on-site parking, site circulation, and sidewalks will be determined at site plan.
 - 14) Prior to certification of the preliminary plan, the proposed lot areas of the proposed lots must be indicated on the plan drawing.
 - 15) The certified preliminary plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures and hardscape will be determined during the site plan process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
 - 16) The record plat must show necessary easements.
 - 17) Per Section 50-35(h)(2)(D) of the Subdivision Regulations, recordation of a final record plat for all property in the phase containing the land or building space to be conveyed or dedicated to the County for the performance hall will validate the entire preliminary plan, if recordation occurs within 5 years after the final approval of the preliminary plan. After approval, an amendment or modification to the phasing plan or the preliminary plan will not affect the validation, if the requirements of the subsection have otherwise been met.
 - 18) Per Section 50-20(c)(3A) of the Subdivision Regulations, the Adequate Public Facility (APF) review for the preliminary plan will become valid on the date of

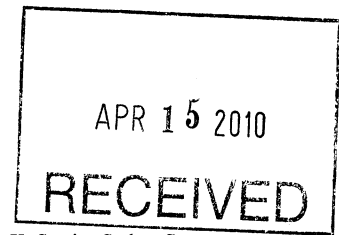
mailing of the Planning Board Resolution and will remain valid for ten (10) years from the date of the earlier of i) conveyance of land to the County, or ii) possession of building space by the County for the performance hall.

APPENDICES

- Appendix A: SHA Letter
- Appendix B: DOT Letters
- Appendix B: DPS Letter



Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*



Beverley K. Swaim-Staley, *Secretary*
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

April 9, 2010

Ms. Catherine Conlon
Supervisor, Development Review Division
Maryland National Capital
Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Montgomery County
Fillmore Music Hall and LDG Office/Hotel
Complex
DRC File No. 920100040/120100260
MD 97 (Georgia Avenue)

Dear Ms. Conlon:

The State Highway Administration (SHA) appreciates the opportunity to review the plans for the Fillmore Music Hall and LDG Office/Hotel Complex. We offer the following comments:

- An access permit will be required from SHA's EAPD office.
- Provide a completed sight distance evaluation on the SHA EAPD form for each access point. This form must be signed and sealed by a licensed PE.
- All sidewalk and ramps within SHA right of way must meet SHA standards.
- Right-of-way dedications along US 29 and MD 97 as directed by MNCPPC will be required along the property frontage and should be platted using SHA standards.
- Due to the existing 'sail' of the old J.C. Penney's sign and the outward swinging doors that must remain for historic purposes, SHA supports a 45' dedication along US 29 along with a 5' easement to meet the total required 50' right of way.
- Along Georgia Avenue (MD 97), there are non-compliant ADA ramps and crossing. These must be shown on the plans, referencing the appropriate SHA standard, to be reconstructed.
- Once MNCPPC has completed its review, SHA requests 5 copies of the TIS for our review and comment. Based on the TIS, additional roadway improvements may be required.
- If lighting is being proposed within SHA right of way, approval will be needed from SHA's Office of Traffic and Safety. In order to initiate this review, a Design Request will be needed. Please contact Ms. Anyesha Mookherjee, ADE-District 3 Traffic at 301-513-7358.
- The access points along Georgia Avenue must meet SHA standards of 25'-35' width within SHA right of way and 30' radii.

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410-545-0300 • www.marylandroads.com

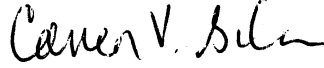



Ms. Catherine Conlon

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If you have any questions or require additional information, please contact Ms. Corren V. Giles at (410) 545-5595; toll free at (800) 876-4742, or via email at cgiles@sha.state.md.us.

Sincerely,



 Steven D. Foster, Chief
Engineering Access Permits Division

SDF/cvg

Cc: Mr. Shahriar Etemadi *sent via e-mail*
Mr. Sam Farhadi / Montgomery County DOT *sent via e-mail*
Ms. Anyesha Mookherjee *sent via e-mail*
Ms. Kate Mazzara *sent via e-mail*
Mr. Victor Grafton *sent via e-mail*
Mr. Mark Loeffler *sent via e-mail*



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

May 10, 2010

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-20100260
Fillmore Music Hall & LDG Office/Hotel
Complex

Dear Ms. Conlon:

We have completed our review of the above referenced preliminary plan dated April 2010. This plan was reviewed by the Development Review Committee at its meeting on April 12, 2010. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Access and Improvements along Georgia Avenue (MD 97) and Colesville Road (US 29) as required by the Maryland State Highway Administration.
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. We have accepted the applicant's storm drain capacity and impact analysis. No capacity improvements to the County maintained storm drain system will be required of this applicant.
4. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference. Removal of meter(s) on Fenton Street will be required in order to provide adequate sight distance. The applicant will need to coordinate impacts to existing meters with our Division of Parking Management. Please contact Mr. Jeremy Souders of that division at 240-777-8706.
5. The conceptual profile for the Public Alley is acceptable to this office. The grade establishment will need to be approved by the Department of Permitting Services (MCDPS) prior to record plat.
6. We support the waiver of truncation request on both sides of the intersection of the Public Alley and Georgia Avenue (MD 97). This recommendation is subject to final approval of the Site Plan by the Planning Board and subsequent approval of the record plat and construction drawings by the Maryland State Highway Administration and the Department of Permitting Services (DPS).

