



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

Staff Report: **8711 Georgia Avenue**
 Project Plan Amendment 92005002B
 Preliminary Plan 12006042A
 Site Plan 82008023A

ITEM #: _____

MCPB HEARING

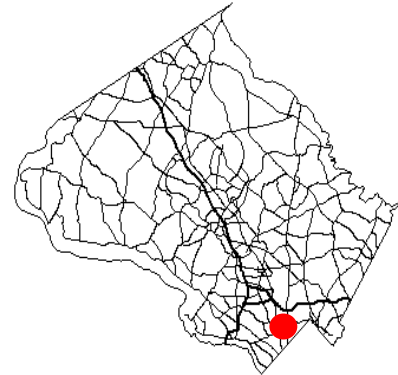
DATE: April 21, 2011

REPORT DATE: April 8, 2011

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief
Robert Kronenberg, Supervisor
Area 1

FROM: John Marcolin, RLA, LEED-AP
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APPLICATION DESCRIPTION:

Amend the Project Plan, Preliminary Plan and Site Plan to change the use from retail and office use to retail and residential use. There will be no changes to the approved building footprint, setbacks and heights. The Plans proposes 152,740 gross square feet of mixed-use development, with 150,340 square feet of residential use above 2,400 square feet of ground-floor commercial uses, on 0.87 acres in the CBD-2 Zone; located on the east side of Georgia Avenue, 250 feet north of the intersection of Georgia Avenue and Cameron Street, in the Silver Spring CBD Sector Plan.

APPLICANT: 8711 Georgia Avenue Parking Lot, LLC

FILING DATE: January 14, 2011

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY:

Staff reviewed the modifications to the Project, Preliminary and Site Plan amendments concurrently as a combined application. The project replaces the proposed office use with 160 residential dwelling units, reduces the amount of ground floor retail, and reduces the number of parking spaces from 326 spaces to 194 spaces within and underneath the building. The project features desirable on-site public use space and amenities, and offers an attractive, sustainable, contemporary design with frontages on both Georgia Avenue and the future Fenton Street extension. The Applicant will upgrade the sidewalks along and between both site frontages, on Georgia Avenue, Cameron Street, and on the Parking Garage 2 driveway, as allowed by MCDOT, to the Silver Spring streetscape standards.

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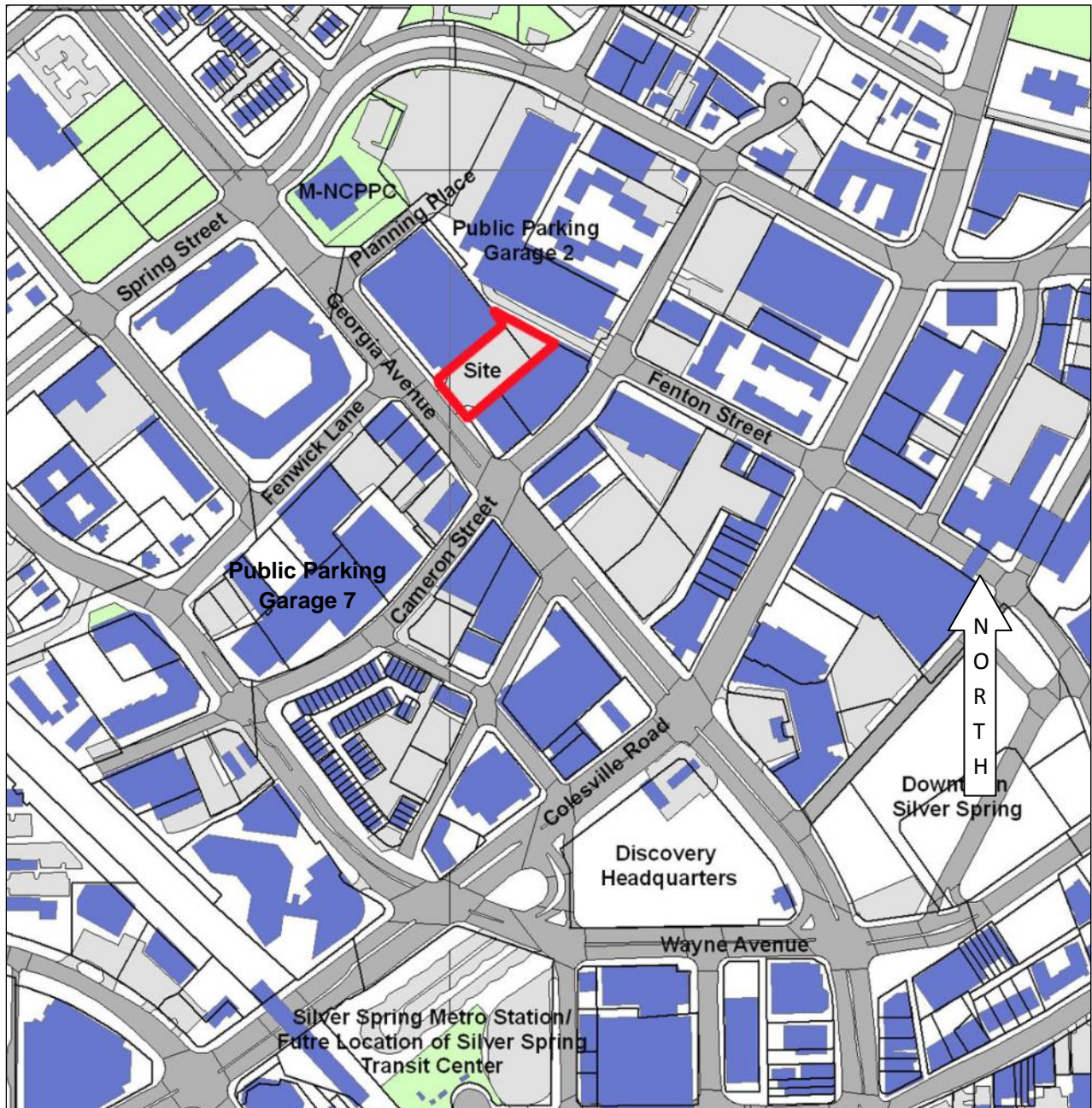
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SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Vicinity

The proposed development is located on the north end of the Silver Spring Central Business District (CBD) on the east side of Georgia Avenue just north of the intersection with Cameron Street. The surrounding area is zoned CBD-2 and is currently occupied by commercial office buildings ranging from 6 to 13 stories, two public parking garages, and the Montgomery Regional Office of M-NCPPC. The site is within a five-minute walk of the Silver Spring Metro Station and Downtown Silver Spring.



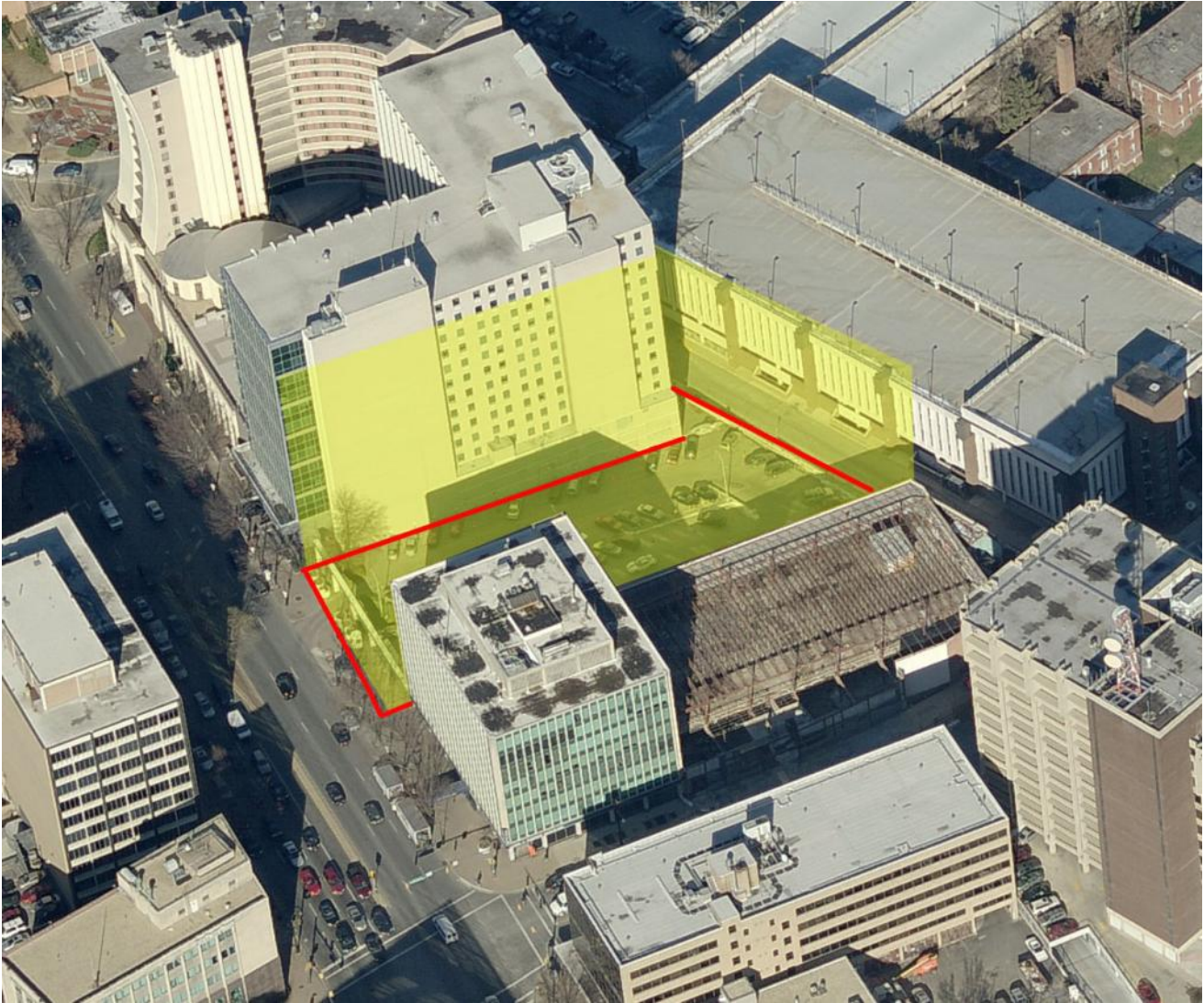
Vicinity Map

Site Analysis

The 8711 Georgia Avenue site is on the east side of Georgia Avenue, north of Cameron Street, and totals approximately 38,185 gross square feet, or 0.87 acres. Approximately 1,918 square feet has been dedicated for roadways, leaving a net tract area of 31,116 square feet. The site is currently occupied by a surface parking lot, which also provides drive-through bank service access for the building to the south. There are no overhead utility wires along either frontage. To the north of the site is currently an exit/entry driveway for public Parking Garage 2. The site topography falls significantly away from Georgia Avenue, dropping approximately 10 feet to the northeast at Parking Garage 2. There are no significant existing trees or other vegetation on the site, which is entirely impervious. Ingress and egress would be provided from Georgia Avenue and the future Fenton Street extension.



Aerial Site View



Site Aerial Oblique View

PROJECT DESCRIPTION

Previous Approvals

Project and Preliminary Plans

The Planning Board approved Project Plan #920050020 and Preliminary Plan #120060420 on January 19, 2006 for a mixed use development totaling 152,740 square feet.

The Planning Board approved Project Plan Amendment #92005002A and Site Plan #820080230 on October 23, 2008, for a mixed use development of up to 152,740 gross square feet, including 148,278 square feet of office space and 4,462 square feet of general retail use. The Planning Board Opinion, dated December 8, 2008, is appended.

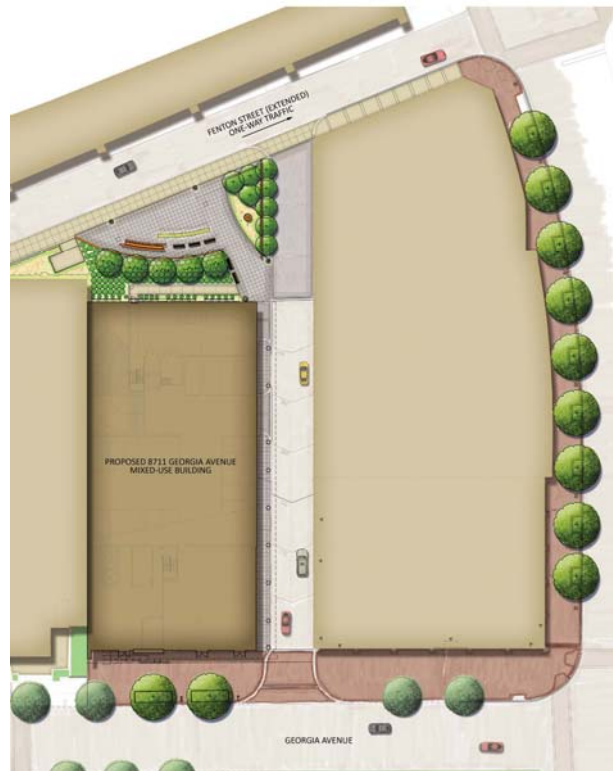
Proposal: Site & Landscape Plans

This plan proposes 152,740 gross square feet of mixed-use development, including 160 dwelling units and 2,400 square feet of retail, in a 13-story, 143-foot tall building. The building maintains the existing street

wall on Georgia Avenue and provides a generous, attractive public art plaza along the future extension of Fenton Street.

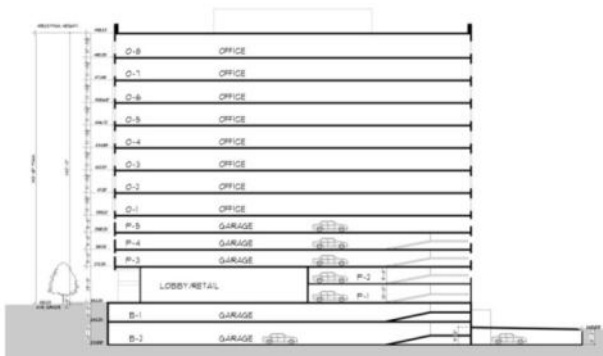


Previously Approved Site Plan

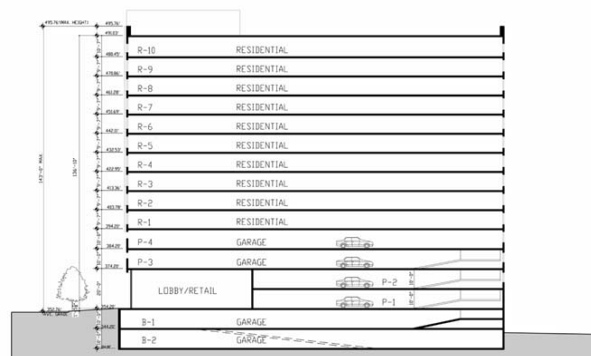


Amended Site Plan

Vehicular access for both parking and service remains the same from Georgia Avenue via a driveway along the southern edge of the site. Vehicles exiting the on-site garage may either return to Georgia Avenue or continue east on the driveway to Fenton Street extended. Service vehicles will exit only via Fenton Street extended. Pedestrian access between Georgia Avenue and future Fenton Street extended is furnished by an arcade running parallel to the driveway from the sidewalk on Georgia Avenue to the public plaza along Fenton Street extended. Parking is provided on-site within and underneath the building. The proposed parking number has changed from 326 spaces within and underneath the building to 194 spaces primarily due to lesser demand based upon the change in use.



