



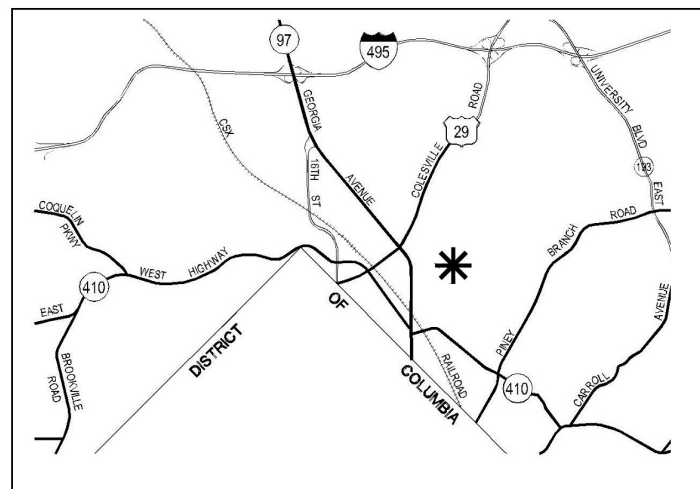
Fenton Street, Project Plan, 920120020

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Description

- Relocation of existing First Baptist Church building, parking lot and support structures located at 8415 Fenton Street for 18,650 square feet of retail, 215,660 square feet of residential development up to 259 dwelling units, including 12.5% MPDU's, and 29,228 square feet of institutional use (church)
- Located at the corner of Wayne Avenue and Fenton Street
- On 117,416 gross square feet (2.69 acres) of CDB-1, CBD-0.5 and R-60 zoned land in the 2000 Silver Spring CBD Sector Plan area
- Applicant: Fenton Development, LLC
- Submitted on February 6, 2012



Summary

- Staff recommends approval of the Project Plan with conditions. The application proposes 259 dwelling units or 215,660 square feet of residential use, 18,650 square feet of retail uses and 29,228 square feet of institutional use (church) under the optional method of development. The project will meet part of the parking requirement on-site with underground parking.
- The development will provide a public amenity package that includes the following:
 - A public plaza extending from Wayne Avenue to Bonifant Street
 - A passage way or paseo between the Wayne Avenue and Bonifant Street plazas that features:
 - A series of gentle steps and seat walls that address the grade change between Bonifant and Wayne Avenue
 - Shade trees, bio-retention planters and specialty paving
 - Benches and table and chairs
 - An ADA compliant elevator connecting the two plazas
 - An outdoor play area on Bonifant Street for children who will be served by the Church-Run day care

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SITE DESCRIPTION

Vicinity

The subject property is located in the Fenton Village Overlay zone of the Silver Spring CBD Sector Plan area and the East Silver Spring Master Plan. The adjacent uses include restaurants, salons, residential

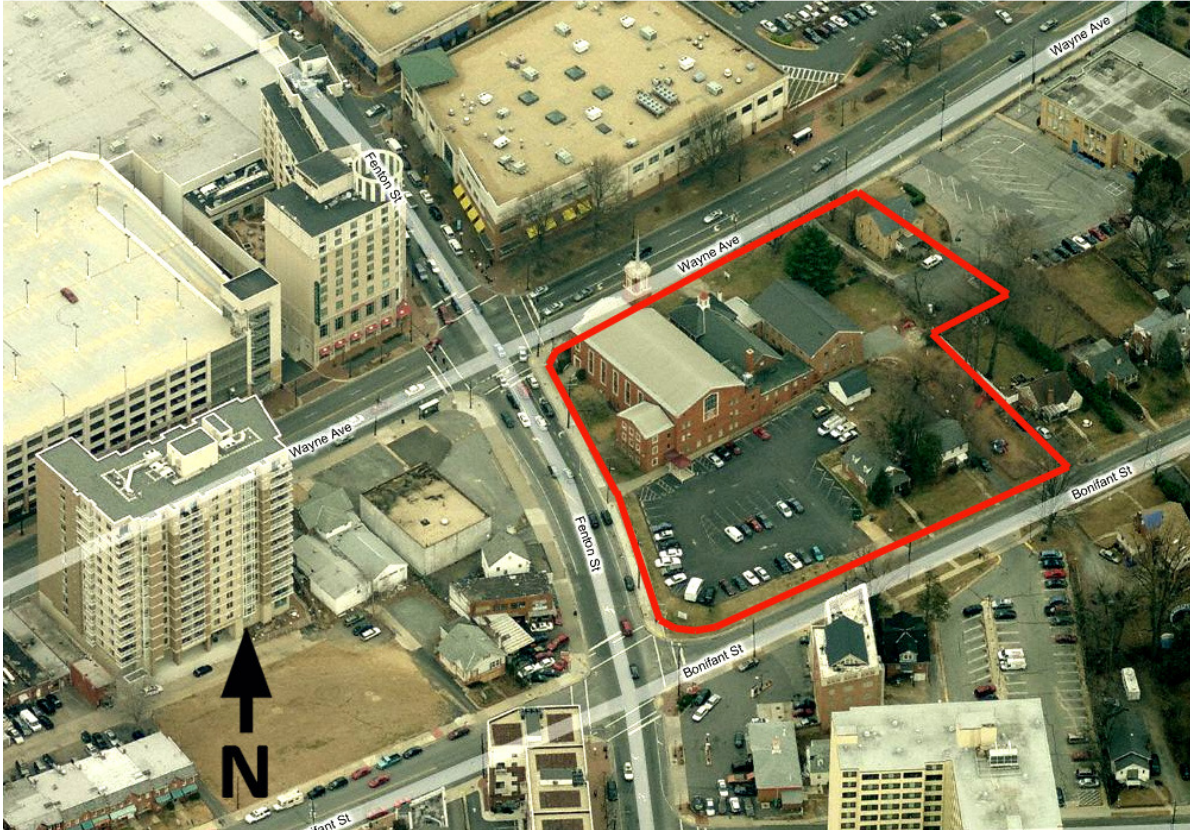


Vicinity Map

apartments, a dry cleaner and gasoline stations. The site is within walking distance of the Silver Spring Metro Station and across the street from the future Purple Station to be located at the new Silver Spring Library.

