



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

**Staff Report: Site Plan 820100100, Fillmore Music Hall & LDG Office/Hotel Complex**

**ITEM #:** \_\_\_\_\_

**MCPB HEARING DATE:** July 15, 2010

**REPORT DATE:** July 2, 2010

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief *RAK*  
Robert Kronenberg, Supervisor *RAK*  
Development Review Division

**FROM:** Joshua Sloan, Coordinator *JLS*  
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**APPLICATION**

**DESCRIPTION:** Mixed-use development for a 3-story, 22,882 square-foot music hall; a 219,700 square-foot office building with 5,500 square feet of retail uses; and a 135,300 square-foot hotel for up to 189 rooms on 2.07 gross acres in the CBD-2 zone. Located on Georgia Avenue, approximately 250 feet west of Colesville Road, within the Silver Spring CBD Sector Plan area.

**APPLICANT:** Lee Development Group

**FILING DATE:** April 21, 2010

**RECOMMENDATION:** Approval with conditions

**EXECUTIVE**

**SUMMARY:** The proposed development requests approval to construct a 3-story music hall incorporating the historic J.C. Penney facade on Colesville Road; a 14-story hotel fronting on Fenton Street, and a 12-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 and loading areas for the hotel and office uses would be accessed via an alley and private drives from Georgia Avenue and Fenton Street. The streetscapes along the frontages of the property will be improved.

## SITE DESCRIPTION

### 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 not a historic resource but is within a historic district and, given the specifications of the application plans, will not require a historic area work permit (HAWP) for the proposed improvements and modifications.



