



8621 Georgia Avenue, Project / Site Plan Amendment, 92010001A, 82011006A



Erin Grayson, AICP, Senior Planner, Area 1, erin.grayson@montgomeryplanning.org (301) 495-4598

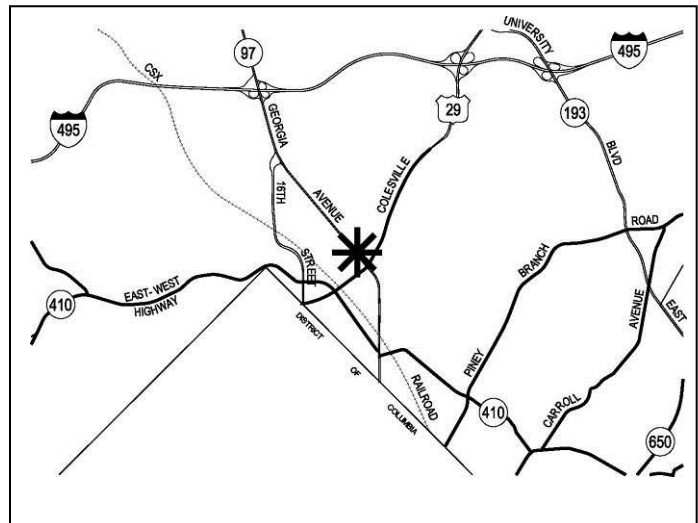


Robert Kronenberg, Acting Chief, Area 1, robert.kronenberg@montgomeryplanning.org, 301-495-2187

Completed: 3/20/13

Description

- Location: 8621 Georgia Avenue
- Zone: CBD-2
- Master Plan: Silver Spring CBD Sector Plan
- Tract Size: 0.69 acres
- Request: Change in use from office/retail to residential/retail
- Applicant: 8621 Limited Partnership
- Planning Board: April 4, 2013
- Filing Date: November 9, 2012



Summary

- The staff recommends **approval** of Project Plan Amendment 92010001A
- The staff recommends **approval** of Site Plan Amendment 82011006A
- The Project Plan amendment application seeks to change the primary use on the Property from high-rise commercial to high-rise residential with 12.5% MPDUs and 17 Workforce Housing Units, and reduce the retail space from 6,209 square feet to 1,619 square feet. An expanded public use space area in front of and on the side of the building and a public art feature is proposed.
- The Site Plan amendment seeks to change the primary use on the Property from high-rise commercial to high-rise residential with 12.5% MPDUs and 17 Workforce Housing Units, and reduce the retail space from 6,209 square feet to 1,619 square feet. The Applicant proposes to provide additional building amenities to future residents as part of the residential use.

TABLE OF CONTENTS

SECTION 1: CONTEXT & PROPOSAL	3
Site Description	3
Vicinity	3
Site Analysis	4
Project Description	5
Background	5
Previous approvals	5
Proposal	6
Community Outreach	9
SECTION 2: PROJECT PLAN AMENDMENT	9
Recommendation and Conditions	9
Basis for Consideration	10
Findings	11
SECTION 3: SITE PLAN AMENDMENT	18
Recommendation and Conditions	18
Findings	21
APPENDICES	36
ILLUSTRATIONS & TABLES	
<i>Zoning Map</i>	3
<i>Vicinity Map</i>	4
<i>Aerial Photograph</i>	5
<i>Previously approved Site Plan</i>	7
<i>Proposed Site Plan</i>	7
<i>Building Renderings</i>	8
<i>Site Pictures</i>	15
<i>Public Use Space Rendering</i>	17
<i>Site Plan Data Table</i>	22
<i>Building Elevations</i>	24
<i>Courtyard Level</i>	27
<i>Recreation Calculations Tables</i>	28
<i>Rooftop Rendering</i>	29

SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Vicinity

The Subject Property is centrally located in the Silver Spring CBD, just north of the intersection of Georgia Avenue and Colesville Road. The Site is convenient to the Silver Spring Metro Station and the Silver Spring Transit Center, as well as the central retail district of Downtown Silver Spring and the Montgomery Regional Office of M-NCPPC. Adjacent uses include multi-family residential, office, retail, and cultural uses.