Site Analysis

The subject property is currently improved with the First Baptist Church of Silver Spring, comprised of a sanctuary building with meeting rooms, a day care center, a parking lot on the south west corner of the



Aerial Photo Looking North

site and two one-family houses used by the church staff. The entire site consists of four zones; from Fenton Street to the east is the CBD-1 zone, CBD-0.5 and the R-60 zone. The fenton Village Overlay zone encompassed the CBD-1 portion of the site (see zoning map on page 13). The R-60 portion of the site (proposed Lot 2) is improved with a one-family dwelling presently owned by Saint Michael the Archangel Catholic Church.

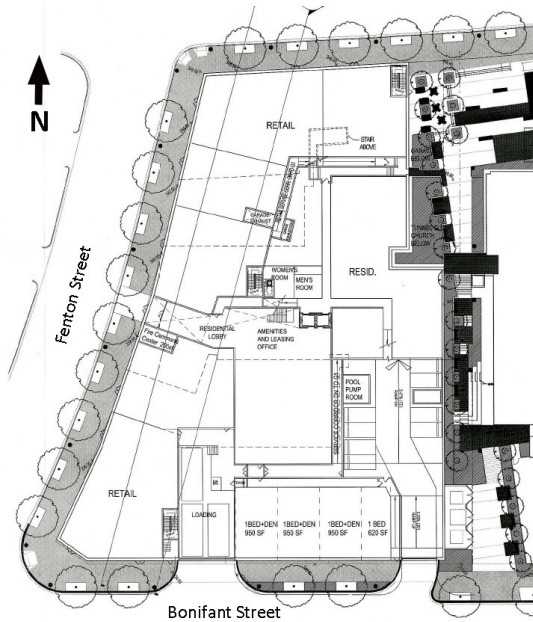
PROJECT DESCRIPTION

Proposal

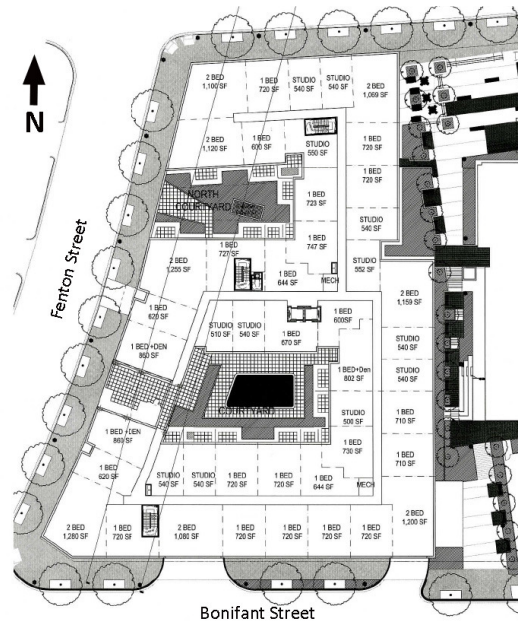
The project plan proposes a mixed-use redevelopment of the property that will incorporate two buildings: 1) The building on the east side of the site will house a new church sanctuary, religious education classrooms and a child day care center; 2) The building on the west side of the site will include approximately 259 residential units above ground floor retail and underground parking. The on-site public use space will be composed of public plazas on Wayne and Bonifant connected by a public pedestrian passageway.

Land Use

The proposed development would provide 263,538 square feet of gross floor area for residential, retail and church uses. There will be ground floor retail facing Fenton Street at the corners of Fenton and Wayne and Fenton and Bonifant Street. The upper floors will contain residential uses. The sidewalks will follow the Silver Spring Streetscape Standard while a connection between Wayne Avenue and



Ground Floor



Second Floor



Perspective View from Wayne and Fenton Street

Bonifant Street will be composed of two public plazas and a pedestrian connector, satisfying the minimum 20% Public Use Space requirement.

Architecture

Two buildings are proposed: a mixed use retail and residential building with parking below will be located on the western half of the site facing the future library and Purple Line station; while the church



Illustrative Landscape Plan

building will be located on the eastern half. The church building will be connected to the mixed use parking via a passage on a lower level. The primary pedestrian point of access to the residential units in the mixed-use building will be on Fenton Street. The primary point of access to the church will be from Wayne Avenue. Access to the public use spaces and the church will be from Wayne Avenue and Bonifant Street. The mixed use building will be tallest at the corner of Wayne Avenue and Fenton Street adjacent to the taller buildings of downtown Silver Spring. The building will step down in height towards Bonifant Street and the residential neighborhood to the south and east. The proposed church building will be approximately 35 feet tall. The detailed specifications for the building façade and of all public amenities and their integration into the landscape and architecture will be detailed with the site plan submission.