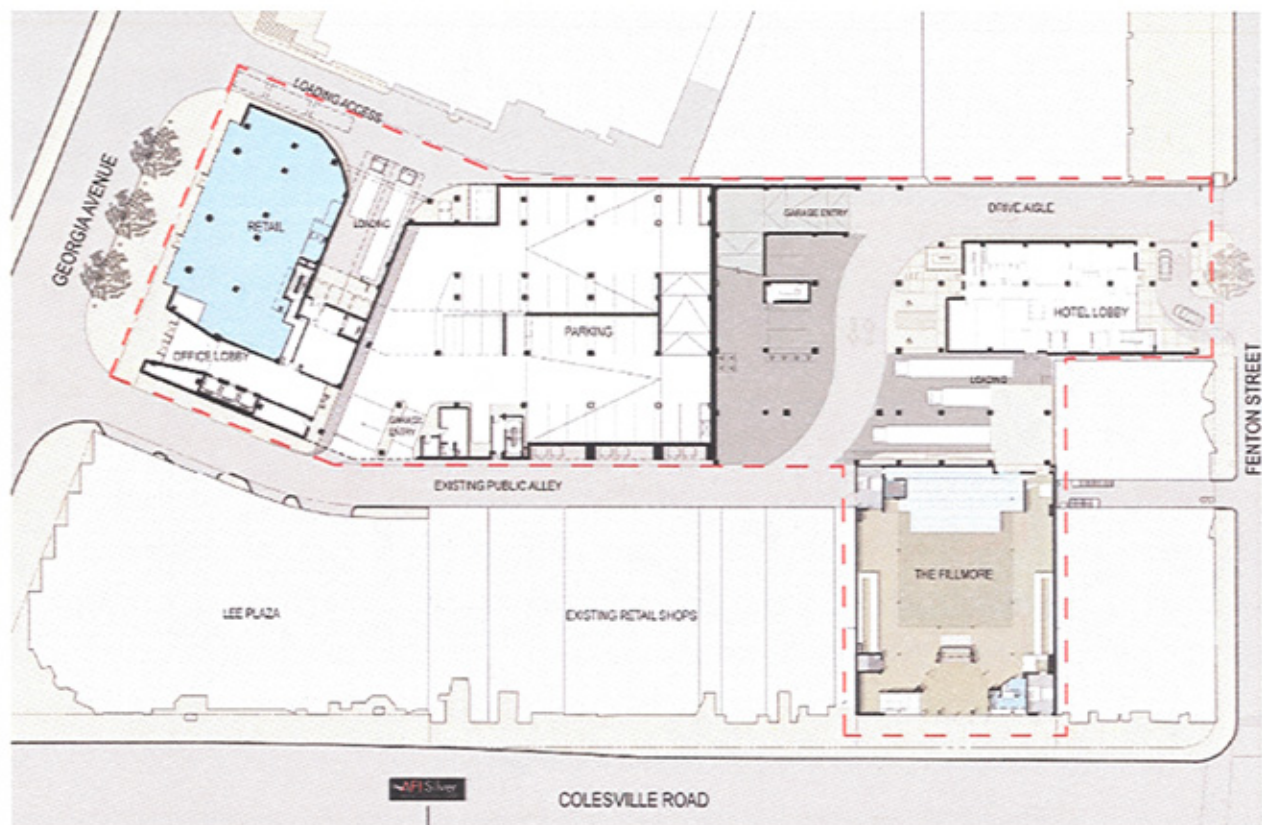
*Aerial Photo*



## PROJECT DESCRIPTION

### Proposal

The application proposes the creation of a 12-story office building and 14-story hotel building with structured parking and a 3-story music hall incorporating the existing JC Penney façade and sides. Parking and loading will be accessed via an alley and private drive that run from Georgia Avenue through the site to Fenton Street. A second loading area is also proposed off of Georgia Avenue that will be shared with an approved but un-built office/retail building to the north of the site. Public use space and amenity requirements