Previously Approved Schematic Building Section



Amended Schematic Building Section

Proposal: Architecture

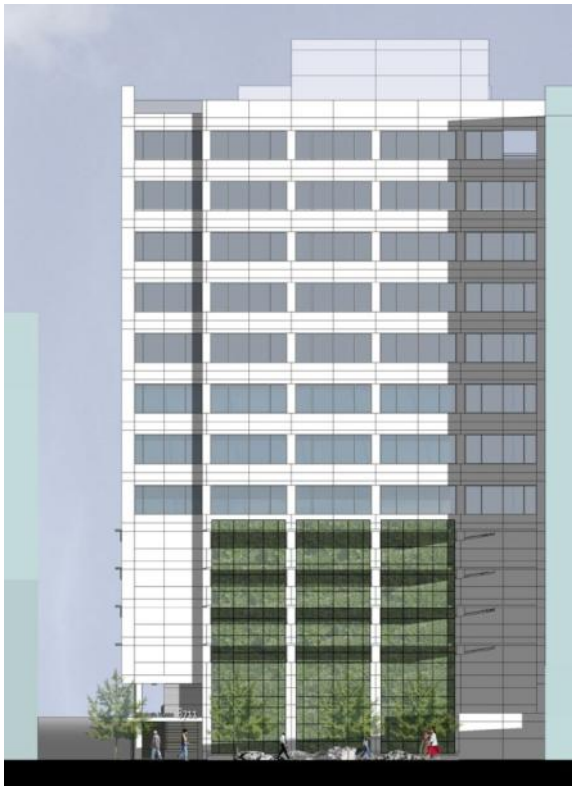


Approved Georgia Avenue Elevation



Amended Georgia Avenue Elevation

The proposed architecture provides an attractive and dynamic contemporary design facing Georgia Avenue and Fenton Street. An illuminated entrance feature and other design elements also highlight the connection between Georgia Avenue and the Fenton Street art plaza.



As approved Fenton Street Plaza Elevation



Amended Fenton Street Plaza Elevation

Proposal: Public Use Space & Art Installation

Consistent with the previous approval, the applicant engaged local artist Martha Jackson Jarvis to design an “urban oasis,” in the public use space. The overall concept and theme for the plaza remains the same with minor changes to the wall, lighting and landscaping due to changes to the adjacent loading space. The undulating wall comprised of brightly colored materials will be reduced by approximately 10 feet, while the taller wall screening the plaza from the access road will be lengthened by approximately 6 feet and raised 1.5 feet.



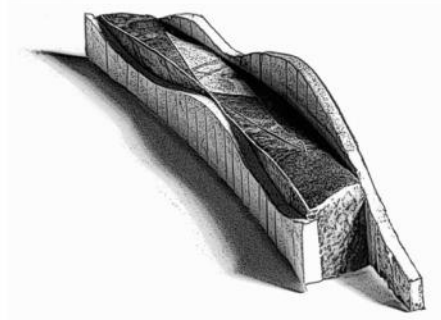
Previously approved Illustrative Detail Plan



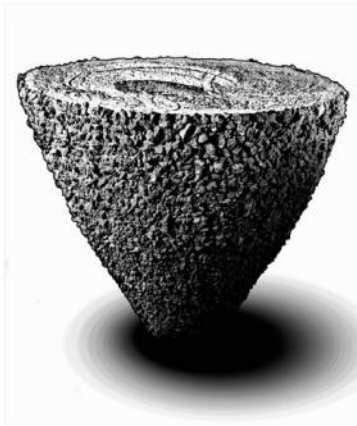
Amended Illustrative Detail Plan



VIEW OF MOSAIC TOP SIDE OF SCULPTURE

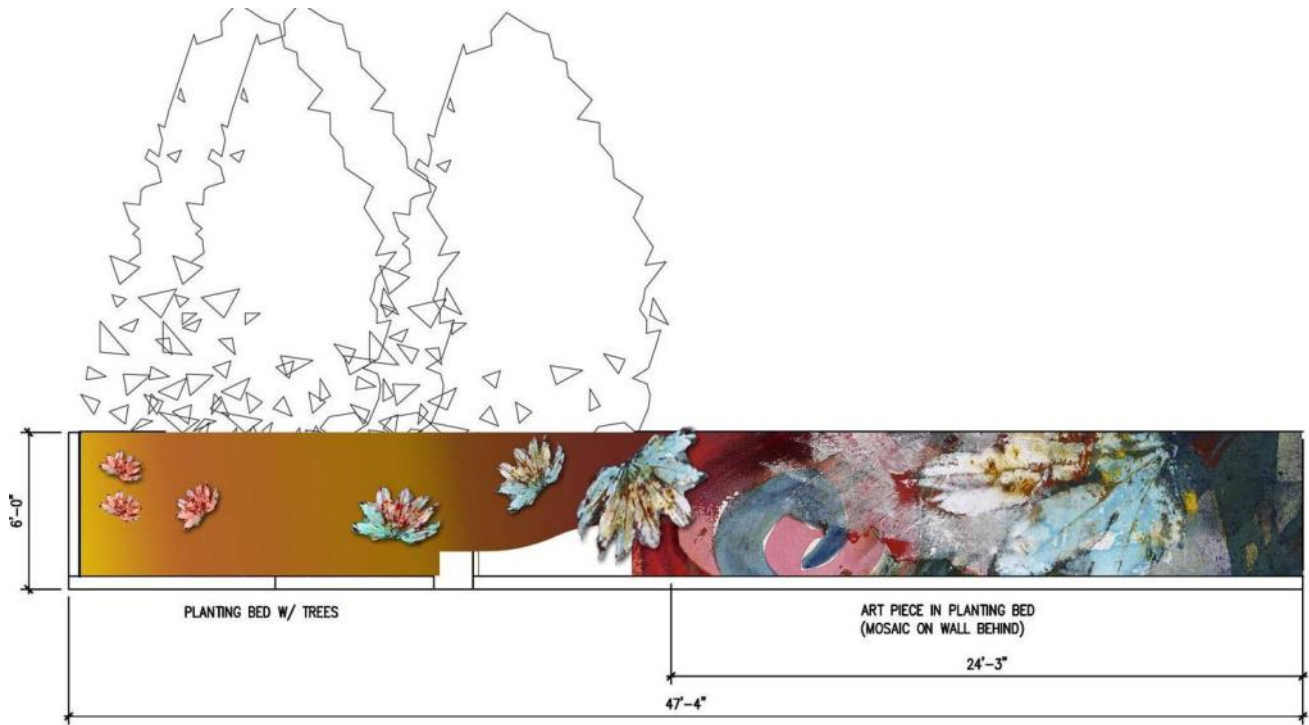


VIEW OF MOSAIC TOP SIDE OF SCULPTURE



SCULPTURAL PUBLIC ART PIECE W/ MOSAIC SET IN PLANTING BED

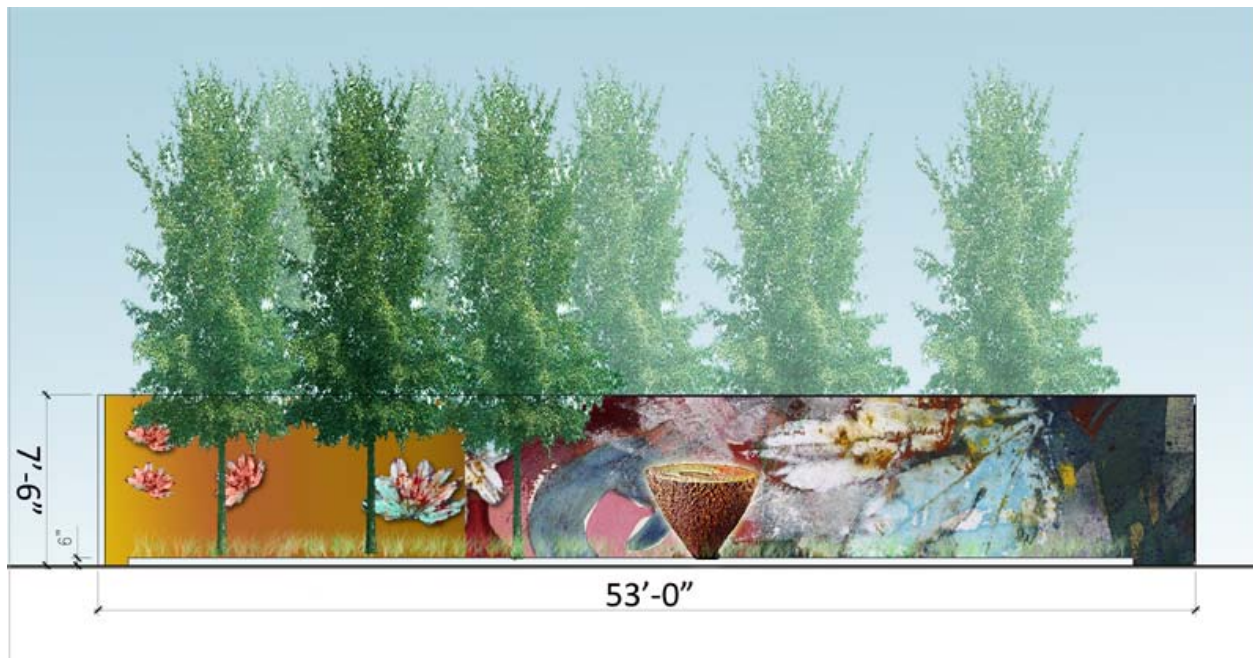
Public Art Details



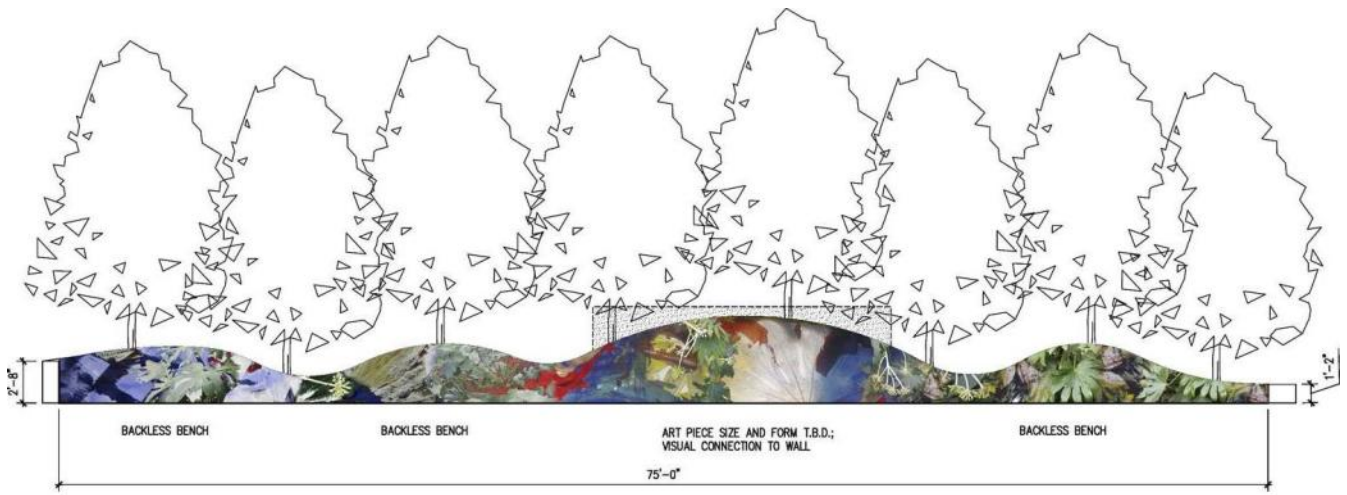
MOSAIC FEATURE WALL BEHIND PLANTING BED
 8711 GEORGIA AVENUE OFFICE BUILDING HORD COPLAN MACHT
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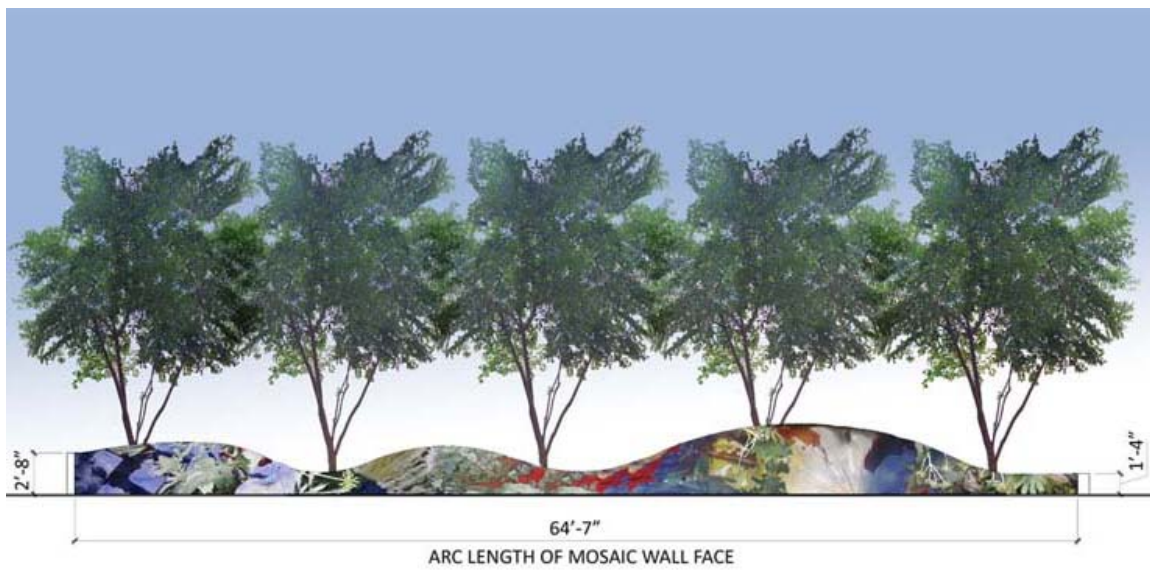
Previously approved Section



Amended Section



Previously Approved Art Wall Elevation



Amended Art Wall Elevation

COMMUNITY OUTREACH

The Applicant has complied with all submission and noticing requirements. Staff has not received correspondence from any citizens or community groups as of the date of this report.

SECTION 2: PROJECT PLAN AMENDMENT REVIEW

The modifications to the Project Plan include changing the office to residential and reducing the amount of ground floor retail by approximately 2,000 square feet, reducing the parking counts to account for the change in use, and minor changes to public use space (total square feet, grading, hardscape, planting) in response to changes to the access drive and SWM access easement. All other elements of the approved Project Plan, including building density and height, remain unchanged.

ANALYSIS FINDINGS

Changing the use from a mix of office and commercial to a mix of residential and retail does not contradict the intent of the Silver Spring CBD Sector Plan but actually goes further in fulfilling the vision of the plan. The vision of the Sector Plan articulates the themes of a Transit-Oriented Downtown, a Commercial Downtown, a Residential Downtown, a Civic Downtown, a Green Downtown and a Pedestrian-Friendly Downtown (pg 14). The previous plan supported four of these themes: Transit-oriented, Commercial, Green and Pedestrian-Friendly. This change will add a fifth element - a Residential Downtown - while preserving the others. The applicant has complied with a previous condition for access to Fenton Street extended by securing access agreement that includes vehicular access on Fenton Street extended and the removal of the existing brick retaining wall. The applicant will continue to coordinate with the county for utility extensions in the alley.

The public use space is essentially the same (a reduction of 518 square feet) and the result of changes related to the proposed access drive at Fenton Street and the relocation of the storm water management facilities. The relocation does not negatively impact the overall quality of the site design.