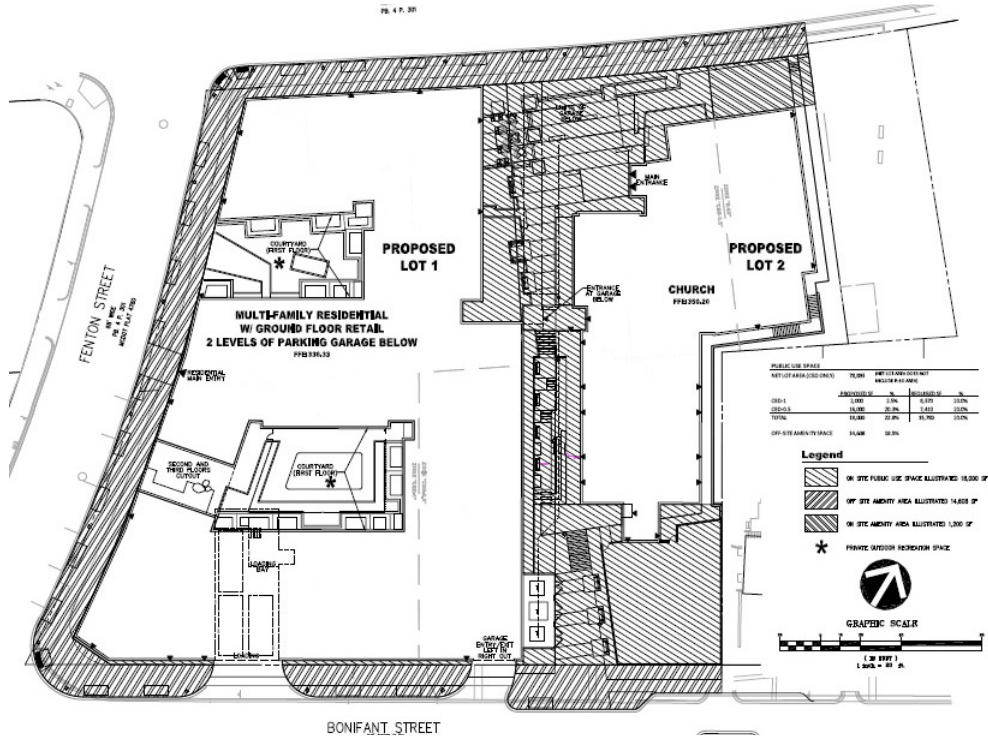
Public Use Space & Amenities

The proposed development provides 18,000 square feet of on-site public use space (22.82% of net lot area), satisfying the 20 percent requirement for Optional Method Development projects in the CBD (there are 1,200 square feet of amenity space on the R-60 portion of the project that are not included in either the on-site public use space calculations or in the off-site amenity space calculations). In addition, the project provides 14,608 square feet of off-site amenity space (18.5% of net lot area). The on-site space is primarily composed of two public plazas and a pedestrian connection between Wayne Avenue to Bonifant Street. The off-site amenity space requirements will be met by replacing existing concrete sidewalks with the Silver Spring Streetscape, including brick sidewalks, trees, lighting and street furniture. Final details will be determined during the review of the site plan.

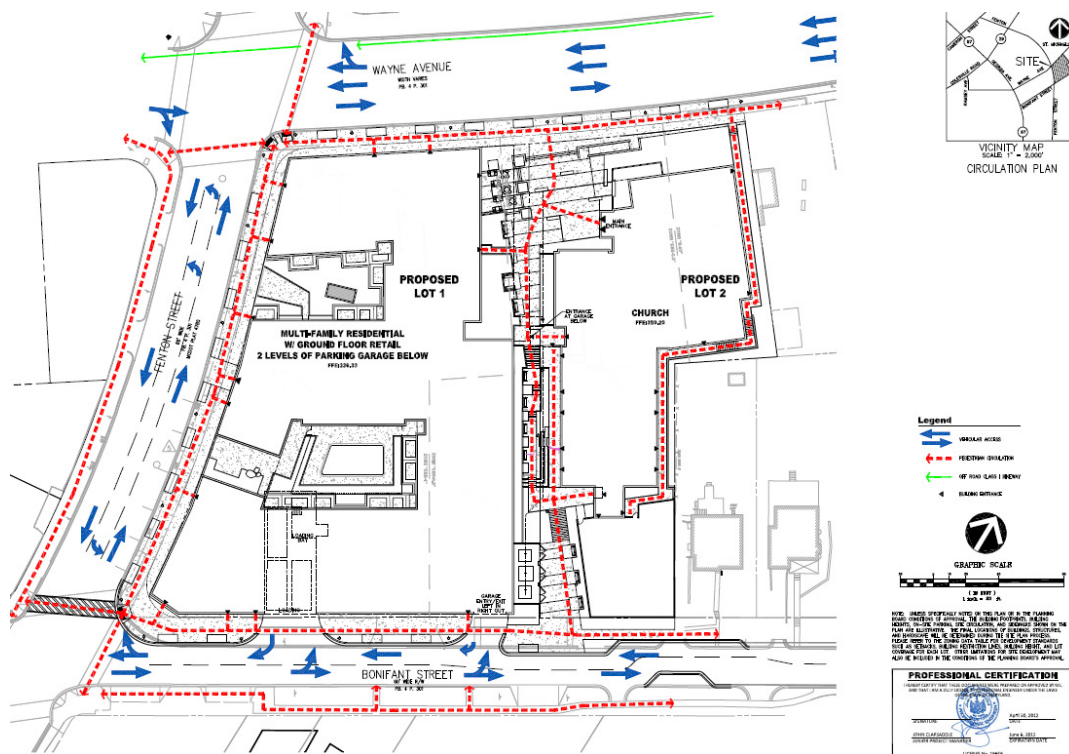
Vehicular and Pedestrian Circulation

Resident parking and loading will be accessed from Bonifant Street and existing on-street parking on Wayne and Fenton Street will be preserved. East bound traffic entering the East Silver Spring residential

neighborhood on Bonifant Street will be slowed by chicanes. Vehicular access and additional traffic measures within the public right-of-way were concerns brought to the attention of the applicant and the agencies by the community. Final traffic design measures will be determined during preliminary and site



On and Off-Site Public Amenity Space



Circulation Plan

plan review.

Pedestrians will access the site via improved sidewalks along Wayne, Fenton and Bonifant, while those walking to and from downtown Silver Spring will be able to traverse the site through the interior public spaces. Cyclists will be provided on-site racks to safely lock their bikes. Some of the residential parking requirements and all of the retail space parking requirements will be met relying through the Parking lot District. This will reduce the number of daily trips into and out of the proposed underground parking facility, thereby reducing the number of vehicles having to cross the sidewalk on Bonifant Street.

PROJECT ANALYSIS

Sector Plan

Most of the subject site is located within the boundaries of the Approved and Adopted February 2000 Silver Spring CBD Sector Plan. The Sector Plan articulates six themes or goals for the CBD that serve to guide the evaluation of development proposals (page 14). They are:

- Transit oriented downtown
- Commercial downtown
- Residential downtown
- Civic downtown
- Green downtown
- Pedestrian-friendly downtown

The plan is consistent with the Master Plan vision, fulfilling all six themes as described below:

1. Transit Oriented Downtown, Page 16 - The project is within walking distance of the future multi-modal Transit Station and is across from a future Purple Line station, thereby providing future residents with excellent access to a variety of mass transit options.
2. Commercial Downtown, Page 18 – The project will incorporate ground floor retail along the Fenton Street and at its intersections with Wayne and Bonifant, enlivening the streetscape in Fenton Village with active uses where none presently exist.
3. Residential Downtown, Page 19 - The project includes 259 residential units.
4. Civic Downtown – the project will rebuild the First Baptist Church on the site, preserving this 85 year old civic use in Fenton Village.
5. Green Downtown, Page 22 – The plan provides tree lined streets and a landscaped plaza, featuring bio-filtration planters.
6. Pedestrian-Friendly Downtown, Page 24 –Utilities will be placed underground and improvements will be installed in compliance with the Silver Spring Streetscape Standards (The standard includes street trees, brick paving, street lights and furnishings) on the Wayne Avenue, Fenton Street and Bonifant Street frontages.