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

7. Our policy on the spacing of commercial driveway aprons is to have a minimum of one hundred (100) feet of tangent distance between the curb returns of adjacent driveways and intersections – taking into consideration other issues such as sight distances, operational characteristics of the frontage road, opposite and/or adjacent driveways and/or intersections, property frontage limitations, etc. We accept the location of the proposed entrances off of Fenton Street due to site limitations and approve the reduction in driveway spacing request.
8. Curb radii for intersection type driveways should be sufficient to accommodate the turning movements of the largest vehicle expected to frequent the site.
9. Truck loading space requirements to be determined in accordance with the County's "Off-Street Loading Space" policy. On the site plan, delineate the location and dimensions of the proposed truck loading and/or dumpster spaces.

We have accepted the applicants design exception requests for the LDG Office/Retail/Hotel and the Fillmore. A single shared loading area is provided off of Georgia Avenue with two loading spaces (1 WB-50 and 1 SU-30) to be shared between the office/retail building and 8621 Georgia Avenue (Cohen Office Building 9-201000040). The loading area for the Fillmore Music Hall is being combined with the adjacent proposed LDG hotel, this will consist of three spaces (2 WB-50 and 1 – 40' tour bus). Both shared loading areas will require ingress/egress easements which will need to be reflected on the record plat.

10. For any parking facility containing more than fifty (50) parking spaces, the applicant needs to furnish bicycle parking facilities as required by Section 59 E-2.3 of the Montgomery County Code. Accordingly, the applicant should provide either bike lockers or inverted "U" type bike racks.
11. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
12. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
13. If the proposed development will alter any existing streetlights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
14. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Transportation Systems Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
15. Trees in the County rights of way - species and spacing to be in accordance with the applicable Wheaton streetscape guidelines. Tree planting within the public right of way must be coordinated with Mr. Brett Linkletter with Division of Highway Services, Tree Maintenance Section. Mr. Linkletter may be reached at (240) 777-7651.

16. Prior to approval of the record plat by DPS, the applicant will need to execute and record a Declaration of Covenants (for Maintenance and Liability) or enter into an agreement with the Silver Spring Urban District for the maintenance of special streetscaping amenities within the public rights-of-way.
17. If the applicant is required to enter into a traffic mitigation agreement for this project, the following items should be included in that agreement:
- Transit subsidies
 - Parking demand reduction actions.
 - Bike racks
 - Employee shower facilities
 - Car sharing parking spaces
 - Carpool/Vanpool parking
 - Transportation information displays
 - Real time transit information sign(s)
 - Live near your work

Please contact Ms. Sandra Brecher of our Commuter Services Section at 240-777-8383 with any questions.

18. The applicant will need to coordinate impacts to existing bus stops with our Division of Transit Services. Please contact Ms. Stacey Coletta of that Division at 240-777-5836.
19. The applicant will need to coordinate impacts to existing meters with our Division of Parking Management. Please contact Mr. Jeremy Souders of that Division at 240-777-8706.
20. Permit and Bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to the following improvements:
- A. Street grading, paving, curbs and gutters, sidewalks and handicap ramps, storm drainage and appurtenances, and street trees along Fenton Street and street grading and paving along the Public Alley.

Provide level pedestrian crossings across all driveways on Fenton Street.

Note: There must be a minimum of five feet of sidewalk free and clear of obstructions along all public roadways.

- B. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.

Ms. Catherine Conlon
Preliminary Plan No. 1-20100260
May 10, 2010
Page 4

Thank you for the opportunity to review this amended preliminary plan. If you have any questions or comments regarding this letter, please contact Ms. Dewa Salihi at (240) 777-2173.