PROJECT PLAN AMENDMENT RECOMMENDATION

This Project Plan Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in its review of the original Project Plan. Staff recommends approval of project plan amendment 92005002B, 8711 Georgia Avenue, to change the office use to residential, reducing the amount of retail by approximately 2,000 square feet and minor modifications to the public use space. All site development elements shown on the site plans stamped "Received" by the M-NCPPC on January 19, 2011 are required except as modified by the following conditions:

1. Development Ceiling

Development under this approval is limited to 150,340 gross square feet of residential development, including a maximum of 160 multi-family units and 2,400 square feet of ground floor retail.

2. Public Use Space

The proposed public use space and off site amenities shall adhere to the following conditions:

- a. The Applicant must provide a minimum of 6,959 square feet (22.4 percent of the net lot area) as on-site public use space;

- b. The on-site public use space must be easily and readily accessible to the general public and available for public enjoyment;
- c. Provide a minimum of 11,605 square feet (37.3 percent of the net lot area), for off-site public amenity, of streetscape improvements;

3. Moderately Priced Dwelling Units

The Applicant must provide a minimum of 12.5 percent of the total number of units as moderately priced dwelling units in accordance with Chapter 25A.

SECTION 3: PRELIMINARY PLAN AMENDMENT REVIEW

MASTER PLAN

This site is included without specific recommendations in the “Other Areas of the CBD” section of the 2000 Silver Spring CBD Sector Plan. Nevertheless, it is centrally situated on Georgia Avenue, a central corridor of Silver Spring, and half a block from Spring Street, the northern gateway to the CBD. For the “Corridors and Gateways”, the objective of the Sector Plan is to “Improve the image of the entire downtown by improving the appearance of its primary corridors.” In replacing a surface parking lot, which currently features only a well-intended gatehouse and archway structures which are now abandoned and in disrepair, this project as designed will contribute significantly to the attractiveness and vitality of the Avenue. The vision of the Sector Plan articulates the themes of a Transit-Oriented Downtown, a Commercial Downtown, a Residential Downtown, a Civic Downtown, a Green Downtown and a Pedestrian-Friendly Downtown (pg 14).

TRANSPORTATION

- Local Area Transportation Review

Using trip generation rates included in the Local Area Transportation Review (LATR)/Policy Area Mobility Review (PAMR) Guidelines, the proposed 160 high-rise residential units and 2,400 SF of retail on the property is estimated to generate 49 and 53 peak-hour trips during the weekday morning (6:30 a.m. to 9:30 a.m.) and evening (4:00 p.m. to 7:00 p.m.) peak periods, respectively. These peak-hour trip estimates are significantly below the trip generation estimates associated with the currently approved density of 148,278 SF of office and 4,462 SF of retail on the property (207 and 214 peak-hour trips during the weekday morning and evening peak periods, respectively).

Since the proposed density under the subject amendment will generate less peak-hour trips than that estimated to be generated by the currently approved density, the subject preliminary plan amendment satisfies the LATR requirements of the APF test.

- Policy Area Mobility Review

As an application filed prior to January 1, 2007, the subject preliminary plan amendment is not subject to the PAMR requirements of the APF test.

ENVIRONMENT

The Natural Resource Inventory /Forest Stand Delineation plan (NRI/FSD) for the project was originally approved on November 8, 2004 and recertified on March 18, 2008. The property consists of an asphalt parking lot and minor landscape plantings surrounded by mid and high rise office buildings. The urban setting lies within the Sligo Creek Watershed (a use-class I). The site does not contain any environmentally sensitive features such as forest areas or significant/specimen trees.

The forest conservation plan was approved on May 15, 2009. The plan shows the removal of the minor landscaping and trees which currently exist at the site. The plans identify a number of new street trees to be installed, however the plantings cannot be credited toward forest conservation requirements since M-NCPPC does not have ultimate jurisdiction for plantings in the Right of Way (ROW). The afforestation planting requirement of 0.11 acres or 4,791 s.f. will be met by payment of fee-in-lieu.

The proposed changes of the building use does not affect the approved forest conservation plan since the building footprint and the associated (LOD) remain the same. Furthermore, the use change proposed for the building does not affect the forest conservation planting requirements since the site does not contain any forest (therefore the forest conservation thresholds associated with any land use are not applicable).

PRELIMINARY PLAN AMENDMENT RECOMMENDATION

The amendment to the Preliminary Plan of Subdivision satisfies the requirements of Chapter 50 of the County Code. The only change applicable is that the mix of approved square footage of general office and retail use is being changed to multi-family residential and retail/restaurant use. All other elements of the approved Preliminary Plan including density, access, and conformance with the approved and adopted Master Plan remain the same except as modified by the following conditions:

- 1) Approval under this preliminary plan amendment is limited to 152,740 square feet of development, including 150,340 square feet of residential and 2,400 square feet of general retail.
- 2) All other conditions of Preliminary Plan #120060420 remain the same.

SECTION 4: SITE PLAN REVIEW

DEVELOPMENT STANDARDS

The proposed development is designated Central Business District 2 (CBD-2), a zone created to promote increased height and density in the areas surrounding the urban core. The development standards are minimal within the CBD-2 Zone to encourage flexibility through the Optional Method of Development, with final details determined at Site Plan.

The purposes of the CBD-2 Zone include:

- 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;
- promote the effective use of transit facilities in the central business district and pedestrian access thereto as well as an improved pedestrian and vehicular circulation;
- assist in the development of adequate residential areas for people with a range of different incomes;
- encourage land assembly and the most desirable use of land in accordance with a sector plan;
- 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
- 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 provides 152,740 sf. of residential and ground-floor retail uses within a five-minute walk of the Silver Spring Transit Center and Downtown Silver Spring. The building height is comparable to adjacent residential and office buildings along Georgia Avenue and Cameron Street. The site has been designed and detailed to create a comfortable, functional environment.

The following data table indicates the proposed development's compliance with the Zoning Ordinance.

Project Data Table for the CBD-2 Zone

Development Standard	Permitted/ Required	Approved per Project Plan	Approved per Preliminary Plan	Approved Project Plan Amendment / Site Plan	Proposed for Project Plan/Preliminary Plan/ Site Plan Amendment Approval
Min. Gross Tract Area (square feet)	18,000	38,185		38,185	38,185
Previously Dedicated Area		-5,151		-5,151	-5,151
Proposed Dedicated Area		-1,918		-1,918	-1,918
Net Lot Area		31,116		31,116	31,116
Max. Density					
Office (sf.)		148,278	148,278	148,278	0
Office (FAR)		3.88	3.88	3.88	0
Retail (sf.)		4,462	4,462	4,462	2,400
Retail (FAR)		0.12	0.12	0.12	0.06
Residential (sf.)					150,340
Residential (FAR)	2.0 Minimum				3.94
Total (sf.)		152,740	152,740	152,740	152,740
Total (FAR)	4	4		4	4.0
Max. Building Height (ft.)¹	143	143		143	143
Min. Building Setbacks (ft.)					
Georgia Avenue ROW		13		0	0
East (Public Garage 2)		32		0	0
North		0		0	0
South		30		0	0
Max. No. of Dwelling Units:	160	N/A	N/A	N/A	160
Moderately Priced Dwelling Units (%):	12.5	N/A	N/A	N/A	12.5
Min. On-Site Public Use Space, (% of Net Lot Area)	20	26.6		24	22.4
Min. On-Site Public Use Space, (sf.)	6,223	8,275		7,477	6,959
Min. Off-Site Public Amenity Space, (% of Net Lot Area)		36.2		37.1	37.3
Min. Off-Site Public Amenity Space, (sf.)		11,264		11,556	11,605
Min. Total On- & Off-Site Public Use & Amenity Space (% of Net Lot Area)		62.8		61.1	59.7
Min. Total On- & Off-Site Public Use & Amenity Space (sf.)		19,539		19,033	18,564
Max. Parking Spaces		326²		326	194
Retail @ 5/1,000 (2,400 s.f.)					12

¹ Measured from the center of the building on Georgia Avenue.

² Based upon 148,278 s.f. of office and 4,462 s.f. of retail.

Less 15% for proximity to Metro (for retail uses)					1
Total retail					11
Residential					
Market Rate-Studio @ 1/du (18 du's)					18
MPDU-Studio @ .5/du (2 du's)					1
Market Rate-1 Bdrm @ 1.25/du (55 du's)					69
Market Rate-1 Bdrm w/den @ 1.5/du (50 du's)					75
MPDU-1 Bdrm w/den @ 0.75/du (15 du's)					10
Market Rate-2 Bdrm @ 1.50/du (17 du's)					26
MPDU-2 Bdrm @ 0.75/du (3 du's)					3
Subtotal: Total Residential Parking					202
Less 10% CBD credit (for residential uses, excludes MPDU's)					19
Total Parking Requirement					194

Recreational Facilities

Because the building is being converted from office to residential use, the applicant is required to provide recreational facilities:

DEMAND						
Unit Type	Number of Units	D1 Tots 0-4 yrs	D2 Children 5 - 11 yrs	D3 Teens 12 - 17 yrs	D4 Adults 18 - 64 yrs	D5 Seniors 65+ yrs
SFD I		0.00	0.00	0.00	0.00	0.00
SFD II		0.00	0.00	0.00	0.00	0.00
SFD III		0.00	0.00	0.00	0.00	0.00
TH		0.00	0.00	0.00	0.00	0.00
GARDEN		0.00	0.00	0.00	0.00	0.00
HI-RISE	160	5.60	6.40	6.40	122.88	73.60
Total Demand		5.60	6.40	6.40	122.88	73.60
On-Site Supply		5.12	6.24	9.20	112.16	70.56
% met On-Site		91.43%	97.50%	143.75%	91.28%	95.87%
Off-Site Supply*		1.96	2.24	2.24	43.01	25.76
Total On + Off Site		7.08	8.48	11.44	155.17	96.32
% Demand met On + Off		126.43%	132.50%	178.75%	126.28%	130.87%

* Off-Site Facilities.

Woodside Urban Park: 3 - Playgrounds, 1 - tennis court, 1 - basketball court, and 1 - handball court

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.*

This amended Site Plan is consistent with the approved Project Plan, as amended by Project Plan Amendment 92005002B. The revised design makes minor adjustment to the plan and does not diminish the overall quality and character of the Project Plan.

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 Site Plan meets all of the requirements of the Central Business District 2 (CBD-2) zone as demonstrated by the project Data Table on page 16. The building height remains unchanged from the previously approved Project, Preliminary and Site Plans, and the modifications to the mix of uses, vehicular access, and public use space are minor in scope.

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

As amended, the proposed residential building is similar in design and massing to the approved office building and continues to provide an appropriate density and mix of uses on an optimal site for accessibility to mass transit and neighborhood facilities. The design and layout of the building are compatible with the existing and proposed development in the north end of the Silver Spring CBD in terms of massing, detailing, and height. Both the use and the design elements of the architecture provide an adequate, safe, and efficient building on the subject site.

The plan proposes twenty-two percent of the net lot area for public use on-site, including an attractive plaza with a dynamic public art component adjacent to the expected extension of Fenton Street, and about thirty-seven percent of the net lot area for off-site streetscape improvements, a significant contribution which largely completes installation of the Silver Spring Streetscape Standard for the block. The previously approved Project Plan Amendment included a slightly larger percentage of public use space, 24 percent, but the Applicant's 1.6 % reduction in total on-site public use space does not affect the overall quality of the proposed design and is still above the 20% minimum requirement. The potential for the short-term retention/replacement of the existing retaining wall on the Parking Lot District property between the plaza and the driveway impairs neither the quality of the space nor its longer-term adequacy, safety, or efficiency. Each of these features contributes to a significantly improved pedestrian experience that is adequate, safe, and efficient.

The proposed landscaping on this urban infill site primarily provides a spatial context for the "urban oasis" public plaza along Fenton Street extended. Both the bordering tree stands and the foliated green screens along the lower floors of the building itself elevate and reinforce the central theme defining this unique urban destination. The on-site lighting, including a proposed illuminated entry feature highlighting the passage from Georgia Avenue through the site to the

plaza, similarly directs and reinforces the pedestrian experience through the site, from both directions. Further, the Applicant is providing street trees and pole lighting off-site, per MCDOT standards for Georgia Avenue, and the Silver Spring Streetscape Standard for Georgia Avenue and Cameron Street as part of their public amenity contribution. On Georgia Avenue, the applicant will provide green panels instead of paving over the amended soil panels. This will help "green" the Silver Spring CBD by providing opportunities for storm water infiltration and additional green groundcovers. The landscape and lighting are central to the successful design of this site, and are more than adequate, safe, and efficient.

A residential component has been added to this project comprised of 160 dwelling units, of which 12.5% are moderately priced dwelling units.

a. Pedestrian and Vehicular Circulation Systems

The vehicular and pedestrian circulation proposed continues to provide access from Georgia Avenue for both parking and service, and egress to both Georgia Avenue and future Fenton Street extended. This site plan improves mid- and through-block circulation, both pedestrian and vehicular, and is adequate, safe, and efficient.

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

The building is compatible with other constructed, proposed, and planned high-rise mixed-use development along Georgia Avenue and Cameron Streets, including the adjacent hotel, office buildings, and other mixed-use structures in massing, scale, design, detailing, and layout.

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 subject Amended Site Plan, including off-site improvements, is subject to forest conservation requirements. The site does not currently include any trees, and the Applicant expects to meet their forest conservation requirements through on- and off-site planting and/or fee in lieu. The proposed changes to the use do not change this finding. Final conformance will be verified by Certified Site Plan.

The proposed storm water management concept approved by DPS on July 23, 2008, consists of on-site water quality via a Storm Filter and a "green" roof. On-site recharge is not required since this is a redevelopment.

SITE PLAN RECOMMENDATION AND CONDITIONS

Approval of 152,740 gross square feet of mixed-use development, including 150,340 square feet of office space and 2,400 square feet of retail uses, on one 0.87-acre lot in the CBD-2 zone. All site development elements as shown on the site, landscape, and lighting plans stamped by the M-NCPPC on January 14, 2011, are required except as modified by the following conditions:

1. Project Plan Conformance

The proposed development must comply with the conditions of the approved Resolution for Project Plan 920050020A, as amended by 92005002B.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of the approved Resolution for Preliminary Plan 120060420, as amended by 12006042A.