The plan is consistent with the recommendations of the Fenton Village Overlay Zone. The Overlay District calls for "...upgraded streetscapes, new housing and a lively mix of multi-cultural, specialty and convenience shops serving local and regional customers...neighborhood-scale commercial uses along Fenton Street..." (Page 14). The proposed project meets these goals by providing ground floor retail space for potential restaurants or convenience shops, new housing and an upgraded streetscape through the implementation of the Silver Spring Streetscape Standards on Wayne Avenue, Fenton Street

and Bonifant Street.

The Sector Plan also states several urban design goals (page 73) which the project satisfies:

- Conforms to the Sector Plan, CBD-wide planning goals such as transportation, environmental resources and the standards of a revised Silver Spring Streetscape.
- Creates an attractive pedestrian environment by defining the street with appropriately human scaled buildings with numerous doors, windows, and architectural details and public open spaces and streetscaping.
- Establishes streetscapes that emphasize the hierarchy of the circulation system.
- Creates formal and informal civic spaces - building and open spaces - that support property values, provide amenities, and improve the appearance of downtown.
- Provides safe and attractive pedestrian connections between new development on the Urban Renewal site and surrounding CBD neighborhoods, particularly Fenton Village.
- Incorporates the principles of crime prevention through environmental design by stressing visibility, pedestrian activity, and programming into the project.

Two urban design goals listed on pg. 73 of the Sector Plan, however, do not apply to this application: The first is regarding the incorporation of historic resources in the new development. The 1950's era church building (First Baptist Church of Silver Spring) existing on the subject site was evaluated by the Historic Preservation Commission on March 23, 2011. The Commission decided not to designate the church either for the Locational Atlas or the Master Plan for Historic Preservation. On June 23, 2011 the Planning Board considered the HPC recommendation and determined not to prepare a public hearing draft amendment to the Master Plan for Historic Preservation. The second is regarding contributing to the establishment of the Silver Spring Green Trail on Wayne Avenue. This trail was installed with the development of Downtown Silver Spring.



Shadow Study

With regard to building height and the surrounding context, numerous Sector Plan citations speak to anticipated infill development with higher-density employment and housing and retail uses in Fenton Village. The shade and massing relationships associated with this proposal are shown in the illustration below. The shadows cast by the proposed building will have very little impact upon the surrounding buildings.

Employment, Housing, & Land Use

The applicable references in the Sector Plan refer to the need for small scale retail, small office space, new housing and pedestrian traffic in Fenton Village. The specific objectives with regard to this site are met as indicated:

- The proposal provides small scale retail to meet market demand from surrounding neighborhoods
- The proposal creates housing opportunities through 259 planned housing units, 33 (12.5%) of which are MPDUs.
- The design promotes an environment that supports pedestrians and activities that enliven the street by preserving the church use, and providing retail and residential uses.
- The infill development is more environmentally sustainable because it concentrates growth near transit and the types of land uses necessary to support day-to-day needs. This reduces vehicular travel and reduces development pressure on our and agricultural areas.

Development Standards

Master Plan Zones

The majority of the subject site is zoned CBD-1, CBD-0.5 as recommended in the Silver Spring CBD Sector Plan and is governed by the development standards in Section 59-C-6.21 and Section-59-C-1.32 of the Montgomery County Zoning Ordinance. The minimum lot size of 18,000 square feet for optional method projects is met. The CBD-1 zoned part of the site fronting onto Fenton Street is within the Fenton Village Overlay Zone. The most eastern part of the site is zoned R-60 as recommended in the East Silver Spring Master Plan. The East Silver Spring Master Plan has no specific recommendations for the R-60 zoned property. Under the optional method of development for mixed-use projects the two CBD zones allow up to an FAR of 1.5 and 3. This project meets these zoning requirements when the density is average over the two properties.

Heights

The proposed height for the residential building along Wayne Avenue at Fenton Street is 75 feet per §59-C-18.19.2(b) (1) (E), (normal allowed height is 60 feet), stepping down in height to 45 feet at the southeast corner of the site on Bonifant Street. This allows higher densities to be concentrated on the portion of the site that is closer to downtown Silver Spring and lower densities to be closer to the existing one-family neighborhoods to the east and south. The proposal does not adversely affect the surrounding properties in any detrimental way given the urban context. The proposed church building, part of which is located on R-60 property has a proposed mean height of 35 feet with a taller belfry. According to Section 59-B-1.1 building height limits do apply to belfries, making a belfry taller than 35 feet exempt.

Density and uses

The project is proposing a mixed-use total density of 256,686 square feet, exclusive of the R-60 zone, thereby meeting the density requirements of the zones (The optional method of development for mixed



Detailed Zoning Map

use allows 257,002 gross square feet). Within the CBD zoned portions of the site, 215,660 gross square feet are proposed for residential uses and 18,650 gross square feet are proposed for retail uses. The CBD zones permit the residential, institutional, child day care and commercial uses proposed with this application. The total gross square feet dedicated to church use is 29,228 gross square feet. The R-60 zone permits the institutional (church) use within the boundaries of the R-60 zone. However, 6,852 square feet of the proposed church falls within the R-60 zone and does not figure into the density total. However, adding the density in the R-60 zone results in a density over the entire site of 263,538 gross square feet.

Setback and Coverage

project plan satisfies the public use space requirement by providing two public plazas with the pedestrian connector. There is no setback requirement for optional method requirements in the CBD zone, and the application is proposing to hold the building to the property line for the portions of the project within the CBD. The church is setback 25 feet from Wayne Avenue and 10 feet from the side lot lines to respect the development standards of the R-60 zone. The R-60 zone does have a maximum coverage requirement; however church uses in the R-60 zone are exempt from the requirements under