The Site is zoned CBD-2. On the north side of the Site is a three story office building, and a two story parking structure is located to the northeast. Recently approved Site Plan applications include the Fillmore Music Hall and LDG Office/Hotel Complex on the adjacent property to the south and east (Site Plan 820100100). Further to the south is the 12 story art-deco style Lee Office Building.



Figure 1: Zoning Map

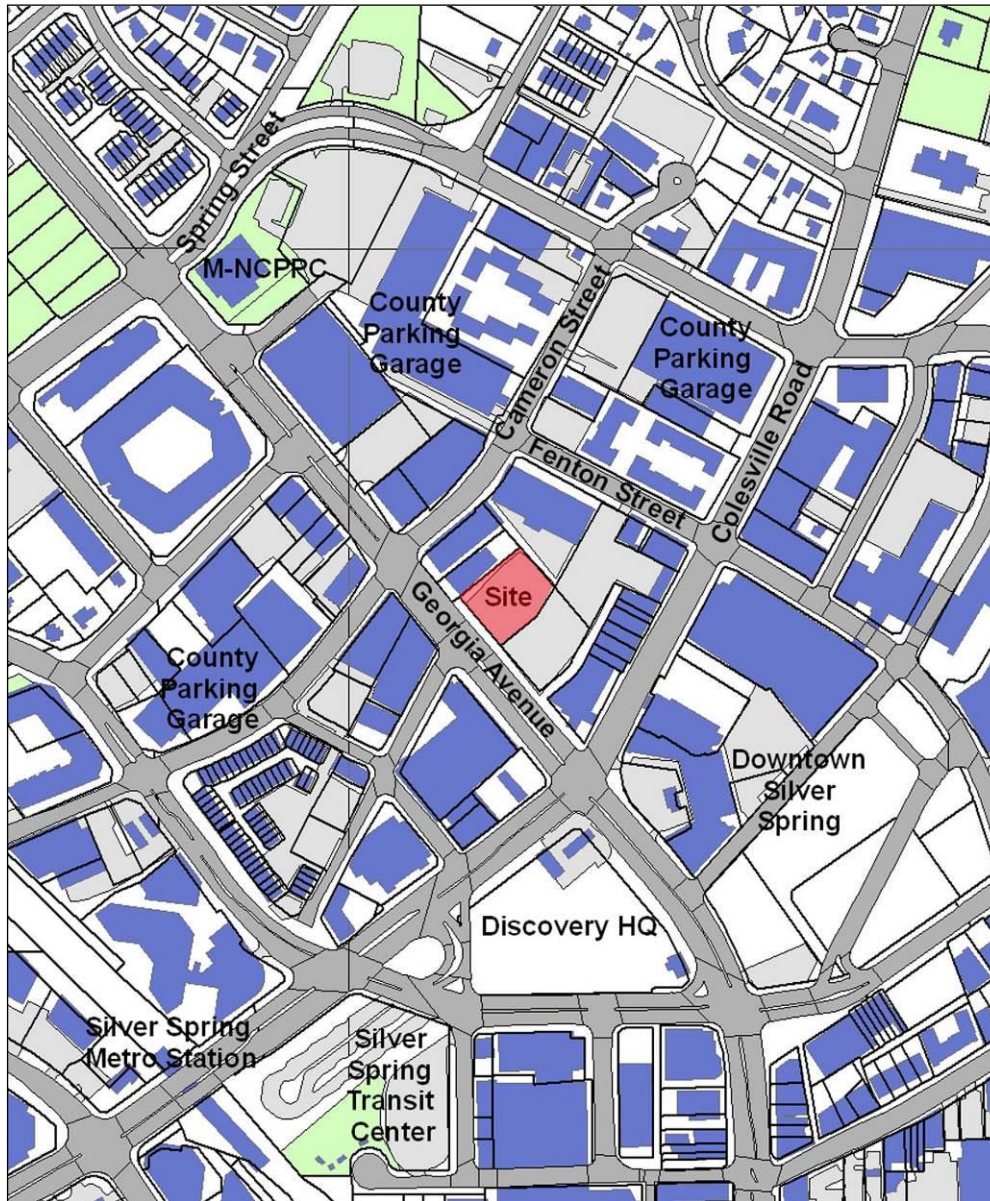


Figure 2: Vicinity Map

Site Analysis

The Site is 0.69 acres in size and consists of extensive impervious surface cover due to an existing parking lot which occupies the tract area as well as the property immediately to the southeast. The Site slopes gently to the northeast. Along the Georgia Avenue sidewalk are several street trees and a hedge screen. There are no streams, wetlands, floodplain, or other environmentally-sensitive features located on the Subject Property, including forest or significant specimen trees.