3. Site Plan

All previous conditions of Site Plan 820080230 apply except for the following:

- a. The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations shown on Sheet A.04 of the submitted architectural drawings, as determined by M-NCPPC Area 1 Design staff;
- b. Reconfirm with State Highway Administration, by time of certified site plan, that turning radius dimension at access drive on Georgia Avenue may be reduced from the standard 30' to 20' (a turning radius of 20' was previously approved by SHA). A 20' turning radius is desirable in urban areas such as the Silver Spring CBD as it provides a safer pedestrian environment.

c. Public Use and Amenity Space

- i. The Applicant must provide a minimum of 6,959 square feet (22.4 percent of the net lot area) as on-site public use space;
- ii. Provide a minimum of 11,605 square feet (37.3 percent of the net lot area) of streetscape improvements as an off-site public amenity.;
- iii. Provide "Green Screen" or similar structures on the building elevation facing Fenton Street extended, as illustrated on Sheets A.04 and L3.1.1 of the submitted architecture and landscape architecture drawings. The Applicant must populate these structures with climbing plants sufficient to cover a substantial proportion of the screens when the plants mature.

d. Streetscape

- i. On Fenton Street, extending from north end of sidewalk adjacent to property to intersection with Cameron, replace with new concrete sidewalk as needed as permitted by Montgomery County.
- ii. On Georgia Avenue, install Belden brick paver #470-479 'Silver Spring Special' in herringbone pattern parallel to curb in the sidewalks, transitioning to basket-weave on Cameron Street. The two different patterns to be separated by a double row-lock band of brick pavers aligned with the face of the building on Georgia Avenue (8701).
- iii. On Georgia Avenue, where an amended soil panel under the sidewalk is required by the Streetscape Standards, replace paving with planted beds or green panels. Total dimension to be approximately 20' X 6', set 16" from back of curb. There is to be a

metal wicket barrier on all four(4) sides. Specification for this barrier to be approved at Certified Site Plan.

e. Environment

- i. Meet all afforestation requirements for the subject site off-site and not with landscape planting or street trees planted within the public right-of-way. Submit fee in lieu prior to any land disturbing activity
- ii. Comply with the conditions of approval of the Final Forest Conservation Plan (FFCP);

f. Stormwater Management

The proposed development is subject to Storm water Management Concept approval conditions dated July 23, 2008, and the administrative waiver granted on November 22, 2010, unless amended and approved by the Montgomery County Department of Permitting Services based on a revised concept plan submitted by the applicant.

g. Development Program

The Applicant must construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- i. Streetscape improvements to Georgia Avenue, Cameron Street, and, unless disapproved by the Parking Lot District, the future Fenton Street extension, as illustrated on the Certified Site Plan, must be completed before issuance of any use and occupancy permits;
- ii. On-site public use space, including the associated public art installation, paving and lighting, must be completed before issuance of any use and occupancy permits;
- iii. All on-site landscaping must be completed within six months of the issuance of any use and occupancy permits;
- iv. Specify phasing of pre-construction meetings, dedications, sediment/erosion control, or other features;
- v. The “Green Screen” required by condition 5.f. must be installed on the building prior to issuance of any building use and occupancy permits and be planted within 6 months of the issuance of any building use and occupancy permits.

h. Certified Site Plan

Prior to Certified Site Plan approval the following revisions, and those described in the above conditions, shall be included and/or information provided, subject to staff review and approval:

- i. Minor corrections and clarifications to site details and labeling;
- ii. Development Program, Inspection Schedule, Approved Forest Conservation Plan, and Site Plan Resolution;

i. Transportation

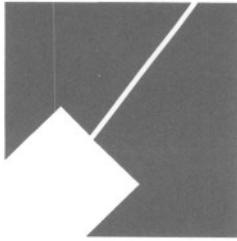
- i. The Applicant must limit development on the property to not more than 160 high-rise residential units and not more than 2,400 SF of retail.
- ii. The Applicant must enter into Traffic Mitigation Agreement (“Agreement”) with the Planning Board and the Montgomery County Department of Transportation (DOT)

to participate in the Silver Spring Transportation Management District (TMD). The final Agreement must be executed prior to the release of any building permit for the proposed development.

APPENDICES

- A. Resolutions
- B. Reviewing Agency Approvals
- C. Easement Agreement

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

Public Hearing Date: January 19, 2006

Date Mailed: MAR 17 2006

Action: Approved Staff Recommendation

Motion of Commissioner Wellington, seconded by Commissioner Robinson, with a vote of 5-0; Chairman Berlage and Commissioners Perdue, Bryant, Wellington, and Robinson voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 120060420 (formerly 1-06042)
NAME OF PLAN: 8711 Georgia Avenue Office

The date of this written opinion is MAR 17 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

I. INTRODUCTION

On October 7, 2005, 8711 Georgia Avenue Associates, L.L.P. ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the CBD-2 zone ("Application" or "Preliminary Plan"). The Application proposed to create 1 lot on 0.8767 acres of land (gross tract area) located on the east side of Georgia Avenue, between the intersection of Cameron Street and Planning Place, in the Silver Spring CBD master plan area ("Property" or "Subject Property"). The Application was designated Preliminary Plan No. 120060420 (formerly Plan No. 1-06042). On January 19, 2006, the Preliminary Plan was brought before the Montgomery County Planning Board for a public hearing ("Hearing"). At the Hearing, the Planning Board heard testimony and received evidence submitted in the record on the Application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the

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

II. SITE DESCRIPTION

The Subject Property is located on the east side of Georgia Avenue (MD 97), between the intersection of Cameron Street and Planning Place in downtown Silver Spring. The original lots were recorded in the land records on January 20, 1942 by plat for two parcels of property: Parcel N107 of the Silver Spring J.C. Wilson Estate (Plat Book 170, page 14) and Parcel N109. The Property is abutted to the north by a 13-story office building and to the south by a 9-story office building fronting Georgia Avenue and a 2-story building, currently under renovation with access to Cameron Street. Directly to the east of the site is the Planning Place Public Garage (Garage No. 2), separated by a driveway and sidewalk. The driveway to the parking lot extends from Cameron Street to the south of the entrance drive for the M-NCPPC headquarters building.

The Property is presently accessible by vehicles from Georgia Avenue, a 6-lane major divided highway. Development along Georgia Avenue consists of a mix of mid to high-rise commercial and residential buildings, many of which contain ground floor retail space. The zoning along the Georgia Avenue corridor is primarily CBD-2, with segments of CBD-3 property near the core and CBD-R2 zoned property to the south and west. The M-NCPPC property to the north is zoned CBD-1.

The Property serves presently as a surface parking lot for the tenants of the adjacent Zalco building to the south. The parking lot has separate ingress and egress from Georgia Avenue and is separated by a masonry wall from the Fenton Street public alley extension that provides access to the public garage. The Property drops in grade by approximately 9 feet from west to east, with the existing wall serving as a retaining wall for a portion of the site. The entrance to the site contains small shrubs and one shade tree. The remainder of the site is paved. An asphalt island with overhead lights separates the center of the parking lot. Wachovia Bank operates a two-lane drive-through with a canopy near the southwestern boundary.

III. PROJECT DESCRIPTION:

The Preliminary Plan proposes 152,740 square feet of mixed-use, non-residential development, including 148,278 gross square feet of office space and 4,462 square feet of retail space on the ground floor, on a lot totaling 31,116 square feet or 0.7143 acres (net tract area). The site is being developed using the optional method. The Zoning Ordinance permits a maximum height of 143 feet and a non-residential square footage equal to 4.0 Floor Area Ratio (FAR). This proposal requests full build out at 152,740 square feet, with a building height of 143 feet.

Access to the proposed building will be from Georgia Avenue via a right-in/right-out movement. (The center median in Georgia Avenue precludes left-in or left-out ingress and egress.) Parking will be provided by an integrated below and above grade parking structure of 326 spaces. Pedestrian access is proposed via a sidewalk connection to Georgia Avenue that will extend through the site, eastward to the Planning Place parking garage alley/driveway.

IV. SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

During the Hearing, the Planning Board's expert technical staff ("Staff") recommended approval of the proposed Preliminary Plan in accordance with the analysis and recommendation set forth in its staff report to the Planning Board dated January 6, 2006 ("Staff Report"). The Applicant appeared at the Hearing represented by legal counsel. Counsel for the Applicant stated that the Applicant accepted the Staff recommendation and conditions regarding the Preliminary Plan.¹ Applicant's Counsel informed the Board that Applicant had conferred with Transportation Planning Staff concerning the approximately 1,500 square foot increase in the amount of office space (from the area of office space factored in the traffic study) and that Transportation Planning Staff had confirmed that the increase in office space would not impact the results of the traffic study. No other speakers testified at the Hearing and the record contains no correspondence in opposition to the Application.

V. FINDINGS

Having given full consideration to the recommendations of its Staff, which the Board adopts; the recommendations of the applicable public agencies²; the Applicant's

¹ The Board heard testimony regarding additional issues relevant to the approval of the concurrently reviewed Project Plan, as discussed in the Opinion for Project Plan No. 920050020.

² The Application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of

position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds, based on uncontested evidence of record, that:

- a) Preliminary Plan No. 120060420 substantially conforms to the Silver Spring CBD Sector Plan.

The Sector Plan outlines six themes, which articulate the shared goals and vision for a revitalized Silver Spring. Three of these six themes--*i.e. a Green Downtown, a Commercial Downtown and a Pedestrian-friendly Downtown*—directly apply to this development. The Sector Plan encourages commercial and retail uses as important components of the revitalization efforts in downtown Silver Spring. The project satisfies the above-noted themes through, among other things:

1. Providing a pocket park at the eastern edge of the Property;
2. Introducing 148,278 gross square feet of office space and 4,462 square feet of retail space on land that is presently underutilized as a surface parking lot; and
3. Creating a mid-block pedestrian connection from Georgia Avenue to Fenton Street extended (the public garage driveway). New public open spaces, including the pocket park, which will incorporate a sculptural element will further assist in achieving the goal of a pedestrian-friendly downtown. To further encourage the development of an active urban street, the Preliminary Plan proposes a street-facing building entrance that is easily accessible, with highly visible public spaces as activity generators. The proposal improves the quality of the pedestrian environment by providing the Silver Spring streetscape treatment required for optional method projects.

The development of the project will significantly further the Sector Plan objective of stabilizing the Silver Spring CBD Core's residential component, while expanding the commercial base and providing an appropriate transition between the mix of commercial uses north and east of the project at the Spring Street/Cameron Street intersection to the predominately residential neighborhoods to the north.

The Preliminary Plan proposes to use the optional method of development and is in conformance with the goals and objectives of the Sector Plan. Again, the proposed development maximizes its gross floor area of 152,740 square feet or 4.0 FAR, which is the maximum permitted on the site for non-residential projects. The site takes full advantage of the development potential for a currently underutilized site

these agencies recommended approval of the application.

The Sector Plan recommends a 126-foot right-of-way for Georgia Avenue. The Board's approval of the Preliminary Plan is conditioned upon, among other things, right-of-way dedication for Georgia Avenue of sixteen feet along the Property's frontage to achieve this width.

- b) Public facilities will be adequate to support and service the area of the proposed subdivision.

Staff advised the Board that it had reviewed and evaluated a traffic study submitted by the Applicant, which study analyzes the impact of this development on the area transportation system as part of the required Local Area Transportation Review ("LATR"). A total of three intersections were included in the study area. The site-generated trips were added to the existing and background traffic to form the total future traffic. All traffic was assigned to three intersections and Staff advised the Board that the results—which are included in the Staff Report—demonstrate that each of those intersections would operate within the congestion standard of 1,800 Critical Lane Volume (CLV) for the Silver Spring Central Business District (CBD) Policy Area. Therefore, the Board finds that the proposed development will pass the LATR test. The Applicant will enter into a Traffic Mitigation Agreement ("TMA") with the Planning Board and the County to help the Project achieve the non-driver commuting goal for development in the Silver Spring CBD. Staff informed the Board that the traffic study suggests that some signal timing may need to be adjusted on Georgia Avenue by the MCDPWT, which adjustments can be addressed at the time of site plan or as operational needs dictate following construction.

In addition to the adequacy of roadways, Staff advised the Board that other public facilities were adequate to handle the additional development, including water, sewer, pedestrian access, fire and rescue services, and stormwater management. Staff informed the Board that the WSSC has indicated that the local water and sewer service are adequate to accommodate the new structure. With regard to stormwater management, the MCDPS has reviewed the latest concept and recommended approval on December 15, 2005. The Department of Fire and Rescue Services has approved the layout as noted in its January 6 memorandum.

- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.

- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

VI. CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 120060420 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120060420 subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 152,740 square feet of development, including 148,278 square feet of office space and 4,462 square feet of general retail.
- 2) Prior to issuance of building permits, applicant to enter into an agreement with the Planning Board to participate in the Silver Spring Transportation Management District
- 3) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 4) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width (additional 16 ft. from existing right-of-way) mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 5) Compliance with the conditions of approval of the MCDPS stormwater management approval dated May 6, 2005 and as revised December 15, 2005.
- 6) Compliance with conditions of MCDPWT letter dated December 2, 2005 unless otherwise amended.
- 7) Concurrent with site plan review, coordinate with DPWT on the design of the pedestrian access to the driveway/alley serving the County parking garage.
- 8) Show location of bike lockers or bike racks at the time of site plan as required by DPWT.
- 9) Concurrent with site plan review, submit a truck circulation plan for MNCPPC, MCDPS and SHA review and approval.
- 10) Access and improvements as required to be approved by MDSHA prior to issuance of access permits.

- 11) Final approval of the location of buildings, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 12) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff.
- 13) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 14) Other necessary easements

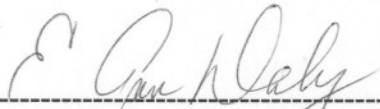
This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among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

APPROVED AS TO LEGAL SUFFICIENCY
IAB
M-NCPPC LEGAL DEPARTMENT
DATE 3/2/06

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on **Thursday, March 9, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan No. 120060420, 8711 Georgia Avenue**. Vice Chair Perdue was absent.



Certification As To Vote of Adoption
E. Ann Daly, Technical Writer



NOV 07 2008

MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 08-120
Project Plan Amendment No. 92005002A
Project Name: 8711 Georgia Avenue
Hearing Date: October 23, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Division 59-D-2.6, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved project plans; and

WHEREAS, on April 3, 2008, 8711 Georgia Avenue Parking Lot, LLC, ("Applicant") filed a project plan amendment application designated Project Plan No. 92005002A (the "Amendment") for approval of the following modifications:

1. reduce the minimum building setbacks;
2. connect the on-site driveway to the exit driveway for Parking Garage 2;
3. modify the design of the public use space
4. relocate the stormwater management facilities;

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staff of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated October 10, 2008, setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on October 23, 2008, Staff presented the Amendment to the Planning Board at a public hearing on the Amendment (the "Hearing") where the Planning Board heard testimony and received evidence submitted for the record on the Amendment; and

WHEREAS, on October 23, 2008, the Planning Board approved the Amendment subject to conditions on the motion of Commissioner Alfandre, seconded by Commissioner Cryor, with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Presley voting in favor, and Commissioner Robinson being absent.

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to
Legal Sufficiency:

Christina Sorrento 10/24/08

8787 Georgia Avenue, Suite 200, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board hereby APPROVES the Amendment;

BE IT FURTHER RESOLVED, that the Planning Board adopts the Staff's recommendation and analysis set forth in the Staff Report and FINDS that the Amendment is consistent with the provisions of § 59-D-2.6 of the Zoning Ordinance and that the Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in connection with the originally approved project plan; and

BE IT FURTHER RESOLVED that all site development elements as shown on 8711 Georgia Avenue drawings stamped by the M-NCPPC on October 3, 2008, shall be required; and

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Amendment shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

NOV 07 2008 BE IT FURTHER RESOLVED, that the date of this written Resolution is (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Cryor, seconded by Commissioner Presley, with Commissioners Hanson, Alfandre, Cryor, and Presley voting in favor of the motion, and with Commissioner Robinson abstaining, at its regular meeting held on Thursday, October 23, 2008, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board



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

MCPB No. 08-134
Site Plan No. 820080230
Project Name: 8711 Georgia Avenue
Date of Hearing: October 23, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on April 16, 2008, 8711 Georgia Avenue Parking Lot, LLC, ("Applicant") filed an application for approval of a site plan for 152,740 gross square feet of mixed-use development, with 148,278 square feet of office use above 4,462 square feet of ground-floor commercial uses ("Site Plan" or "Plan") on 0.87 acres of CBD-2-zoned land, located 250 feet north of the intersection of Georgia Avenue and Cameron Street ("Property" or "Subject Property"); and

WHEREAS, Applicant's Site Plan application was designated Site Plan No. 820080230, (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated October 10, 2008, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on October 23, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on October 23, 2008, the Planning Board approved the Application subject to conditions on the motion of Commissioner Alfandre; seconded by Commissioner Cryor; with a vote of 4-0; Commissioners Alfandre, Cryor, Hanson, and Presley voting in favor and Commissioner Robinson being absent.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 100, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820080230 for 152,740 gross square feet of mixed-use development, with 148,278 square feet of office use above 4,462 square feet of ground-floor commercial uses, on 0.87 gross acres in the CBD-2 zone, subject to the following conditions:

1. Project Plan Conformance

The proposed development must comply with the conditions of the approved Resolution for Project Plan No. 920050020, as amended by Project Plan No. 92005002A.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of the approved Resolution for Preliminary Plan No. 120060420, unless amended and approved by the Planning Board.