Table 1
Project Data for the CBD-1, CBD-0.5 & R-60 Zones

Development Standard	Permitted/ Required	Proposed for Approval
Building Height (feet)		
CBD-Zone-59-C-18.192(b)(1)(E)	75	75
CBD-Zone-FVOZ	60	45
R-60	35	35
Setbacks (feet)		
CBD-1 & CBD-0.5		
Front (Wayne Ave)	n/a	0
Front (Fenton Street)	n/a	0
Front (Bonifant Street)	n/a	0
R-60		
Front (Wayne Ave)	25'	25'
Side	8'	8'
Side	8'	10'
Site Area (square feet)		
Net Tract Area	n/a	86,335
Dedications	n/a	27,989
Gross Tract Area	18,000	117,412
Density		
CBD-1: Floor Area Ratio	3.0	3.26
Allowable S.F.	189,885	206,050
CBD-0.5: Floor Area Ratio	1.5	1.13
Allowable S.F.	67,117	50,636
Total CBD Density:	257,002	256,686
R-60	N/A	6,852
Total Project Density	257,002	263,538
Combined FAR across CBD-1 and CBD-0.5 zones:	2.378	2.375
Public Use Space (% of net lot)		
On-Site Public Use Space	20	22.82
Off-Site Amenity Space	n/a	18.50
Total Public Use & Amenity Space	20	41.32
Parking		
Residential Parking	297	253
Retail Parking	66	0
Church Parking	128	14
Total Vehicle Spaces	494	267*

**No Parking is required for this site as it is located in the Silver Spring parking lot district. Total number of spaces will be determined at site plan.*

Section 59-B-4.1. As the data table shows, all of the requirements of each zone are met by the subject project plan. Because this project is within a Parking Lot District, parking spaces are not required, however, 267 spaces are being provided for the development.

Transportation

Request for waiver from right-of-way dedication

Bonifant Street, to the south of the site, is recommended in the Sector Plan as a two-lane business district street with a minimum right-of-way width of 80 feet between the CBD boundary (Grove Street) to the east and Fenton Street to the west, and with a signed shared on-road local bikeway (Route 12) between Cedar Street to the east and Capital Crescent Trail/Metropolitan Branch Trail to the west.

The applicant has requested a waiver of this requirement because it will limit the space needed for streetscape improvements as well as the space needed for development of full density under the optional method of development. Staff recommends approval of the reduced right-of-way dedication to the east of Fenton Street within the Silver Spring Sector Plan boundary since the proposed 60-foot right-of-way dedication will adequately meet the roadway, access, pedestrian, and bicycle requirements along Bonifant Street to the east of Fenton Street within the CBD boundary. The recommended reduction in right-of-way width will not have any negative impact on traffic circulation and safety in the immediate area. The recommended reduction in right-of-way width will also reduce the overall impact of this section of the roadway on the residential community to the east. It is also noted that the right-of-way dedication requirement for Bonifant Street, as a secondary residential street to the east of the CBD area, is typically 60 feet and that to the west of Fenton Street, recommended as a two-lane business street, is 70 feet, less than the 80 feet recommended in the Sector Plan for the section of Bonifant Street between Fenton Street and the eastern CBD boundary.

Adequate Public Facilities Review

A traffic study (dated March 23, 2012) was submitted by the consultant for the applicant for the subject application per the *LATR/PAMR Guidelines* since the proposed development was estimated to generate **30** or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. The traffic study determined traffic-related impacts of the proposed development on nearby roadway intersections during weekday morning and evening peak periods.

- **Trip Generation**

The peak-hour trip generation estimate for the proposed Fenton Street development was based on trip generation rates included in the *LATR/PAMR Guidelines*. A site trip generation summary is presented in Table 1, which shows that the proposed development would generate 87 peak-hour trips during weekday morning peak period and 115 peak-hour trips during weekday evening peak period.

TABLE 2
SUMMARY OF SITE TRIP GENERATION
PROPOSED FENTON STREET DEVELOPMENT

Trip	Morning Peak-Hour			Evening Peak-Hour		
	Generation	In	Out	Total	In	Out
18,650 SF Retail	5	4	9	19	18	37
259 Multi-Family Residential Units	16	62	78	55	23	78
Total Trips	21	66	87	74	41	115

Weekday peak-hour trips associated with the existing church and the day care center, which are being replaced on the site, were considered to be part of the existing traffic and therefore not accounted again in the site trip generation estimates. It is also noted that houses of worship are excluded from APF determination.

- **Local Area Transportation Review**

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis results for the study intersections for the weekday morning and evening peak-hours within the respective peak periods from the traffic study are presented in Table 2.

As shown in Table 2, under Total (Build) traffic conditions, CLV values for intersections included in the study were estimated to be below the respective Silver Spring CBD Policy Area and Silver Spring/Takoma Park Policy Area congestion standards (1,800 CLV and 1,600 CLV, respectively). Based on this analysis, the subject application satisfies the LATR requirements of the APF test.

TABLE 3
SUMMARY OF CAPACITY CALCULATIONS
PROPOSED FENTON STREET DEVELOPMENT

Intersection	Traffic Conditions					
	Existing		<i>Background</i>		Total	
	AM	PM	AM	PM	AM	PM
Georgia Ave/Bonifant St	779	672	869	782	907	819
Georgia Ave/Thayer Ave	663	713	744	821	754	833
Fenton St/Thayer Ave	688	795	817	953	824	961
Fenton St/Bonifant St	560	704	683	861	746	921

Fenton St/Wayne Ave	788	827	922	968	931	997
Bonifant St/Cedar St/Houston St ¹	182	385	204	410	204	410
Bonifant St/Site Access Driveway	--	--	--	--	136	205

: Source: The Traffic Group, Inc. Traffic Impact Analysis for Fenton Street; March 23, 2012.

- Silver Spring CBD Policy Area Congestion Standard: 1,800 CLV
- Silver Spring/Takoma Park Policy Area Congestion Standard: 1,600 CLV
- ¹ Intersection located within the Silver Spring/Takoma Park Policy Area

To satisfy the PAMR requirements of the APF test, and per the policy in place that offer a PAMR trip credit for CBD developments, a development located within the Silver Spring CBD Policy Area is required to mitigate 5 percent (5%) of “new” peak-hour trips generated by the development using Countywide trip generation rates, and is then offered a credit on the PAMR trip mitigation requirement equivalent to any reduction in peak-hour trips achieved by the development as a result of its location within the CBD. A summary of the PAMR calculations for the proposed development is presented in Table 3.