Sincerely,



Gregory M. Leck, P.E., Manager
Development Review Team

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Enclosures (2)

cc: Bruce Lee, Lee Development Group
Bill Kominers, Holland & Knight
Robert Graham, Rodgers Consulting
Ryan White, Rodgers Consulting
Joshua Sloan; M-NCPPC DRD
Neil Braunstein; MNCPPC TPD
Shahriar Etemadi; M-NCPPC TPD
Cherian Eapen; M-NPCPPC TPD
Don Scheuerman; DGS
Joseph Y. Cheung; DPS RWPPR
Sarah Navid; DPS RWPPR
Jeremy Souders, DOT DPM
Stacey Coletta, DOT DTS
Deanna Archey, DOT DTS
Fred Lees, DOT DTEO
Bruce Mangum, DOT DTEO
Dewa Salihi; DOT DTEO
Sandra Brecher, DOT CSS
Beth Dennard, DOT CSS
Preliminary Plan Folder
Preliminary Plans Notebook



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

May 18, 2010

Arthur Holmes, Jr.
Director

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-20100260
Fillmore Music Hall & LDG Office/ Hotel
Complex

Dear Ms. Conlon:

This letter is an addendum to the MCDOT letter dated May 10, 2010 for the above referenced project and should be included in any future submissions to the Department of Permitting Services (DPS) for record plats, storm drain, grading or paving plans, or application for access permit. The following items are being modified/added, all other items of the May 10, 2010 MCDOT letter remain valid.

Item 5: The conceptual profile for the Public Alley is acceptable to this office. The grade establishment will need to be approved by DPS prior to the release of the building permit for the office building or hotel; whichever comes first.

Item 15: Trees in the County rights of way – species and spacing to be in accordance with the applicable Silver Spring streetscape guidelines. Tree planting within the public right of way must be coordinated with Mr. Brett Linkletter with our Division of Highway Services, Tree Maintenance Section. Mr. Linkletter may be reached at (240) 777-7651.

Item 20: Permit and Bond will be required, for the Fenton Street roadway improvements, prior to the release of the building permit for the hotel building. The permit will include, but not necessarily be limited to the following improvements:

- A. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- B. Street grading, paving, curbs and gutters, sidewalks, and handicap ramps, storm drainage and appurtenances, and street tress along Fenton Street.

Provide level pedestrian crossings across all driveways on Fenton Street.

Note: There must be a minimum of five feet of sidewalk free and clear of obstructions along public roadways.

- C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by DPS.

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
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trafficops@montgomerycountymd.gov

Ms. Catherine Conlon
Preliminary Plan No. 1-20100260
May 18, 2010
Page 2

Item 21: Permit and Bond will be required for the Public Alley improvements, prior to the release of the building permit for the office building. The permit will include, but not necessarily be limited to the following improvements:

- A. Street grading, paving, curbs and gutters, sidewalks, and handicap ramps, storm drainage and appurtenances, and street grading and paving along the Public Alley.
- B. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by DPS.

If you have any questions or comments regarding this letter, please contact Ms. Dewa Salihi at (240) 777-2197.

Sincerely,



Gregory M. Leck, P.E., Manager
Development Review Team

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cc: Bruce Lee, Lee Development Group
Bill Kominers, Holland & Knight
Robert Graham, Rodgers Consulting
Ryan White, Rodgers Consulting
Joshua Sloan, M-NCPPC DRD
Neil Braunstein, M-NCPPC DRD
Shahriar Etemadi, M-NCPPC RPD
Cherian Eapen, M-NCPPC DRD
Preliminary Plan Folder
Preliminary Plans Note Book

ecc: Don Scheuerman, MCDGS
Ronnie Warner, MCDGS
Joseph Y. Cheung; DPS RWPPR
Henry Emery; DPS RWPPR
Sarah Navid; DPS RWPPR
Jeremy Souders, DOT DPM
Stacey Coletta, DOT DTS
Deanna Archey, DOT DTS
Sandra Brecher, DOT CSS
Beth Dennard, DOT CSS
Brett Linkletter; DOT DHS
Fred Lees, DOT DTEO
Dan Sanayi; DOT DTEO
Bruce Mangum; DOT DTEO
Dewa Salihi, DOT TEO



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

March 17, 2010

Mr. Phillip Wagner
Rodgers Consulting
19847 Century Boulevard, Suite 200
Germantown, MD 20874

Re: Stormwater Management **CONCEPT** Request
for Fillmore Music Hall and LDG Office/ Hall
Complex
Preliminary Plan #:
SM File #: 237432
Tract Size/Zone: 1.61 Acres/CBD-2
Total Concept Area: 1.61 Acres
Lots/Block: 3/A
Parcel(s): Part of Parcel 1
Watershed: Lower Rock Creek

Dear Mr. Wagner:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control using green roofs. Channel protection volume and recharge requirements are waived due to site restrictions.

The following **items** need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. The green roofs must be designed and installed by a certified professional.
5. The existing storm drain system in the Georgia Avenue right of way is currently undersized. Mitigation of some of the excess runoff can be accomplished in either the design of the green roof or the construction of an underground detention facility under the proposed loading dock. Either method is acceptable.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact me at 240-777-6343.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm

cc: C. Conlon
M. Pfefferle
SM File # 237432

QN -No; Acres: 1.6
QL - Yes; Acres: 1.6
Recharge is not provided