3. LEED Certification

The Applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. For documentation purposes, before the issuance of any building permit, the Applicant must inform M-NCPPC Staff of the LEED Certification Level for which they are applying. If this level is less than a Silver rating, before the issuance of any building permit the Applicant must provide to Staff a written report from the Applicant's LEED consultant analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost.

4. Site Plan

a. Highlight the public pedestrian connection in both directions between Georgia Avenue and the art plaza on Fenton Street extended, at a minimum to include:

- i. on the south corner of the building, on Georgia Avenue, an illuminated entry feature similar to that illustrated on the "south" and "east" elevations on Sheet A.04 of the submitted architectural plans;
- ii. on the west-facing partial-floor building return located overhead within the pedestrian arcade (at the fifth bay from the north side of the building, as illustrated on the east elevation on Sheet A.04), adjacent to the driveway, an illuminated "way-finding" feature readily visible from the entry feature described above in condition 4.a.i;

- iii. on the east corner of the building, on the art plaza, an illuminated signage and entry feature;
 - iv. details of the above features must be included as exhibits in the Certified Site Plan;
 - b. Minimize to the greatest extent possible the opacity of any guardrail required by the building code to be located between the arcade on the southwest edge of the building and the adjacent driveway. Before issuance of any building use and occupancy permit, the Applicant must submit to M-NCPPC Development Review and Urban Design Staff the final guardrail design for approval;
 - c. The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations shown on Sheet A.04 of the submitted architectural drawings, as determined by M-NCPPC Development Review and Urban Design Staff;
 - d. Reconfigure the on-site portion of the transition between the north-side driveway curb and the off-site Georgia Avenue exitway curbing to provide a more direct continuation.
5. Public Use and Amenity Space
- a. The Applicant must provide a minimum of 7,477 square feet (24 percent of the net lot area) as on-site public use space;
 - b. The on-site public use space must be easily and readily accessible to the general public and available for public enjoyment;
 - c. Provide a minimum of 11,556 square feet (37.1 percent of the net lot area), for off-site public amenity, of streetscape improvements;
 - d. Expand the on-site public use space to include the arcade access between Georgia Avenue and the plaza on Fenton Street extended;
 - e. Provide "Green Screen" or similar structures on the building elevation facing the Fenton Street extended, as illustrated on Sheets A.04 and L3.1.1 of the submitted architecture and landscape architecture drawings. The Applicant must populate these structures with climbing plants sufficient to cover a substantial proportion of the screens.
6. Streetscape
- a. As detailed below, provide the full-width Silver Spring streetscape standard, including, but not limited to, brick pavers, street trees, and street lighting, along the sidewalk running continuously along the block from the western corner of the property on Georgia Avenue around Cameron Street and, subject to Parking Lot District (PLD) approval, along the existing driveway for Parking Garage 2 (Fenton Street extended) and concluding at the northern limit of the site behind the existing building at 8757 Georgia Avenue;
 - b. On Fenton Street, extending from north end of sidewalk adjacent to property to intersection with Cameron, provide streetscape improvements, as

permitted by PLD, of Type "B" in accordance with the Silver Spring Streetscape Plan (April 1992) Technical Manual or as amended;

- c. On Georgia Avenue, install brick paving in herringbone pattern in the sidewalks, transitioning to basket-weave on Cameron Street. The two different patterns to be separated by a double row-lock band of brick pavers aligned with the face of the building on Georgia Avenue (8701). (Though this is not reflected in the Silver Spring Streetscape Plan, Technical Manual, April 1992, the concrete unit paver in "Plan A" is no longer being installed on Georgia Avenue and the brick specified in "Plan B" is being installed. Herringbone pattern is being used to differentiate Plan A from Plan B type paving.)

7. Public Art

- a. Provide for and install the public art concept designed by artist Martha Jackson-Jarvis, as presented to the Planning Department's Art Review Panel on February 15, 2008, and illustrated in the Certified Site Plan;
- b. Any significant changes to the concept presented on February 15, 2008, must be presented to the Art Review Panel and approved by Development Review Staff before Certified Site Plan;
- c. Significant changes to the concept, as determined by Development Review Staff, proposed after Certified Site Plan will require a Site Plan Amendment.

8. Transportation

- a. Provide dual handicapped ramps at the corners of Georgia Avenue at Cameron Street and Cameron Street at Fenton Street intersections, or as approved by Montgomery County Department of Permitting Services (MCDPS);
- b. Provide level/at-grade sidewalk across the garage driveway access along Georgia Avenue.

9. Environment

- a. Meet all afforestation requirements for the Subject Property off-site and not with landscape planting or street trees planted within the public right-of-way;
- b. Comply with the conditions of approval of the Final Forest Conservation Plan (FFCP).

10. Lighting

- a. All private on-site down-lighting fixtures must be full cut-off fixtures;
- b. Deflectors must be installed on all up-lighting fixtures causing potential glare or excess illumination;
- c. Lighting required for the public art installation may be exempted from the conditions 9.a. and 9.b. at the discretion of Development Review Staff at the time of Certified Site Plan;

- d. Provide additional site lighting along the through-block pedestrian and vehicular routes as well as in the public plaza along future Fenton Street extended, as necessary to meet IESNA best practices for public space illumination.

11. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated July 23, 2008, unless amended and approved by the Montgomery County Department of Permitting Services.

12. Development Program

The Applicant must construct the proposed development in accordance with a Development Program. A Development Program shall be reviewed and approved by M-NCPPC Staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- a. Streetscape improvements to Georgia Avenue, Cameron Street, and, unless disapproved by the Parking Lot District, the future Fenton Street extension, as illustrated on the Certified Site Plan, must be completed before issuance of any use and occupancy permits;
- b. On-site public use space, including the associated public art installation, paving, lighting, and landscaping, must be completed before issuance of any use and occupancy permits;
- c. All on-site landscaping must be completed within six months of the issuance of any use and occupancy permits;
- d. Phasing of pre-construction meetings, dedications, sediment/erosion control, or other features must be specified;
- e. The "Green Screen" required by condition 5.e. must be installed on the building prior to issuance of any building use and occupancy permits and be planted within 6 months of the issuance of any building use and occupancy permits.

13. Clearing and Grading

- a. The Applicant may demolish the existing structures on the site prior to M-NCPPC approval of the Certified Site Plan, but only after approval of the Final Forest Conservation Plan and the pre-construction meeting;
- b. The Applicant must ensure that there is no clearing or grading of the subject site prior to M-NCPPC approval of the Certified Site Plan.

14. Maintenance

- a. The Applicant is responsible for maintenance of on-site landscaping and public use space;

- b. The Applicant must coordinate with the Silver Spring Urban District/Regional Services Center for maintenance of off-site public amenity space, including all streetscape improvements, both on- and off-site, except as specified below;
- c. Enter into an agreement with the Montgomery County Parking Lot District (PLD) for the maintenance of streetscape improvements where proposed site paving extends into PLD Property.

15. Certified Site Plan

Prior to Certified Site Plan approval, the following revisions, and those described in the above conditions, shall be included and/or information provided, subject to Staff review and approval:

- a. Minor corrections and clarifications to site details and labeling;
- b. A revised photometric plan to include all site lighting, specifically along the pedestrian arcade and driveway as well as the public plaza fronting future Fenton Street extended;
- c. Development Program, Inspection Schedule, Approved Forest Conservation Plan, and Site Plan Resolution;
- d. All areas within the project Limits of Disturbance, including all off-site improvements;
- e. Provide Development Review Staff with a final version of the executed agreement, including permission for streetscape improvements within the driveway, with the Parking Lot District for access to the existing exit driveway for Parking Garage 2;
- f. Adjust sidewalk paving details per condition 6;
- g. Revise sidewalk paving details to show the brick paver to be used in the streetscape as the Belden 470-479 'Silver Spring';
- h. Change specified wattage on the Washington Globe street lights, planned for Fenton and Cameron Streets, from 175 watts to 250 watts.

BE IT FURTHER RESOLVED that all site development elements as shown on 8711 Georgia Avenue drawings stamped by the M-NCPPC on August 29, 2008, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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.*

This Site Plan is consistent with the approved Project Plan, as amended by Project Plan Amendment No. 92005002A. The revised design improves upon the overall quality and character of the Project Plan.

2. *The Site Plan meets all of the requirements of the CBD-2 zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the Central Business District 2 (CBD-2) zone as demonstrated in the project Data Table below. The building height and density remain unchanged from the approved Project Plan, and the modifications to the building setbacks, vehicular access, and public use space provide a superior design.

Requirements of the CBD-2 zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the developments standards proposed for approval. The Planning Board finds, based on the aforementioned data table, and other evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-2 Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table

Development Standards
 Approved by the Planning
 Board and Binding on the
 Applicant

Min. Gross Tract Area (square feet)	38,185
Previously Dedicated Area	-5,151
Proposed Dedicated Area	-1,918
Net Lot Area	31,116
Max. Density	
Office (sf.)	148,278
Office (FAR)	3.88
Retail (sf.)	4,462
Retail (FAR)	0.12
Total (sf.)	152,740
Total (FAR)	4
Max. Building Height (ft.) ¹	143
Max. Stories	13
Min. Building Setbacks (ft.)	
Georgia Avenue ROW	0
East (Public Garage 2)	0
North	0
South	0
Min. On-Site Public Use Space, (% of Net Lot Area)	24
Min. On-Site Public Use Space, (sf.)	7,477
Min. Off-Site Public Amenity Space, (% of Net Lot Area)	37.1
Min. Off-Site Public Amenity Space, (sf.)	11,556
Min. Total On- & Off-Site Public Use & Amenity Space (% of Net Lot Area)	61.1
Min. Total On- & Off-Site Public Use & Amenity Space (sf.)	19,033
Max. Parking Spaces	326

¹ Measured from the center of the building on Georgia Avenue.

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

a. Buildings and Structures

The proposed building provides an appropriate higher-density mixed office use with ground-floor retail on an optimal site for accessibility to mass transit and neighborhood facilities. The design and layout of the building are compatible with the existing and proposed development of the north end of the Silver Spring CBD in terms of massing, detailing, and height. Both the use and the design elements of the architecture provide an adequate, safe, and efficient building on the subject site.

b. Open Spaces

The plan proposes twenty-four percent of the net lot area for public use on-site, including an attractive plaza with a dynamic public art component adjacent to the expected extension of Fenton Street, and about thirty-seven percent of the net lot area for off-site streetscape improvements, a significant contribution which largely completes installation of the Silver Spring Streetscape Standard for the block. The approved Project Plan included a slightly larger percentage of public use space, 26.6 percent, but the Applicant's addition to the 24 percent of a dynamic public art installation well compensates for this modest shortfall. The potential for the short-term retention/replacement of the existing retaining wall on the Parking Lot District property between the plaza and the driveway impairs neither the quality of the space nor its longer-term adequacy, safety, or efficiency. Each of these features contributes to a significantly improved pedestrian experience that is adequate, safe, and efficient.

c. Landscaping and Lighting

The proposed landscaping on this urban infill site primarily provides a spatial context for the "urban oasis" public plaza along Fenton Street extended. Both the bordering tree stands and the foliated green screens along the lower floors of the building itself elevate and reinforce the central theme defining this unique urban destination. The on-site lighting, including a proposed illuminated entry feature highlighting the passage from Georgia Avenue through the site to the plaza, similarly direct and reinforce the pedestrian experience through the site, from both directions.

Further, the Applicant is providing street trees and pole lighting off-site, per MCDOT standards for Georgia Avenue and the Silver Spring Streetscape Standard for Georgia Avenue, Cameron Street, and, with Parking Lot District Approval, along the driveway for Parking Garage 2, as part of their public amenity contribution. The landscape and lighting are central to the successful design of this site, and are more than adequate, safe, and efficient.

d. Recreation Facilities

Since there is no residential component to this project, no recreation facilities are required.

e. Vehicular and Pedestrian Circulation

This design does an excellent job of improving pedestrian and vehicular circulation into, through, and out of the site, providing attractive connections and destinations to both Georgia Avenue and future Fenton Street extended. Sidewalks exist on both sides of the site and are actively used on a daily basis. The architecture, landscaping, signage, and lighting encourage pedestrian traffic through the site along the covered arcade along the southern edge of the building. The vehicular circulation provides access from Georgia Avenue for both parking and service, and egress to both Georgia Avenue and future Fenton Street extended. This Site Plan improves mid- and through-block circulation, both pedestrian and vehicular, and is adequate, safe, and efficient.

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

The building is compatible with other constructed, proposed, and planned high-rise mixed-use development along Georgia Avenue and Cameron Streets, including the adjacent hotel, office buildings, and other mixed-use structures in massing, scale, design, detailing, and layout.

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 subject Site Plan, including off-site improvements, is subject to forest conservation requirements. The site does not currently include any trees, and the Applicant expects to meet their forest conservation requirements through on-

and off-site planting and/or fee in lieu. Final conformance will be verified by Certified Site Plan.

The proposed storm water management concept approved by DPS on July 23, 2008, consists of on-site water quality via a Storm Filter and a "green" roof. On-site recharge is not required since this is a redevelopment.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

DEC 08 2008
BE IT FURTHER RESOLVED, that the date of this Resolution is _____ (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *
CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a Resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Commissioner Cryor, with Commissioners Alfandre, Cryor, Hanson, and Presley present and voting in favor of the motion, and Commissioner Robinson absent, at its regular meeting held on Thursday, October 23, 2008, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board



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

MCPB No. 08-134
Site Plan No. 820080230
Project Name: 8711 Georgia Avenue
Date of Hearing: October 23, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on April 16, 2008, 8711 Georgia Avenue Parking Lot, LLC, ("Applicant") filed an application for approval of a site plan for 152,740 gross square feet of mixed-use development, with 148,278 square feet of office use above 4,462 square feet of ground-floor commercial uses ("Site Plan" or "Plan") on 0.87 acres of CBD-2-zoned land, located 250 feet north of the intersection of Georgia Avenue and Cameron Street ("Property" or "Subject Property"); and

WHEREAS, Applicant's Site Plan application was designated Site Plan No. 820080230, (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated October 10, 2008, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on October 23, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on October 23, 2008, the Planning Board approved the Application subject to conditions on the motion of Commissioner Alfandre; seconded by Commissioner Cryor; with a vote of 4-0; Commissioners Alfandre, Cryor, Hanson, and Presley voting in favor and Commissioner Robinson being absent.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, N.S.P.C. Legal Department 10 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820080230 for 152,740 gross square feet of mixed-use development, with 148,278 square feet of office use above 4,462 square feet of ground-floor commercial uses, on 0.87 gross acres in the CBD-2 zone, subject to the following conditions:

1. Project Plan Conformance

The proposed development must comply with the conditions of the approved Resolution for Project Plan No. 920050020, as amended by Project Plan No. 92005002A.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of the approved Resolution for Preliminary Plan No. 120060420, unless amended and approved by the Planning Board.

3. LEED Certification

The Applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. For documentation purposes, before the issuance of any building permit, the Applicant must inform M-NCPPC Staff of the LEED Certification Level for which they are applying. If this level is less than a Silver rating, before the issuance of any building permit the Applicant must provide to Staff a written report from the Applicant's LEED consultant analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost.