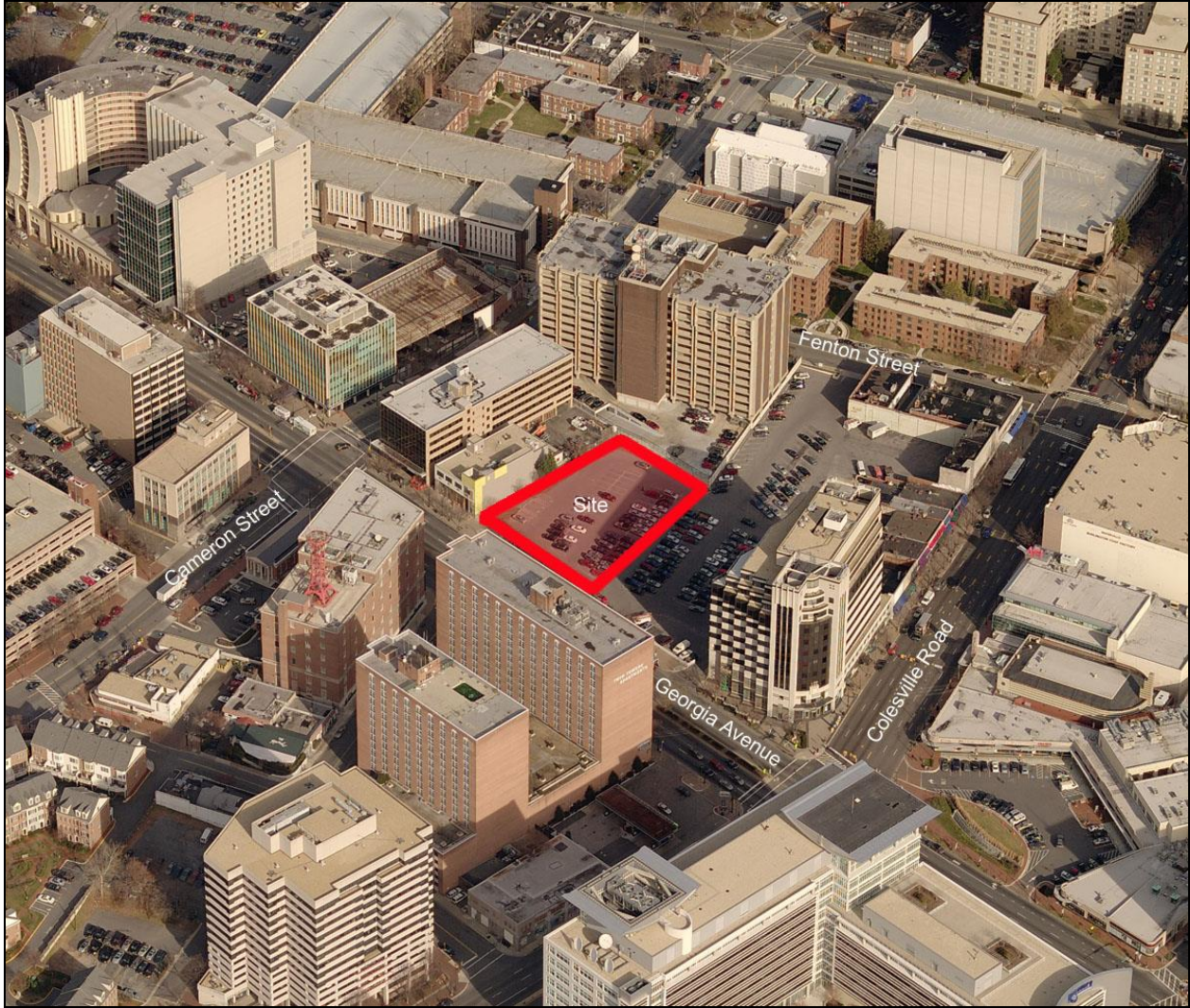


Figure 3: Aerial Photo Looking North

PROJECT DESCRIPTION

Previous Approvals

On November 19, 2009, the Planning Board approved with conditions **Project Plan No. 920100010** for 8621 Georgia Avenue (Planning Board Resolution dated December 14, 2009). The Project Plan proposed a mixed use building containing 191,281 gross square feet of space, including approximately 6,209 square feet of ground floor retail/restaurant uses and approximately 185,072 square feet of office, on 0.69 net acres in the CBD-2 Zone.

Following the Project Plan, a preliminary plan and Site Plan were filed but the Preliminary Plan was withdrawn at Staff's request since the lot is recorded in the land records and no dedication is required. Adequate Public Facilities Ordinance requirements were addressed with the Site Plan application.

On July 21, 2011, the Planning Board approved with conditions **Site Plan No. 820110060** (Planning Board

Resolution dated January 23, 2012) for 8621 Georgia Avenue. The Site Plan conformed to the Project Plan approval and proposed 191,281 square feet of development including 185,072 square feet of office above 6,209 square feet of street front retail/restaurant space, with a maximum building height of 143 feet and FAR of 4.0. Pedestrian and vehicular access was shown from Georgia Avenue, with a private service alley to be shared with the adjacent property owner (under approved development application 820100100). On-site structured parking to accommodate 289 parking spaces on five levels that included two below grade and three above grade levels was included in the building design. Access to the garage was shown from the service alley. The Applicant elected to provide 5.8% of their required public use space on-site and pay a fee-in-lieu to the Amenity Fund specifically directed to the Gene Lynch Park at the Metro station for the remaining 14.2%.