will be satisfied through the donation of the land area for the music hall to the County and improvements to portions of the sidewalk on the three street frontages. Recreation facilities are not required since this is a commercial development.



*Illustrative Plan*

### Summary of Lot and Use Square Footage

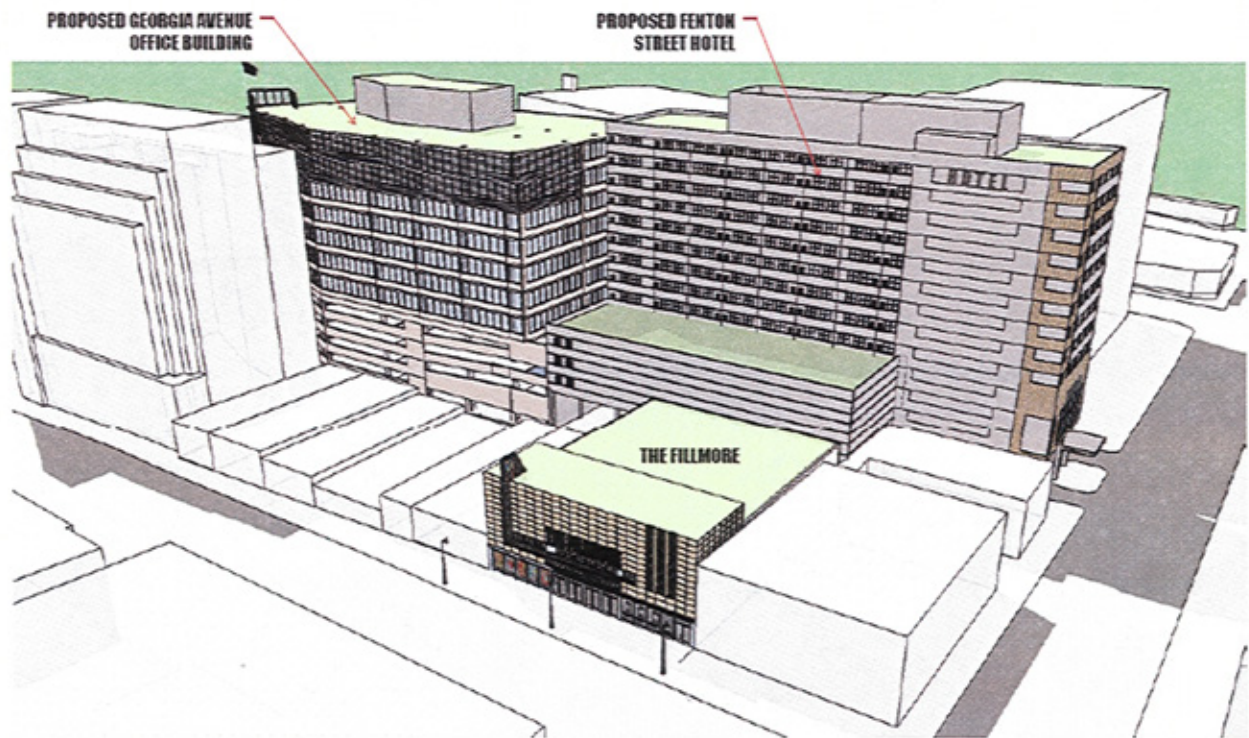
- Tract
  - Gross Tract Area = 90,143 sf
  - Previous Dedication = 18,133 sf
  - Current Dedication = 1,378 sf
  - Net Tract Area = 70,632
- Proposed Lots
  - Net Lot A = 35,221 sf., or 0.80857 acres (Office/Retail)
  - Net Lot B = 24,762 sf., or 0.56844 acres (Hotel)