4. Site Plan

a. Highlight the public pedestrian connection in both directions between Georgia Avenue and the art plaza on Fenton Street extended, at a minimum to include:

- i. on the south corner of the building, on Georgia Avenue, an illuminated entry feature similar to that illustrated on the "south" and "east" elevations on Sheet A.04 of the submitted architectural plans;
- ii. on the west-facing partial-floor building return located overhead within the pedestrian arcade (at the fifth bay from the north side of the building, as illustrated on the east elevation on Sheet A.04), adjacent to the driveway, an illuminated "way-finding" feature readily visible from the entry feature described above in condition 4.a.i;

- iii. on the east corner of the building, on the art plaza, an illuminated signage and entry feature;
 - iv. details of the above features must be included as exhibits in the Certified Site Plan;
 - b. Minimize to the greatest extent possible the opacity of any guardrail required by the building code to be located between the arcade on the southwest edge of the building and the adjacent driveway. Before issuance of any building use and occupancy permit, the Applicant must submit to M-NCPPC Development Review and Urban Design Staff the final guardrail design for approval;
 - c. The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations shown on Sheet A.04 of the submitted architectural drawings, as determined by M-NCPPC Development Review and Urban Design Staff;
 - d. Reconfigure the on-site portion of the transition between the north-side driveway curb and the off-site Georgia Avenue exitway curbing to provide a more direct continuation.
5. Public Use and Amenity Space
- a. The Applicant must provide a minimum of 7,477 square feet (24 percent of the net lot area) as on-site public use space;
 - b. The on-site public use space must be easily and readily accessible to the general public and available for public enjoyment;
 - c. Provide a minimum of 11,556 square feet (37.1 percent of the net lot area), for off-site public amenity, of streetscape improvements;
 - d. Expand the on-site public use space to include the arcade access between Georgia Avenue and the plaza on Fenton Street extended;
 - e. Provide "Green Screen" or similar structures on the building elevation facing the Fenton Street extended, as illustrated on Sheets A.04 and L3.1.1 of the submitted architecture and landscape architecture drawings. The Applicant must populate these structures with climbing plants sufficient to cover a substantial proportion of the screens.
6. Streetscape
- a. As detailed below, provide the full-width Silver Spring streetscape standard, including, but not limited to, brick pavers, street trees, and street lighting, along the sidewalk running continuously along the block from the western corner of the property on Georgia Avenue around Cameron Street and, subject to Parking Lot District (PLD) approval, along the existing driveway for Parking Garage 2 (Fenton Street extended) and concluding at the northern limit of the site behind the existing building at 8757 Georgia Avenue;
 - b. On Fenton Street, extending from north end of sidewalk adjacent to property to intersection with Cameron, provide streetscape improvements, as

permitted by PLD, of Type "B" in accordance with the Silver Spring Streetscape Plan (April 1992) Technical Manual or as amended;

- c. On Georgia Avenue, install brick paving in herringbone pattern in the sidewalks, transitioning to basket-weave on Cameron Street. The two different patterns to be separated by a double row-lock band of brick pavers aligned with the face of the building on Georgia Avenue (8701). (Though this is not reflected in the Silver Spring Streetscape Plan, Technical Manual, April 1992, the concrete unit paver in "Plan A" is no longer being installed on Georgia Avenue and the brick specified in "Plan B" is being installed. Herringbone pattern is being used to differentiate Plan A from Plan B type paving.)

7. Public Art

- a. Provide for and install the public art concept designed by artist Martha Jackson-Jarvis, as presented to the Planning Department's Art Review Panel on February 15, 2008, and illustrated in the Certified Site Plan;
- b. Any significant changes to the concept presented on February 15, 2008, must be presented to the Art Review Panel and approved by Development Review Staff before Certified Site Plan;
- c. Significant changes to the concept, as determined by Development Review Staff, proposed after Certified Site Plan will require a Site Plan Amendment.

8. Transportation

- a. Provide dual handicapped ramps at the corners of Georgia Avenue at Cameron Street and Cameron Street at Fenton Street intersections, or as approved by Montgomery County Department of Permitting Services (MCDPS);
- b. Provide level/at-grade sidewalk across the garage driveway access along Georgia Avenue.

9. Environment

- a. Meet all afforestation requirements for the Subject Property off-site and not with landscape planting or street trees planted within the public right-of-way;
- b. Comply with the conditions of approval of the Final Forest Conservation Plan (FFCP).

10. Lighting

- a. All private on-site down-lighting fixtures must be full cut-off fixtures;
- b. Deflectors must be installed on all up-lighting fixtures causing potential glare or excess illumination;
- c. Lighting required for the public art installation may be exempted from the conditions 9.a. and 9.b. at the discretion of Development Review Staff at the time of Certified Site Plan;

- d. Provide additional site lighting along the through-block pedestrian and vehicular routes as well as in the public plaza along future Fenton Street extended, as necessary to meet IESNA best practices for public space illumination.

11. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated July 23, 2008, unless amended and approved by the Montgomery County Department of Permitting Services.

12. Development Program

The Applicant must construct the proposed development in accordance with a Development Program. A Development Program shall be reviewed and approved by M-NCPPC Staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- a. Streetscape improvements to Georgia Avenue, Cameron Street, and, unless disapproved by the Parking Lot District, the future Fenton Street extension, as illustrated on the Certified Site Plan, must be completed before issuance of any use and occupancy permits;
- b. On-site public use space, including the associated public art installation, paving, lighting, and landscaping, must be completed before issuance of any use and occupancy permits;
- c. All on-site landscaping must be completed within six months of the issuance of any use and occupancy permits;
- d. Phasing of pre-construction meetings, dedications, sediment/erosion control, or other features must be specified;
- e. The "Green Screen" required by condition 5.e. must be installed on the building prior to issuance of any building use and occupancy permits and be planted within 6 months of the issuance of any building use and occupancy permits.

13. Clearing and Grading

- a. The Applicant may demolish the existing structures on the site prior to M-NCPPC approval of the Certified Site Plan, but only after approval of the Final Forest Conservation Plan and the pre-construction meeting;
- b. The Applicant must ensure that there is no clearing or grading of the subject site prior to M-NCPPC approval of the Certified Site Plan.

14. Maintenance

- a. The Applicant is responsible for maintenance of on-site landscaping and public use space;

- b. The Applicant must coordinate with the Silver Spring Urban District/Regional Services Center for maintenance of off-site public amenity space, including all streetscape improvements, both on- and off-site, except as specified below;
- c. Enter into an agreement with the Montgomery County Parking Lot District (PLD) for the maintenance of streetscape improvements where proposed site paving extends into PLD Property.

15. Certified Site Plan

Prior to Certified Site Plan approval, the following revisions, and those described in the above conditions, shall be included and/or information provided, subject to Staff review and approval:

- a. Minor corrections and clarifications to site details and labeling;
- b. A revised photometric plan to include all site lighting, specifically along the pedestrian arcade and driveway as well as the public plaza fronting future Fenton Street extended;
- c. Development Program, Inspection Schedule, Approved Forest Conservation Plan, and Site Plan Resolution;
- d. All areas within the project Limits of Disturbance, including all off-site improvements;
- e. Provide Development Review Staff with a final version of the executed agreement, including permission for streetscape improvements within the driveway, with the Parking Lot District for access to the existing exit driveway for Parking Garage 2;
- f. Adjust sidewalk paving details per condition 6;
- g. Revise sidewalk paving details to show the brick paver to be used in the streetscape as the Belden 470-479 'Silver Spring';
- h. Change specified wattage on the Washington Globe street lights, planned for Fenton and Cameron Streets, from 175 watts to 250 watts.

BE IT FURTHER RESOLVED that all site development elements as shown on 8711 Georgia Avenue drawings stamped by the M-NCPPC on August 29, 2008, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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.*

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2. *The Site Plan meets all of the requirements of the CBD-2 zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the Central Business District 2 (CBD-2) zone as demonstrated in the project Data Table below. The building height and density remain unchanged from the approved Project Plan, and the modifications to the building setbacks, vehicular access, and public use space provide a superior design.

Requirements of the CBD-2 zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the developments standards proposed for approval. The Planning Board finds, based on the aforementioned data table, and other evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-2 Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

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Min. Total On- & Off-Site Public Use & Amenity Space (sf.)	19,033
Max. Parking Spaces	326

¹ Measured from the center of the building on Georgia Avenue.

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

a. Buildings and Structures

The proposed building provides an appropriate higher-density mixed office use with ground-floor retail on an optimal site for accessibility to mass transit and neighborhood facilities. The design and layout of the building are compatible with the existing and proposed development of the north end of the Silver Spring CBD in terms of massing, detailing, and height. Both the use and the design elements of the architecture provide an adequate, safe, and efficient building on the subject site.

b. Open Spaces

The plan proposes twenty-four percent of the net lot area for public use on-site, including an attractive plaza with a dynamic public art component adjacent to the expected extension of Fenton Street, and about thirty-seven percent of the net lot area for off-site streetscape improvements, a significant contribution which largely completes installation of the Silver Spring Streetscape Standard for the block. The approved Project Plan included a slightly larger percentage of public use space, 26.6 percent, but the Applicant's addition to the 24 percent of a dynamic public art installation well compensates for this modest shortfall. The potential for the short-term retention/replacement of the existing retaining wall on the Parking Lot District property between the plaza and the driveway impairs neither the quality of the space nor its longer-term adequacy, safety, or efficiency. Each of these features contributes to a significantly improved pedestrian experience that is adequate, safe, and efficient.

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d. Recreation Facilities

Since there is no residential component to this project, no recreation facilities are required.

e. Vehicular and Pedestrian Circulation

This design does an excellent job of improving pedestrian and vehicular circulation into, through, and out of the site, providing attractive connections and destinations to both Georgia Avenue and future Fenton Street extended. Sidewalks exist on both sides of the site and are actively used on a daily basis. The architecture, landscaping, signage, and lighting encourage pedestrian traffic through the site along the covered arcade along the southern edge of the building. The vehicular circulation provides access from Georgia Avenue for both parking and service, and egress to both Georgia Avenue and future Fenton Street extended. This Site Plan improves mid- and through-block circulation, both pedestrian and vehicular, and is adequate, safe, and efficient.

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

The building is compatible with other constructed, proposed, and planned high-rise mixed-use development along Georgia Avenue and Cameron Streets, including the adjacent hotel, office buildings, and other mixed-use structures in massing, scale, design, detailing, and layout.

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 subject Site Plan, including off-site improvements, is subject to forest conservation requirements. The site does not currently include any trees, and the Applicant expects to meet their forest conservation requirements through on-

and off-site planting and/or fee in lieu. Final conformance will be verified by Certified Site Plan.

The proposed storm water management concept approved by DPS on July 23, 2008, consists of on-site water quality via a Storm Filter and a "green" roof. On-site recharge is not required since this is a redevelopment.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

DEC 08 2008
BE IT FURTHER RESOLVED, that the date of this Resolution is _____ (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *
CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a Resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Commissioner Cryor, with Commissioners Alfandre, Cryor, Hanson, and Presley present and voting in favor of the motion, and Commissioner Robinson absent, at its regular meeting held on Thursday, October 23, 2008, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board



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

State Highway
Administration

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

September 12, 2008

Ms. Christina Vornbrock
Loiderman Soltesz Associates, Inc.
2 Research Place
Suite 100
Rockville, Maryland 20850

Re: Montgomery County
8711 Georgia Avenue
(Formerly Zalco Property)
MD 97 (Georgia Avenue)
Mile Post: 0.20

Dear Ms. Vornbrock:

The State Highway Administration (SHA) appreciates the opportunity to review the submittal for the 8711 Georgia Avenue development in Montgomery County. We offer the following comments:

- As requested in our April 26, 2008 letter, truck turning templates were provided for the access of the private drive at MD 97. Based on the exhibit, a 20' radius would require a truck exiting the property to enter halfway into the middle thru lane in order to complete the turning movement. Therefore, this office requests that the radii be increased to meet the minimum 30' to improve the turning maneuvers.
- The at-grade sidewalk which will cross the proposed driveway is acceptable; no ADA ramps are needed.

If you have any questions or require additional information, please contact Ms. Corren V. Giles at 410-545-5595 or by using our toll free number in Maryland only at 1-800-876-4742.

Sincerely,

for Steven D. Foster, Chief
Engineering Access Permits Division

SDF/cvg

Cc: Ms. Catherine Conlon / M-NCPPC
Mr. Shahriar Etemadi /M-NCPPC
Mr. Jeff Wentz *sent via email*
Mr. Augustine Rebish *sent via email*
Ms. Kate Mazzara *sent via email*

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





FIRE MARSHAL COMMENTS

DATE: Wednesday, October 01, 2008
TO: Cristina Vornbrock
Loiederman Soltesz Associates
FROM: Marie LaBaw
RE: 8711 Georgia Ave
820080230

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 10/1/2008. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

July 23, 2008

Carla Reid Joyner
Director

Ms. Amy Quant
Loiederman Soltesz Associates, Inc.
2 Research Place, Suite 100
Rockville, MD 20850

Re: Stormwater Management **Revised CONCEPT**
Request for 8711 Georgia Avenue Assoc.
Preliminary Plan #: 120060420
SM File #: 215341
Tract Size/Zone: 0.76 Ac./CBD-2
Total Concept Area: 0.76 Ac.
Parcel(s): N107 and N109
Watershed: Lower Rock Creek

Dear Ms. Quant:

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 via a StormFilter and a green roof. Onsite recharge is not required since this is redevelopment. A waiver of on-site channel protection measures is granted due to onsite constraints.

The following **items** will 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. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. If possible provide a standard MCDPS flow splitter to divert flow in excess of the WQV.
6. The StormFilter will be designed as a flow based structure.
7. Provide a copy of the mechanical plans to verify that the roof drains to the stormwater management structure and that the underground garage drains to the WSSC sewer system.
8. Use the latest MCDPS design standards for stormwater management structures at time plan submittal.

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 David Kuykendall at 240-777-6332.

Sincerely,


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

RRB:dm CN215341 2ndRevision 8711 Georgia Avenue.DWK

cc: C. Conlon
S. Federline
SM File # 215341

QN -Waived; Acres: 0.76
QL - On-site/Waived; Acres: 0.66/ 10
Recharge is not provided



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

November 22, 2010

Amy Quant, P.E.
Project Manager
Loiederman Soltesz Associates, Inc.
2 Research Place, Suite 100
Rockville, MD 20850

RE: 8711 Georgia Avenue
SM File #215341
Request for Administrative Waiver
for Grandfathering

Dear Ms. Quant:

Based on a review by the Department of Permitting Services, an administrative waiver is granted for the above mentioned project. The waiver is in accordance with the provisions of Section 19-21A of the Montgomery County Code and is based on the preliminary project approval for the site, as defined in the Code.

All previously approved conditions of the approved stormwater management concept plan for the site still apply. Please note that changes to the plan in the development process may constitute grounds to rescind or amend this waiver approval.

Please contact me at 240-777-6343 or rick.brush@montgomerycountymd.gov if you have questions or comments.

Sincerely,

Richard R. Brush, Manager
Water Resources Section

Cc: David Kuykendall
SM File #215341

37834 097

Parcel Identification Numbers: 13-001-00962467
13-001-01804995
13-001-03309204

Title Insurer: None.

FILED
LORETTA E. KNIGHT
CLERK'S OFFICE
MONTGOMERY CO. MD.