Proposal

The Amended Plans ("Project or Amendment") proposes to replace the previously approved 191,281 gross square feet that included 6,209 square feet of ground floor retail/restaurant uses and 185,072 square feet of office of space with 263,356 square feet of gross floor area that includes 261,737 square feet of residential uses and 1,619 square feet of retail use. This change results in a 161 foot tall mixed-use development with ground floor retail and a total of 292 dwelling units including 240 market rate units, 35 Moderately Priced Dwelling Units, and 17 workforce housing units (12.5% MPDUs and 7% WFHUs), with an overall 5.5 FAR on the 0.69-acre Site. The Applicant is asking to exceed the maximum height and FAR allowed in the CBD-2 zone pursuant to Sections 59-C-6.23 footnote 11 and 59-A-6.18.2 of the Zoning Ordinance. These allowances are discussed in greater detail in the Project Plan and Site Plan sections of this report.

The public use space design previously approved as part of Site Plan No. 820110060 consisted of on-site public use space with a fee-in-lieu payment to the Amenity Fund for 14.2% of the net lot area. The concept included a public forecourt with a public art piece installed along Georgia Avenue at the northwest edge of the Site. Open space for outdoor restaurant seating was also part of the concept. The public art piece was designed to provide increased visual interest for the pedestrian and a strong integration with the architecture and the public space.