- 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 = 218,500 sf
  - GFA Hotel = 135,000 sf

### **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 above the lower stories. 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.



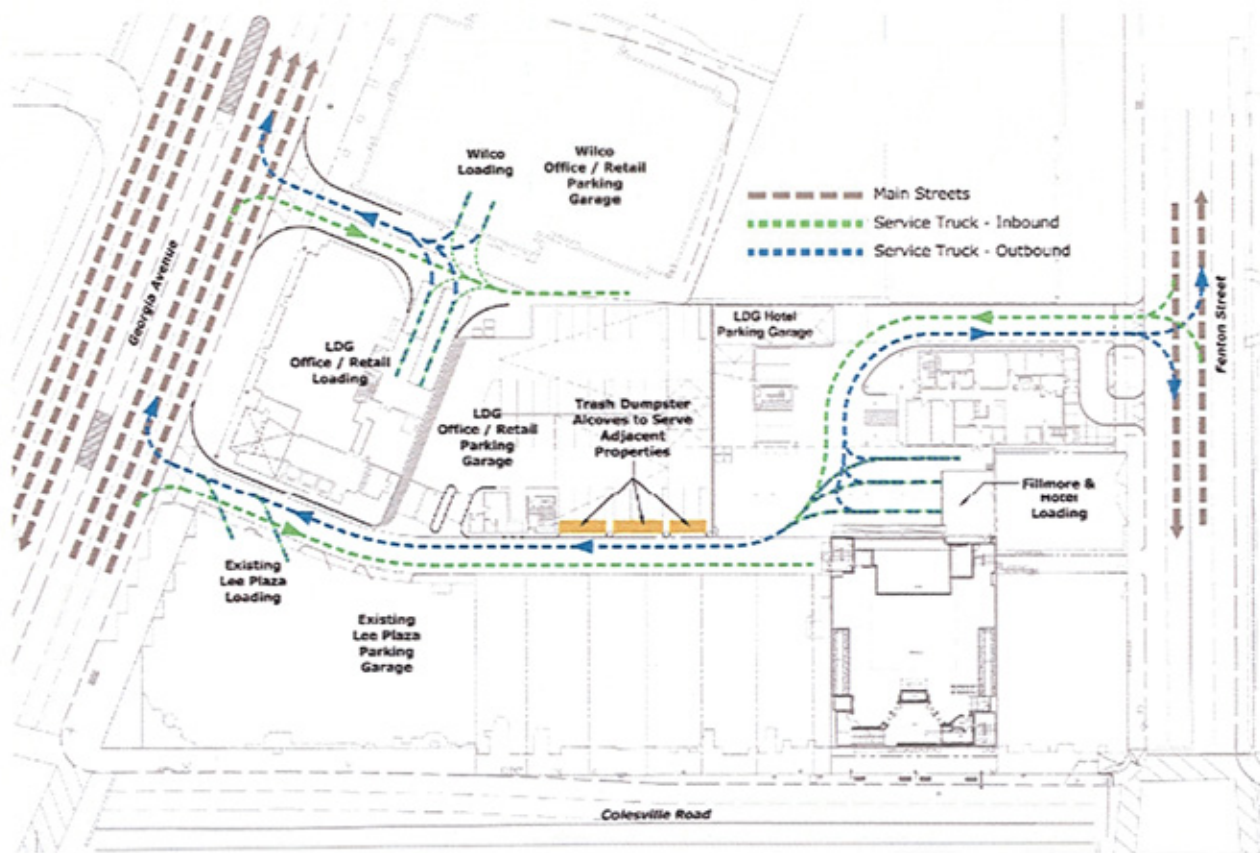
*Illustrative Rendering*

### **Vehicular and Pedestrian Circulation**

Vehicular access to the site will be provided via an alley from Georgia Avenue that will wind its way to a private drive from Fenton Street 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, 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*

## PROJECT ANALYSIS

### Master Plan

As described in detail in the project and preliminary plan analysis, the Sector Plan envisions the downtown core of Silver Spring as a commercial, civic, and entertainment center. This project should further help make this vision a reality by bringing more employees, visitors, and shoppers 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.

### Transportation and Circulation

A local area transportation review (LATR) and a policy area mobility review (PAMR) were completed as part of the preliminary plan review. According to this analysis, no improvements or mitigation requirements must be met. A modification to the Georgia Avenue median, however, will have to be constructed for safety reasons when the office/retail building is built. Further, the Applicant is required to enter into a traffic mitigation agreement (TMAG) for the

office and hotel uses.

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 treatment, will provide safe and adequate access to the proposed office and hotel uses. Staff's initial concerns about pedestrians attending performances at the Fillmore Music Hall were addressed and resolved during the project and preliminary plan reviews.

### **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. Furthermore, the approval of the project plan required construction of the office and hotel buildings to meet LEED Silver (or equivalent) standards unless a report detailing reasons that the threshold cannot be met is accepted by Staff.

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.

### **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.

*Project Data Table for the CBD-2 Zone*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Proposed for Approval</b>
<b>Maximum Building Height (feet)</b>	143	143 <sup>1</sup>
<b>Minimum Setbacks (feet)</b>		
Property Line	n/a	0
<b>Minimum Site Area (square feet)</b>		
Gross Tract Area	18,000	90,143
Net Site Area after dedications	n/a	70,632
<b>Maximum Density</b>		
Floor Area Ratio (FAR)	4.0	4.0 <sup>2</sup>
<b>Minimum Public Use Space (% of net lot)</b>		
On-Site Public Use Space	20	N/A <sup>3</sup>
Off-Site Amenity Space	n/a	11
Total Public Use & Amenity Space	20	11 <sup>4</sup>

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. The Applicant received a waiver from the Board for the difference between the required and provided spaces as part of the Project Plan approval.

*Parking Calculations*

<b>Minimum Total Parking Spaces</b>	589	571
Handicapped Spaces	13	13
Motorcycle Spaces	12	12
Bicycle Spaces	29	63

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> This includes the area of public sidewalks along the frontages that will be improved.



## 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 development<sup>5</sup>] 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 procedure<sup>6</sup>] 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;
  - (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 to the County to meet the public amenity requirement of the CBD-2 zone under the above-quoted

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<sup>5</sup> In this case, 4.0 FAR.

<sup>6</sup> 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.

section. The entire proposed interior area of the music hall will exceed 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 as part of each development phase, but some modifications – such as different tree locations, additional bike racks, and alternative bench placement – to the standard improvements are proposed. A payment for the replacement of the existing trees with honeylocust (matching the opposite side of the road) on Colesville Road will also be made.