2009 AUG - 7 PM 3: 05

EASEMENT AGREEMENT

between

8711 Georgia Avenue Parking Lot LLC and
Montgomery County, Maryland

Dated July 9, 2009

Preliminary Statement1

ARTICLE I - GRANT OF EASEMENT 1

ARTICLE II - COVENANTS AND RESTRICTIONS.2

ARTICLE III - LIABILITY AND INDEMNIFICATION. 3

ARTICLE IV - REMEDIES. 4

ARTICLE V - EFFECT ON INSTRUMENTS.5

ARTICLE VI - NOTICES. 5

ARTICLE VII - MISCELLANEOUS. 6

75
20
CA

TAX FOR JUNE
RECORDING FEE
TOTAL
RECORDING FEE
APR 07, 2009
REC'D + INDEX
MAY 11 2009
MAY 11 2009

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Agreement") is made as of this 1st day of July, 2009, by and between **8711 GEORGIA AVENUE PARKING LOT LLC**, a Maryland limited liability company ("GAPL"), having a mailing address in care of Guardian Realty Management, Inc., 6000 Executive Boulevard, Suite 400, North Bethesda, Maryland 20852, and **MONTGOMERY COUNTY, MARYLAND** (the "County"), having a mailing address of 101 Monroe Street, 10th Floor, Rockville, Maryland 20850 (GAPL and the County together as the "Parties").

Preliminary Statement

A. GAPL is the owner of land located in Montgomery County, Maryland, more particularly described on Exhibit "A", attached hereto and incorporated herein (the "GAPL Parcel"). GAPL intends to develop and construct on the GAPL Parcel a mixed-use building.

B. The County is the owner of land adjacent to the GAPL Parcel, more particularly described on Exhibit "B" attached hereto and incorporated herein (the "County Parcel"). The County Parcel currently contains an above-ground public parking garage ("Public Garage 2"). The GAPL Parcel and the County Parcel are herein collectively referred to as the "Parcels" and each individually as a "Parcel."

C. In connection with the development of the GAPL Parcel, the Parties desire to establish (i) an easement for utility, pedestrian, and vehicular access, and (ii) covenants and use restrictions.

D. The terms "Party" and "Parties" refer to GAPL and the County and their respective successors, grantees and assigns.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, GAPL and the County hereby grant, covenant and agree as follows:

ARTICLE I - GRANT OF EASEMENT

Section 1.01. Access Easement. In consideration of the sum of one hundred seventy-eight thousand, two hundred dollars (\$178,200.00), the County hereby grants and conveys to GAPL, for the benefit of the GAPL Parcel, a non-exclusive perpetual easement on, over and across the area described on Exhibit "C" attached to and made a part of this Agreement and depicted on Exhibit "D" (the "Easement Area") solely for the purposes of vehicular egress from the GAPL parcel to Cameron Street, and pedestrian ingress and egress to and from the GAPL Parcel to the public sidewalk on Cameron

MONTGOMERY COUNTY, MD

APPROVED BY _____

AUG 07 2009

\$ 1231.⁸⁵ RECORDATION TAX PAID
\$ N/A TRANSFER TAX PAID

Street. The Easement Area will be accessed from the GAPL Parcel only where the GAPL driveway intersects the Easement Area as depicted on Exhibit D.

Section 1.02. Walls and Barriers. Subject to Article II, the County will not construct walls, fences or barriers of any sort in the Easement Area, or any portion thereof, which shall permanently prevent the use of such Easement Area.

Section 1.03. Future Easements. The County retains the right to grant, within the Easement Area, such other easements, rights or privileges to other persons or entities for the installation and repair of electric, cable, telecommunications, gas, water, sewer, stormwater and other utilities as the County, in its sole reasonable discretion, may elect, so long as such uses do not materially interfere with the easement, obligations, and agreements established herein.

Section 1.04. Restrictions. The easement granted by this Article I shall be subject to the covenants and restrictions set forth in Article II.

Section 1.05 Redevelopment. The County retains the right to redevelop the County Parcel at any time, including within the Easement Area, provided that, if the Easement Area is disturbed as part of the redevelopment, then an alternative egress easement will be provided by the County that is satisfactory to GAPL.

ARTICLE II – COVENANTS AND RESTRICTIONS

Section 2.01. Use Restrictions. The restrictions on the use of the Easement Area shall be binding on GAPL and its successors, tenants, occupants, employees, agents or invitees.

Section 2.02. Maintenance Requirements. Subject to appropriations and the availability of funds, the County shall maintain, at its own expense, the Easement Area located on its Parcel in good condition and repair. The County shall perform such maintenance on the Easement Area located on the County Parcel consistent with comparable access areas leading to above-ground public garages located in Silver Spring, Maryland. The maintenance performed by the County is to include the following:

- (a) Maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability.
- (b) Removing all papers, ice and snow, mud and sand, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition.
- (c) If the County performs maintenance or construction activities, or maintenance activities associated with the underground stormwater management facilities

serving the County Parcel, access across the Easement Area may be temporarily denied. Such repair and maintenance shall be performed in a reasonably expeditious manner by the County. The County will use reasonable efforts to coordinate any such activities with GAPL as far in advance as possible. The County must provide at least five (5) business days written notice to GAPL prior to commencement of any such maintenance or construction activities, except in cases of bona fide emergency, in which case the County must provide as expedited notice to GAPL as is reasonable under the circumstances. Any such maintenance or repair shall be performed by the County so as to reasonably minimize any interference with the operation and use of the GAPL Parcel by the owner of the GAPL Parcel, its tenants, invitees, licensees, and guests.

Section 2.03. Vehicle Restrictions. The following vehicles are prohibited from operating on, over or across the Easement Area:

- (a) Any trailer or towed vehicle.
- (b) Any truck having a manufacturer's rated carrying capacity greater than one (1) ton.
- (c) Any vehicle with a gross weight greater than eight thousand (8,000) pounds.
- (d) Any vehicle wider than eight (8) feet.
- (e) Any bus.

ARTICLE III – LIABILITY AND INDEMNIFICATION

Section 3.01. Liability; Indemnification. GAPL shall indemnify and hold harmless the County from and against any damages, liability, actions, claims and expenses in connection with the loss of life, personal injury or damage to property arising from or out of any occurrence in or upon the Easement Area, or occasioned wholly or in part by any act or omission of GAPL or its successors, agents, or employees.

Section 3.02. Insurance. Prior to the execution of this Agreement by the County, GAPL must obtain at its own cost and expense the following insurance with an insurance company or companies licensed to do business in the State of Maryland and acceptable to the Division of Risk Management. This insurance must be kept in full force and effect during the term of this Agreement, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, GAPL shall provide a copy of the insurance policies. GAPL's insurance shall be primary. GAPL shall maintain or cause to be maintained the following policies of insurance (a) commercial general liability insurance with minimum \$1,000,000 (one million) each combined single limit, providing coverage against claims on account of bodily injury and property damage that may arise from or be occasioned by the use of the easements

granted herein by GAPL, including the following coverage: contractual liability, premises and operations, and independent contractors; and (b) worker's compensation insurance meeting all requirements of Maryland law with the following minimum limits: bodily injury by accident - \$100,000 each accident; bodily injury by disease - \$500,000 policy limits; bodily injury by disease - \$100,000 each employee. Policies of insurance provided for in this Section 3.02 shall name the County as an additional insured (and shall contain the following certificate holder information: Montgomery County Government, Attention: Director - Department of Transportation, 101 Monroe Street, 10th Floor, Rockville, MD 20850), and shall provide that they shall not be materially changed or cancelled without at least sixty (60) days' written notice to the County. Such insurance may be carried under a "blanket" policy or policies covering other properties of GAPL and its subsidiaries and controlling or affiliated corporations.

ARTICLE IV - REMEDIES

Section 4.01. Remedies. In the event of a breach by either Party of any obligation under this Agreement, the other Party shall be entitled to pursue all rights and remedies for such breach as may be available at law or in equity, including, without limitation, an order specifically enforcing the performance of such obligation or an injunction prohibiting any such breach.

Section 4.02. Non-Waiver. No delay or omission of either Party in the exercise of any right accruing upon any default of the other Party shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by either Party of a breach of, or a default in, any of the terms and conditions of this Agreement by the other Party shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement.

Section 4.03. Force Majeure. If either Party is delayed or hindered in or prevented from the performance of any act required to be performed by such Party by reason of Acts of God, strikes, lockouts, unavailability of materials, failure of power, prohibitive governmental laws or regulations, riots, insurrections, the act or failure to act of the other Party, unusually adverse weather conditions preventing the performance of work as certified to by a contractor, war or other reason beyond such Party's control, the time for performance of such act shall be extended for a period equivalent to the period of such delay.

Section 4.04 Appropriation of Funds. Nothing in this Agreement may be construed to limit the discretion of Montgomery County as to the appropriation funds. Any obligation of the County arising under this Agreement that requires the expenditure of money by the County is expressly subject to the appropriation and encumbrance of funds by the Montgomery County Council.

ARTICLE V – EFFECT ON INSTRUMENTS

Section 5.01. Mortgage Subordination. Any mortgage or deed of trust affecting either Parcel shall at all times be subject and subordinate to the terms of this Agreement, and any party foreclosing any such mortgage or deed of trust or acquiring title by deed in lieu of foreclosure or trustee's sale shall acquire title subject to all of the terms and provisions of this Agreement.

Section 5.02. Binding Effect. Every agreement, covenant, promise, undertaking, condition, easement, right, privilege, and restriction made, granted or assumed, by either party to this Agreement shall be binding upon and inure to the benefit of the Parties and shall run with the land and constitute an equitable servitude on the parcel owned by such party appurtenant to and for the benefit of the other Parcels. Any transferee of any part of either Parcel shall automatically be deemed, by acceptance of the title to any portion of such Parcel, to have assumed all obligations of this Agreement relating thereto from and after the date of acquiring such title and to have agreed with the then owner of the other parcel to execute any and all instruments and to do any and all things reasonably required to carry out the intention of this Agreement. The transferor shall, upon the completion of such transfer, be relieved of all further liability under this Agreement, except liability with respect to obligations or claims remaining unsatisfied that may have arisen during its period of ownership of the portion of the parcel so conveyed.

Section 5.03. No Third-Party Beneficiaries. Nothing in this Agreement, expressed or implied, shall confer upon any person, other than the parties and their successors and assigns, any public benefits, rights or remedies under or by reason of this Agreement.

ARTICLE VI – NOTICES

Section 6.01. Notices. All notices, requests, demands or other communications hereunder shall be in writing and deemed given (a) when delivered personally with signed receipt of delivery, or (b) three (3) business days after the day deposited in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, or (c) on the day deposited with a recognized overnight courier service which requires signed receipt of delivery (such as Federal Express). In all events, such notices and communications shall be addressed as follows (or to such other address which a party may from time to time hereafter designate by notice given in accordance with this Section 8.01):

If to **GEORGIA AVENUE PARKING LOT LLC:**

c/o Brian R. Lang, Senior Vice President
Guardian Realty Management, Inc.
6000 Executive Blvd., Suite 400
N. Bethesda, Maryland 20852

With copies that do not constitute notice to:

Lerch, Early & Brewer, Chtd.
3 Bethesda Metro Center, Suite 460
Bethesda, Maryland 20814
Attention: Harry Lerch or Stuart Barr

If to **MONTGOMERY COUNTY, MARYLAND:**

Montgomery County Department of Transportation
101 Monroe Street, 10th Floor
Rockville, Maryland 20850
Attention: Arthur Holmes, Jr., Department Director

With copies that do not constitute notice to:

Office of the County Attorney
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attention: County Attorney

and

Montgomery County Department of Transportation
Division of Parking Management
101 Orchard Ridge Drive, 2nd Floor
Gaithersburg, Maryland 20878
Attention: Stephen C. Nash, Division Chief

ARTICLE VII – MISCELLANEOUS

Section 7.01. Miscellaneous.

(a) If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstances, shall, to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid provision affects the consideration for this Agreement; and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(b) This Agreement shall be construed in accordance with the laws of the State of Maryland, excluding choice of laws principles.

(c) The Article headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof.

(d) Nothing in this Agreement shall be construed to make the Parties partners or joint venturers or render either of said parties liable for the debts or obligations of the other.

(e) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties.

(f) This Agreement may be amended, modified, or terminated at any time by written agreement of the Parties, executed and acknowledged by all Parties or their successors or assigns. This Agreement shall not be otherwise amended, modified or terminated during the term hereof.

(g) All terms utilized in this Agreement shall be construed, wherever the context so requires, so that the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

(h) Each of the Parties agrees that it will, within sixty (60) business days following receipt of notice by any other Party, execute acknowledge and deliver to that Party a written statement certifying to the requesting Party, and/or its transferees or mortgagees, the following: (i) that this Agreement has not been amended and is in full force and effect (or if there shall be any such amendments, reference shall be made to the same); and, (ii) that to the best of the certifying Party's knowledge, there are no defaults in the performance of any provisions contained in this Agreement (or specifying each default of which such Party may have knowledge).

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year first above written.

WITNESS:

COUNTY:

MONTGOMERY COUNTY, MARYLAND

Rebecca S Demaruk

By: Diane Schwartz Jones (SEAL)
Diane Schwartz Jones, Assistant Chief
Administrative Officer

STATE OF MARYLAND

*

COUNTY OF MONTGOMERY

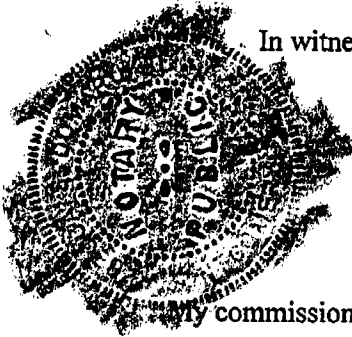
*

to wit:

*

On this 9th day of July, 2009, the undersigned officer, personally appeared Diane Schwartz Jones, Assistant Chief Administrative Officer and that she, as such Assistant Chief Administrative Officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of Montgomery County, Maryland by herself as Assistant Chief Administrative Officer.

In witness whereof, I hereunto set my hand and official seal.



Rebecca S Demaruk
Notary Public

My commission expires: 1-11-11

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY

BY: Clifford S. Kennedy

DATE: 7/6/09

8711 GEORGIA AVENUE PARKING LOT
LLC, a Maryland limited liability company

By: GRF Holding III LLC,
Its Managing Member

Witness:

Mary Natali

By: [Signature] (SEAL)
Name: Anthony G. LaBarbera
Title: Authorized Signatory

STATE OF Maryland

*

COUNTY OF Montgomery

*

to wit:

*

I HEREBY CERTIFY THAT on this 30th day of June, 2009,
before the undersigned, a Notary Public of the State and County aforesaid, personally
appeared Anthony G. LaBarbera, Auth. Signatory of GRF Holding
III LLC, Managing Member of 8711 Georgia Avenue
Parking Lot LLC, a Maryland limited liability company, and that he/she, as such officer of
the Managing Member acknowledged the same to be the act and deed of GRF Holding
III LLC, and the act and deed of 8711 Georgia Avenue Parking Lot LLC,
a Maryland limited liability company.

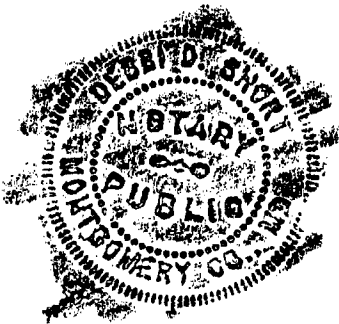
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

[Signature]
Notary Public

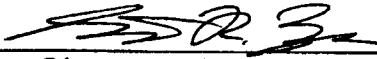
MY COMMISSION EXPIRES:

4-24-2013



ATTORNEY'S CERTIFICATION

I HEREBY CERTIFY that this instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.