**TABLE 4
PAMR MITIGATION REQUIREMENT CALCULATION
PROPOSED FENTON STREET DEVELOPMENT**

	Morning Peak-Hour	Evening Peak-Hour
A. Proposed Density – (Countywide Rates)		
Residential – 259 HRDU’s	86	100
Retail – 18,650 SF	34	135
Pass-by trips (40% of retail)	14	54
Primary trips (60% of retail)	20	81
Total “New” Trips (A1)	106	181
B. PAMR Mitigation Requirement (B1 = A1 x 0.05)	5	9
C. Proposed Density – (CBD Rates)		
Residential – 259 HRDU’s	78	78
Retail – 18,650 SF	9	37
Total “New” Trips (C1)	87	115
Trip Credit for CBD Location		
D. Trip Credit (D1 = A1 – C1)	19	66
Adjusted PAMR Mitigation Requirement		

E. (E1 = D1 - B1) [PAMR: Excess/Pass = +ve; Deficit/Fail = -ve]	+14 (Pass PAMR)	+57 (Pass PAMR)
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As shown in Table 3, using Countywide trip generation rates, the density proposed on the site would generate 106 “new” peak-hour trips during the weekday morning peak period and 181 “new” peak-hour trips during the weekday evening peak period (Line A1). With the requirement to mitigate 5% of the “new” peak-hour trips, the PAMR mitigation requirement for the development are 5 peak-hour trips during the weekday morning peak period and 9 peak-hour trips during the weekday evening peak period (Line B1).

Using the Silver Spring CBD trip generation rates, as shown in Table 3 and Table 1, the density proposed on the site would generate 87 “new” peak-hour trips during the weekday morning peak period and 115 “new” peak-hour trips during the weekday evening peak period (Line C1).

The PAMR CBD trip credit, which is the difference in “new” trips between the Countywide and CBD trip generation for the density proposed on the site, are 19 peak-hour trips during the weekday morning peak period and 66 peak-hour trips during the weekday evening peak period (Line D1). With the above credits, it is seen that the PAMR mitigation requirement for the proposed development is fully mitigated during the morning peak-hour (5 trip PAMR mitigation requirement vs. 19 trip CBD PAMR credit) as well as during the evening peak-hour (9 trip PAMR mitigation requirement vs. 66 trip CBD PAMR credit) (Line E1).

Based on the above analysis, the subject application satisfies the PAMR requirements of the APF test.

Environment

Natural Resource Inventory/Forest Stand Delineation (NRI/FSD)

The site is subject to the Montgomery County Forest Conservation Law. NRI/FSD #420120030 for the site was approved on September 15, 2011. The NRI/FSD identifies any environmental constraints and forest resources on and near the subject property.

Environmental Guidelines

The approved NRI/FSD shows no streams or associated environmental buffers, wetlands, forests or floodplains on-site. As a result, the environmental guidelines are not applicable to this project. There are five significant trees ranging in size from 8-24 inches and 9 specimen trees 30 inches or greater being affected by the proposed development. Three specimen trees onsite are proposed for removal. One offsite specimen tree, #11, will have impacts greater than 38.2 percent and staff believes will not survive the construction proposed. At the time of this memo, the applicant had not included this tree in the request for removal in the submitted Variance dated January 17th, 2012.

Preliminary Forest Conservation Plan

A preliminary forest conservation plan was submitted with the project plan application. The preliminary forest conservation plan worksheet shows the total net tract area being 2.05 acres. The project site has a 0.40 acre planting requirement. The Applicant proposes to satisfy the afforestation requirement through the onsite creation of tree canopy in the residential zone and fee-in-lieu for the CBD zone.

Variance

Maryland passed legislation that identifies certain individual trees as a high priority for protection. If a

forest conservation plan cannot be altered to protect these individual trees, the applicant is required to submit a variance for both the impact and/or removal of the trees. The variance provision applies to all trees 30 inches DBH and greater. The applicant requested a variance on January 17th, 2012 and is proposing to remove 3 trees that are greater than 30 inches DBH and proposes to impact 3 offsite trees greater than 30 inches DBH.

Montgomery County Forest Conservation Law §22A-21(c) requires the Planning Board to refer a copy of each request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The County Arborist noted that the applicant qualifies for a variance upon meeting the mitigation requirements for tree loss.

As per Section 22A-21, the applicant has offered the following justification for the variance request:
Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

Response: This is a small lot within a CBD area and efforts have been made to reduce impacts to the trees on the site. However, due to the small lot and the intended purpose, the significant trees located within the interior and on the edges of the property will not be able to be saved. Measures will be taken to protect the offsite trees to the greatest extent possible.

§22A-21(e) states that the Planning Board must make findings that the applicant has met all requirements of this section before granting a variance. Subsection (d) states that a variance must *not* be granted if granting the request:

- 1. Will not confer on the applicant a special privilege that would be denied to other applicants;**
- 2. Is based on conditions or circumstances which are the result of the actions by the applicant;**
- 3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or**
- 4. Will violate State water quality standards or cause measurable degradation in water quality.**

- 1. Will not confer on the applicant a special privilege that would be denied to other applicants:*

The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. Three of trees requested to be removed are located on the eastern edge of the property forming a cluster. The tree sizes range from 30-35 inches in DBH and are not champion trees or 75 percent of the DBH of the state champion tree for that species. Tree #11 is a 30-inch *Acer saccharinum* and is not shown to be removed. However, impacts to the tree are 38.2 percent and may not survive impacts. Extraordinary root protection measures will be required at the time of the Final Forest Conservation Plan. If the applicant shows any tree removal, above ground branch or crown removal to tree #11, the applicant must submit and obtain approval of a revised tree variance before those impacts occur.

- 2. Is based on conditions or circumstances which are the result of the actions by the applicant.*

The majority of the site is impervious and void of tree cover. The requested variance is based on site layout and design for the development within the CBD Zone and does not provide any

retention of trees on the site due to the size of the lot in this CBD zone.

3. *Arises from a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the proposal which promotes an efficient site design and layout for the subject property and not as a result of land or building use on a neighboring property.

4. *Will violate State water quality standards or cause measurable degradation in water quality.*

The requested variance will not violate State water quality standards nor cause measurable degradation in water quality. In this case, the existing buildings and parking lots have no onsite stormwater management. The proposed redevelopment will include stormwater management which will result in improved water quality of runoff rather as well as improved stream channel protection.

Stormwater Management

The stormwater management concept submitted to DPS was reviewed and deemed acceptable. The concept proposes to meet required stormwater management goals via environmental site design to the maximum extent possible by the use of green roofs, and stormwater management bio filtration systems.