## **COMMUNITY OUTREACH**

The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff has not received correspondence on this matter.



## FINDINGS

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 is consistent with approved project plan 920100040. Minor changes to numerous details have been made, none of which impact the more general findings of the project plan approval. These changes, as detailed in the submitted Statement of Justification with the site plan application, improve, enhance, or provide clarity with respect to the original design.

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 proposed use is allowed in the CBD-2 Zone and the site plan fulfills the purposes of the zone as detailed in the project plan resolution attached.

As the project data table on page 8 indicates, the site plan meets all of the development standards of the zone. With respect to building height, setbacks, and density the proposed development is at or under all the maximum standards allowed. The public use space and amenity requirements are met through conveyance of the land to be used for a music hall.

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

The buildings and structures of the proposed development are located along the frontages of Georgia Avenue, Colesville Road, and Fenton Street, which is appropriate for the character of the area envisioned by the Master Plan. These locations provide easy access to the building from adjoining sidewalks and parking. The locations of the buildings and structures are adequate and efficient, while meeting the aesthetic concerns of the area, and their locations do not pose any safety concerns on the site.

Public use space is not required by this development due to the conveyance of land for use as the location of a music hall under section 59-C-6.2356. The sidewalks will be improved by the Applicant or others as required by the ordinance and will include street trees, seating, lighting, and bike facilities as detailed on the site plan.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. The vehicular circulation design safely, adequately, and efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed office, retail, entertainment, and hotel uses are compatible with the adjacent and confronting commercial and residential uses as well as pending development plans. The mixed-use nature of the project and surrounding area are well integrated and appropriate for the downtown core. The structures themselves are in scale with the nearby buildings and are located such that they will not adversely impact existing or proposed adjacent uses.

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 proposed development is subject to the forest conservation law and will meet its requirements through an in-lieu payment to the M-NCPPC. The proposed development is also 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 are waived due to site restrictions.

## **RECOMMENDATION AND CONDITIONS**

Staff recommends approval of site plan 820100100, Fillmore Music Hall and LDG Office/Hotel Complex, for a 22,882 square-foot music hall; a 219,700 square-foot office building with 5,500 square feet of retail uses; and a 135,300 square-foot hotel for up to 189 rooms on 2.07 gross acres in the CBD-2 zone. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on June 9, 2010 are required except as modified by the following conditions.

### **Conformance with Previous Approvals**

1. Project Plan Conformance  
The proposed development must comply with the conditions of approval for Project Plan 920100040, or as amended.
2. Preliminary Plan Conformance  
The proposed development must comply with the conditions of approval for preliminary plan 1201000260, or as amended.

### **Environment**

3. Forest Conservation & Tree Save  
The proposed development must comply with the conditions of the approved final forest conservation plan, which requires an in-lieu payment to meet the 0.33-acre afforestation requirement. The Applicant must satisfy all conditions prior to the recording of a plat(s) or to the issuance of sediment and erosions control permits by the Montgomery County



## Site Plan

### 4. Landscape Surety

The Applicant must provide a surety (letter of credit, performance bond) in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety must include plant material, on-site lighting, and site furniture within the relevant phase of development. Surety to be posted prior to issuance of first building permit for each relevant phase of development and tied to the development program.
- b. Provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial bond amount.
- c. Completion of items by phase, to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. The landscape surety agreement to be executed prior to issuance of the first building permit.

### 5. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and sidewalks must be installed within six months after street improvements within the relevant phase of development are completed. Street tree planting, if applicable, may wait until the next growing season.
- b. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan and Sediment Control Plan.
- c. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

### 6. Certified Site Plan

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

- a. Include the final forest conservation approval letter, stormwater management concept approval letter, development program, inspection schedule, and site plan resolution.
- b. Minor changes and clarifications, as required by Staff.
- c. Ensure consistency of all details and layout between site plan and landscape plan.