Stuart R. Barr, Attorney

After Recordation, Please Return To:

Judith A. Hill, Paralegal
Lerch, Early & Brewer, Chartered
3 Bethesda Metro Center, Suite 460
Bethesda, Maryland 20814
301-986-1300
[File No. 81376.001\SRB]

Loledeman Soltesz Associates, Inc.
 March 6, 2008
 Project No: 1469-00-00

EXHIBIT "A"

**DESCRIPTION OF
 THE PROPERTY OF
 8711 GEORGIA AVENUE PARKING LOT LLC
 LIBER 35934 FOLIO 222
 WHEATON (13TH) ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND**

Being two (2) pieces or parcels of land hereinafter described as "Parcel One" and Parcel Two", said Parcel One being all of Parcel I as described in a conveyance from 8711 GEORGIA AVENUE ASSOCIATES, a Maryland limited partnership, to 8711 GEORGIA AVENUE PARKING LOT LLC, a Maryland limited liability company, by Special Warranty Deed dated August 14, 2008 and recorded among the Land Records of Montgomery County, Maryland in Liber 35934 at Folio 222, said Parcel One also being part of a tract of land know as "Labyrinth" and being part of Lot Three (3) in a subdivision of the real estate of which John C. Wilson died seized and possessed, said subdivision having been made by Peter and Henderson, trustees, in Equity Case 679 and shown on a plat recorded in J.A. 3 at Folio 413 of the Judgment Records of Montgomery County, Maryland, said Part Two being all Parcel II as described in the aforementioned conveyance from 8711 GEORGIA AVENUE ASSOCIATES, a Maryland limited partnership, to 8711 GEORGIA AVENUE PARKING LOT LLC, a Maryland limited liability company, by Special Warranty Deed dated August 14, 2008 and recorded among the Land Records of Montgomery County, Maryland in Liber 35934 at Folio 222, said Parcel Two also being part of Parcel B as shown on a plat of subdivision entitled "PARCELS A AND B, A RESUBDIVISION PART OF LOTS 4 & 17, J.C. WILSON ESTATE, SILVER SPRING" and recorded among the aforesaid Land Records in Plat Book 63 as Plat 5533, and said Parcel One and Two being more particularly described as follows:

Parcel One:

Beginning for said Part One at a point on the dividing line between lots numbered Three (3) and Four (4) as shown on the aforesaid Judgment Record Plat, said beginning point being also on the northeasterly limit line of the right of way for Georgia Avenue Extended as shown on the State Roads Commission of Maryland Plat No. 8903, Contract No. M 435-2-315; said point being also the most westerly corner of Parcel A, as shown on a plat entitled "PARCELS A AND B, A RESUBDIVISION OR PART OF LOTS 4 & 17, J.C. WILSON ESTATE, SILVER SPRING" filed among the Land Records of said County in Plat Book 63 at Plat No. 5533 and running thence in the meridian of the last mentioned plat

- 1.) North 50°17'10" East, 221.02 feet with the aforementioned dividing line between Lots 3 and 4 of the J.C. Wilson Estate and the northwesterly side of Parcels A and B as shown on Plat No. 5533 to the most easterly corner of said Lot No. 3; thence

- 2.) North 39°42'50" West, 120.00 feet with the dividing between Lots 3 and 17 of the J.C. Wilson Estate and one of the lines of the aforementioned Parcel B; thence running through said Lot No. 3 the following two (2) courses
- 3.) South 50°17'10" West, 221.92 feet to the aforementioned easterly limit line of the right of way for Georgia Avenue; thence
- 4.) South 40°08'30" East, 120.00 feet with said right of way line to the place of beginning; containing a calculated area of 26,576 square feet of land, as shown on Exhibit "A-1" attached hereto and made a part hereof by this reference.

Parcel Two:

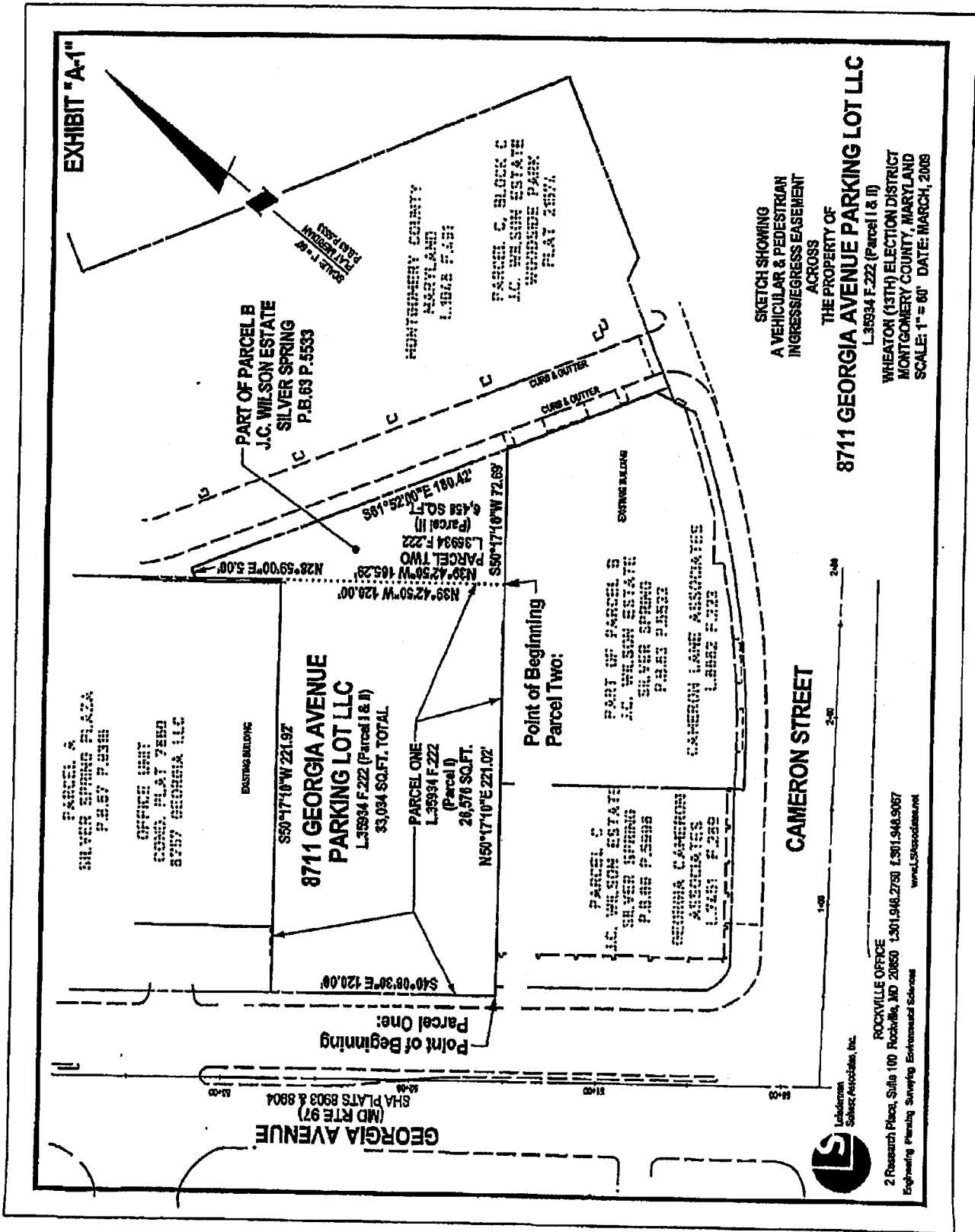
Beginning for said Part Two at the end of the North 50°17'50" East, 107.35 foot line of Parcel B as shown on the plat entitled "PARCELS A AND B, A RESUBDIVISION OR PART OF LOTS 4 & 17, J.C. WILSON ESTATE, SILVER SPRING" filed among the Land Records of said County in Plat Book 63 at Plat No. 5533, and running thence with the outlines of said parcel, the following three (3) courses:

- 1.) North 39°42'50" West, 165.29 feet; thence
- 2.) North 28°59'00" East, 5.00 feet, thence
- 3.) South 61°52'00" East, 180.42 feet; thence running through said parcel
- 4.) South 50°17'10" West, 72.69 feet to the place of beginning; containing a calculated area of 6,458 square feet of land, as shown on Exhibit "A-1" attached hereto and made a part hereof by this reference.

RESULTING IN A TOTAL NET AREA of 33,034 square feet, as shown on Exhibit "A-1" attached hereto and made a part hereof by this reference.

PARCEL ID TABULATION

Map/Parcel	Account No.	Address	Legal
JN33/N109	13-001-00962467	8711 Georgia Avenue	L.35934 F.222
JN33/N107	13-001-01804995	Cameron Street	L.35934 F.222



37834 111

Lolederman Soltesz Associates, Inc.

March 6, 2009

Project No: 1469-00-00

EXHIBIT "B"

**DESCRIPTION OF
PARCEL C, BLOCK C
J.C. WILSON ESTATE
WOODSIDE PARK**

PLAT 21574

WHEATON (13TH) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

PROPERTY OF

MONTGOMERY COUNTY, MARYLAND

PART OF LIBER 1044 FOLIO 327 AND LIBER 1048 FOLIO 491

Being Parcel C, Block C as shown on a plat of subdivision entitled "SUBDIVISION RECORD PLAT, J.C. WILSON ESTATE, WOODSIDE PARK" and recorded among the Land Records of Montgomery County, Maryland as Plat 21574, said Parcel C also being part of the property described in the following two (2) conveyances to Montgomery County, Maryland (aka Board of County Commissioner for Montgomery County) 1.) from Robert K. Randall and Helen Miller Randall by deed dated November 13, 1946 and recorded among the aforesaid Land Records in Liber 1044 at Folio 327, and 2.) from Warren W. Mulligan by deed dated December 22, 1946 and recorded among the said Land Records in Liber 1048 at Folio 491.

PARCEL ID TABULATION

Map/Parcel	Account No.	Address	Legal
JN33/N057	13-001-03309204	1200 Spring Street	Plat 21574

37834 112

Loledeman Soltasz Associates, Inc.
March 6, 2009
Project No: 1469-00-00

EXHIBIT "C"

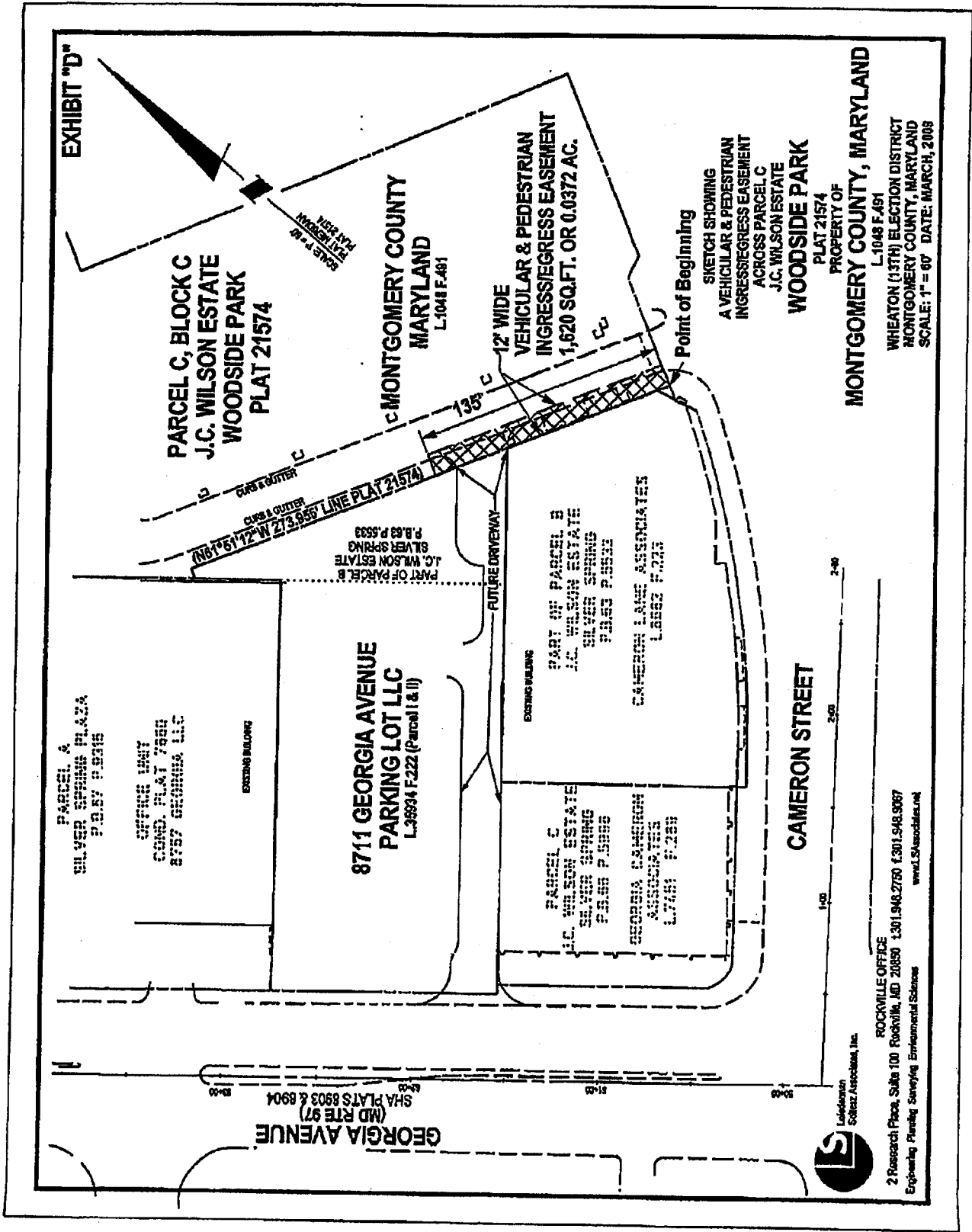
**DESCRIPTION OF
A VEHICULAR & PEDESTRIAN
INGRESS/EGRESS EASEMENT
ACROSS
PARCEL C, BLOCK C
J.C. WILSON ESTATE
WOODSIDE PARK
PLAT 21574
WHEATON (13TH) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND**

Being a strip or parcel of land twelve (12) feet wide hereinafter described, in through, over and across the property described in a conveyance from Warren W. Mulligan by deed dated December 22, 1946 and recorded among the said Land Records in Liber 1048 at Folio 491, said property being part of Parcel C, Block C as shown on a plat of subdivision entitled "SUBDIVISION RECORD PLAT, J.C. WILSON ESTATE, WOODSIDE PARK" and recorded among the Land Records of Montgomery County, Maryland as Plat 21574, and being more particularly described as follows:

The said twelve (12) foot wide strip or parcel of land lying northeasterly of adjacent, contiguous and parallel to the North 61°51'12" West, 273.956' foot line of said Parcel C, Block C extending from the westerly side of Cameron Street, 70' R/W, northwesterly 135 feet; containing 1,620 square feet or 0.0372 acres of land as shown on Exhibit "D" attached hereto and made a part hereof by this reference.

PARCEL ID TABULATION

Map/Parcel	Account No.	Address	Legal
JN33/N057	13-001-03309204	1200 Spring Street	Plat 21574



State of Maryland Land Instrument Intake Sheet
Baltimore City County: Montgomery
Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments
2 Conveyance Type Check Box
3 Tax Exemptions (if applicable)
4 Consideration and Tax Calculations
5 Fees
6 Description of Property
7 Transferred From
8 Transferred To
9 Other Names to Be Indexed
10 Contact/Mail Information
11 Assessment Information