Community Concerns

The applicant has met with nearby residents and with representatives of the East Silver Spring Citizens Association (ESSCA). A pre-application meeting was held at the First Baptist Church of Silver Spring on October 25, 2011 at the church. The meeting was well attended. The architect at the time, John Torti of Torti Gallas, presented the project to the community and explained that the facades of the buildings would be compatible with the existing area. Since that time the applicant has retained a different architect who has yet to finalize the façade design. There is a concern among the community that the new architect will not produce facades that will be compatible with the existing community. The applicant has held subsequent meetings with representatives of ESSCA in an effort to reach an agreement on the façade design. These efforts are on-going. A further evaluation of the building and design elements will be take place during site plan review.

FINDINGS

All of the considerations of Section 59-D-2.43, of the Montgomery County Zoning Ordinance have been addressed by staff in reaching its conclusions and recommendations. A copy of Section 59-D-2.43 may found in the appendix. As the following Findings demonstrate, the subject project plan adequately addresses each of these considerations, as conditioned by the Staff Recommendation.

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

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

Intents and Purposes of the CBD Zones

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

purposes:

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

With respect to density, the Sector Plan recommends land uses that will provide incentives for more housing, office and small retail uses that will activate and revitalize the Fenton Village district. The Sector Plan recommends building heights that will accommodate the listed uses while ensuring compatibility with the surrounding neighborhoods. The proposed uses, heights and massing of the project meet these goals by relocating the institutional use on the property and proposing a significant amount of new residential ground floor retail uses.

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

The Sector Plan indicates that small scale retail, Class B and Class C retail and housing are appropriate for the site. The application will provide retail and residential uses that will be visible and accessible to a greater number of pedestrians. The general goals of the Sector Plan and the specific objectives of the area advocate optional method projects that provide employment and housing opportunities near both transit stations and other day-to-day necessities. This application satisfies these goals by its proximity to transit and by providing a variety of uses on the site.

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

The proposed development will enhance pedestrian, cyclist, and vehicular circulation by limiting auto access to two points on site and limiting on-site parking. The layout of doors, sidewalks, elevators, and open space will direct pedestrians in and around the site to access this and adjacent buildings and streets.

The relationship of the proposed buildings to existing buildings is typical and appropriate for a central business district. In most cases in the CBD, adjacent buildings with windows are required to be setback at least 15 feet from each other; this proposal meets that standard in order to minimize the impacts on available sunlight and existing views. Details of the building facades will be fine-tuned during the subsequent site plan review to ensure a more desirable relationship with the adjoining uses.

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

The proposed development is approximately 1/3 mile from the Silver Spring Metro and 100 feet from the nearest bus stop. It is also directly across the street from a future Purple Line

station. It is a local and regional imperative that infill development is encouraged on sites as an alternative to suburban sprawl. As conditioned, the location and accessibility of the proposed development to the local transit system is an excellent realization of the Sector Plan transit and sustainability goals.

(5) "To improve pedestrian and vehicular circulation."

Vehicular circulation is limited to one ingress and egress point for daily circulation. A loading space is also provided along Bonifant Street to reduce pedestrian conflicts along Wayne Avenue and Fenton Street.

The pedestrian environment provides numerous enhancements to help increase the walkability of the Fenton Village District, including an upgraded streetscape and an alternate route through the site from Bonifant Street to Wayne Avenue.

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

The proposed development provides 259 residential units, 12.5% of which are Moderately Priced Dwelling Units.

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

The proposed development will assemble 13 recorded and partial lots into two lots.

Further Intentions of the CBD-1 & CBD-0.5 Zone

Section 59-C-6.213 of the Zoning Ordinance states:

- (1) To foster and promote the orderly development of the fringes of the Central Business Districts of the county so that these areas will provide land uses at a density and intensity which will encourage small business enterprises and diverse living accommodations, while complementing the uses in the interior portions of these district; and*
- (2) To provide a density and intensity of development which will be compatible with adjacent land uses outside the Central Business Districts.*

This proposed project will provide land uses at a density and intensity that encourages small business enterprises and diverse housing, complements the uses of the interior of the CBD and is compatible with adjacent land uses outside the Central Business District.

Requirements of the CBD-1 & CBD-0.5 Zone

The table on page 13 of the staff report demonstrates the conformance of the project plan with the development standards under the optional method of development. Among other standards, the proposed development meets the area, public use space, building height, and density requirements of the zone.

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

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

To this end, the proposed development is proffering the following package of amenities and public facilities:

Amenities and Facilities Summary

On-Site Public Use Space Improvements

- Two public plazas extended from Bonifant Street to Wayne Avenue
- Public Art
- Landscaping
- Seating
- Specialty paving

Off-Site Amenity Improvements

- Brick sidewalks
- Street Trees
- Pedestrian scale street lights
- Street furnishings
- Undergrounding of utilities along the property frontage

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

Zoning and Land Use

The subject property is zoned CBD-1, CBD-0.5 and R-60, remains consistent with the recommendations in the Silver Spring CBD Sector Plan and the East Silver Spring Master Plan. All the uses proposed are allowed in these zones, and the proposed development is in keeping with the general guidelines to provide employment uses in the Sector Plan area. The CBD-1 zoned portion of the site is also covered by the Fenton Village Overlay Zone. Specifically, the Fenton Overlay Zone recommends small scale retail and residential uses. The proposed uses are appropriate for the subject site and conform to the Sector Plan.

Sector Plan Conformance

The Approved and Adopted Silver Spring CBD Sector Plan is organized around several goals all of which are satisfied with this application:

- Transit Oriented Downtown
- Commercial Downtown
- Residential Downtown
- Civic Downtown
- Green Downtown
- Pedestrian-Friendly Downtown
- Creation of a circulation and development patterns that encourage walking, cycling, and the use of mass transit.

The Approved and Adopted Silver Spring CBD Sector Plan recommends the Fenton Village Overlay Zone which calls for smaller scale mixed use development that preserves the village character and encourage pedestrian activity in this part of Silver Spring. This application satisfies these goals.

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

The location is optimal for the proposed intensity of use and density at the edge of the Central Business District. The building massing and heights proposed is compatible with adjacent and surrounding uses, especially with the one-family detached neighborhood to the south and east. The application has been designed so as not to adversely affect adjacent buildings and uses. To this end, the architecture and open space have been designed to focus the highest density closer to downtown Silver Spring, stepping down in height and mass to the residential neighborhood. As conditioned, the applicant must develop a façade design on Bonifant Street that is compatible with the existing one-family neighborhood located directly to the south and east.

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

A draft traffic management agreement has been submitted by the applicant and will be finalized during the preliminary plan review process. Other public facilities exist on or near the site, and no expansion or renovation of these services will be required to be completed by the County. The application will not overburden public facilities, including the public parking garage on Wayne Avenue. The application is satisfying a portion of their parking requirement on site with the remainder to be satisfied by the PLD tax. The church will have minimal impact since the peak hour operations for this use are on weekends. Further, requirements for public safety and fire will be minimally impacted due to the nature of the land use and must be approved by the respective agencies prior to preliminary plan approval.

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

A standard method project would only allow a density of between 1.0 and 2.0 FAR or between 35 and 43 dwelling units per acre on this site, respectively of the CBD-0.5 and CBD-1 Zones. The

number of MPDUs being provided would also be significantly be reduced through the standard method of development. Further, the requirement for public amenities would be removed, and the public use space requirement would be reduced by one-half. Because infill development and density at transit hubs is a core value of smart growth and given the number and quality of public amenities being proffered, the optional method of development is much more desirable and more efficient for this particular site.

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

The proposed development will provide 12.5% MPDUs as required by Chapter 25A. A final agreement to build between the Applicant and the Department of Housing and Community Affairs will be conditioned with the site plan review.

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

The proposed development will combine density between proposed lots 1 and 2. Although the density on lot 1 will be slightly higher than allowed by the zone, the total density for both lots will be less than the total density allowed.

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

The project must meet the requirements of the forest conservation law and have an approved forest conservation plan by time of Preliminary Plan Planning Board hearing.

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

The proposed development is subject to the water quality resources protection requirements. The applicant has submitted a Stormwater Concept Plan to the Montgomery County Department of Permitting Services for their review and approval. The applicant is proposing green roofs and bio-filtration planters.

- (j) *When the Planning Board allows any public use space, or public facilities and amenities to be provided off-site, the Planning Board must find that the space or improvement:*

(1) is consistent with the goals of the applicable master or sector plan; and

(2) serves the public interest better than providing the public use space or public facilities and amenities on-site.

The applicant is providing all public use space and amenities on-site.

RECOMMENDATION AND CONDITIONS

Approval of project plan 920120020 subject to the following conditions:

1. Development Ceiling

The proposed development is limited to 263,538 square feet of gross floor area

- | | |
|---------------------------|--------------|
| A. Residential | 215,660 S.F. |
| B. Institutional (church) | 29,228 S.F. |
| C. Non-Residential | 18,650 S.F. |

2. Building Height and Mass

The proposed development is limited to the building footprints as delineated in the project plan drawings submitted to MNCPPC dated May 1, 2012 unless modified at site plan review and to a maximum height of 75 feet at the corner of Wayne Avenue and to 45 feet in height on Bonifant Street as determined by the Department of Permitting Services approved building height measurement point(s).

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. Before the issuance of any use and occupancy certificate, 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 the final use and occupancy certificate the Applicant must provide to staff a written report for public record purposes only 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. Submission of this report constitutes compliance with this condition.

4. Transportation

The following transportation-related conditions are recommended to be part of the Planning Board's approval for the subject project plan application:

- a. The Applicant must limit future new development on the site to 18,650 square-feet of retail and 259 multi-family residential units. The existing church and the day care center on the site, to be reconstructed at a new location on the site as part of this project plan, must not exceed 29,228 square-feet.
- b. The applicant, at the time of subdivision, must dedicate and show on the final record plat the following rights-of-way along the property frontage consistent with the 2000 Approved and Adopted *Silver Spring CBD Sector Plan* and as modified below:
 1. Wayne Avenue – minimum of 40 feet from the roadway right-of-way centerline,
 2. Fenton Street – minimum of 40 feet from the roadway right-of-way centerline, and
 3. Bonifant Street – minimum of 30 feet from the roadway right-of-way centerline

in-lieu-of the standard 40 feet recommended by the Master Plan.

- c. The applicant, at the corner of Wayne Avenue and Fenton Street, must set back the first floor of the proposed building to provide full corner truncation within this corner. The Applicant must execute a Public Improvement Easement Agreement over the truncation area with Montgomery County Department of Transportation (DOT) prior to the release of any building permit for the proposed development, to allow DOT to construct, modify, and maintain the sidewalk within the truncation area in the future.
- d. The applicant must enter into a Traffic Mitigation Agreement (“Agreement”) with the Planning Board and Montgomery County Department of Transportation (MCDOT) to participate in the Silver Spring Transportation Management District (TMD). The applicant must execute the Agreement prior to the release of any building permit for the proposed development.
- e. The applicant, at the time of Site Plan, must consider design features along Fenton Street and Wayne Avenue to discourage mid-block pedestrian crossings along these streets.

5. Public Use Space

- a. The applicant must provide a minimum of 22.8% of the net lot area for on-site public use space and a minimum of 18.5% of the net lot area for on and off-site public amenity space. The final design and details will be determined during site plan review.
- b. The proposed public use space must be easily and readily accessible to the general public and available for public enjoyment.
- c. The applicant must provide bio-retention areas and other features in general conformance with the illustrative landscape plan depicted in the staff report.
- d. The applicant must present the plaza designs and public artwork to the art review panel prior submittal of the site plan amendment.

6. Staging of Amenity Features

- a. The proposed development will be completed in one phase. A detailed development program will be required prior to approval of the certified site plan.
- b. The applicant must complete the on-site public use space improvements in accordance with a development program to be developed at site plan.
- c. The applicant must install the landscaping no later than the next growing season after completion of the building and site work.

7. Maintenance and Event Management Organization

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

8. Environment

- a. At the time of Site Plan, the Final Forest Conservation Plan must include details and extraordinary measures to be taken to protect tree #11.

- b. At the time of Site Plan and Final Forest Conservation Plan, if the Applicant shows any tree removal, above ground branch or crown removal to tree #11, the Applicant must submit and obtain approval of a revised tree variance before those impacts occur. The Applicant cannot remove tree #11 without the permission of the joint owner of the tree. Staff may require mitigation for the impacts that are greater than shown on the preliminary forest conservation plan.
9. Coordination for Additional Approvals Required Prior to Preliminary Plan and Site Plan Approval
The applicant must obtain written approval from the Montgomery County Department of Transportation (DOT) for the final design and extent of any and all streetscape improvements within the rights-of-way prior to approval of the preliminary plan.

APPENDICES

Appendix A: Section 59-D-2.43

Appendix A

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

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