For the Project Plan and Site Plan amendments, the Applicant has once again elected to not provide public use space entirely on-site and now proposes 13.8% on-site public use space with a fee-in-lieu payment to the Amenity Fund for the remaining 6.2% of the requirement. The area was revised from the original design to provide a larger public use space area. The new concept retains an art feature in the northwest corner of the Site, an outdoor seating area and plaza area in front of the building, and a sidewalk within the Georgia Avenue right-of-way extending alongside the south façade of the building.

For the new residential project, the Applicant has increased the number of private on-site amenities specifically for future residents of the building. A rooftop swimming pool and penthouse club room on the roof, a landscaped courtyard on level six of the building, and an exercise room on the first floor will be available as amenities for residents of the building.

The parking concept for the previously approved Site Plan included on-site structured parking for 289 parking spaces on five levels within the building, including two levels of parking below grade and three levels above grade. The parking under the new proposal now includes four levels above grade and one full level of parking below grade for 210 spaces in total. Three loading spaces are proposed, per the

requirements for a building of this size. The garage and loading bays are proposed to be accessed from a 22-foot wide service alley along the southern edge of the Property. The design of the service alley was coordinated with the adjacent property owner so that it could be shared by the two buildings.

The Site layout shown on the amendment application drawings substantially follows the layout which was shown on the Project and Site Plan applications previously approved by the Planning Board.

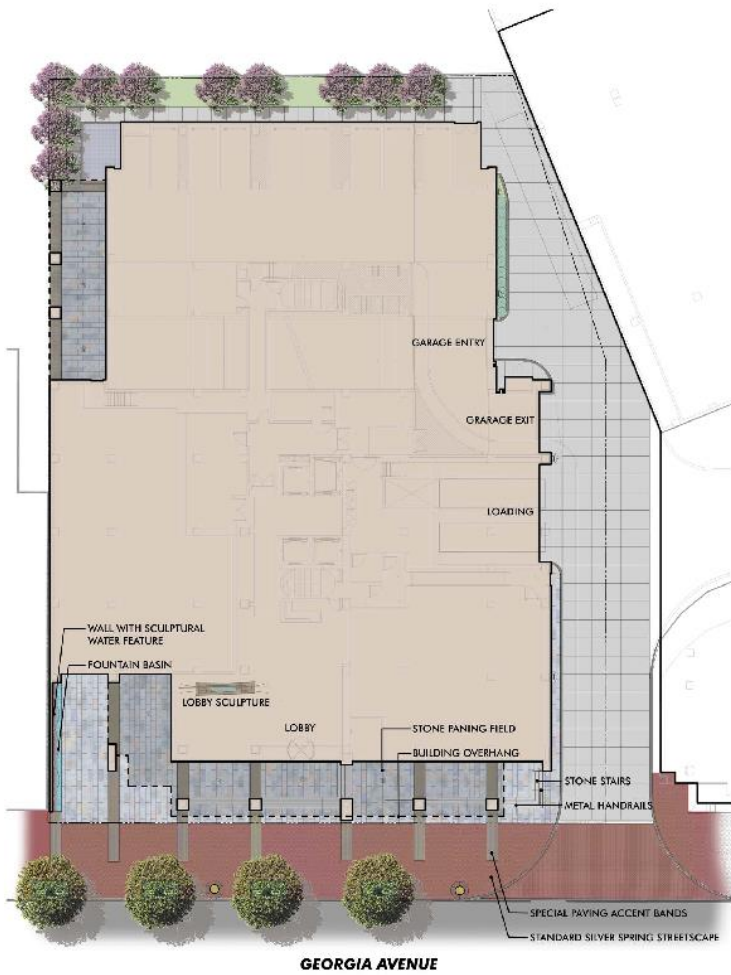


Figure 5: Previous Site Layout

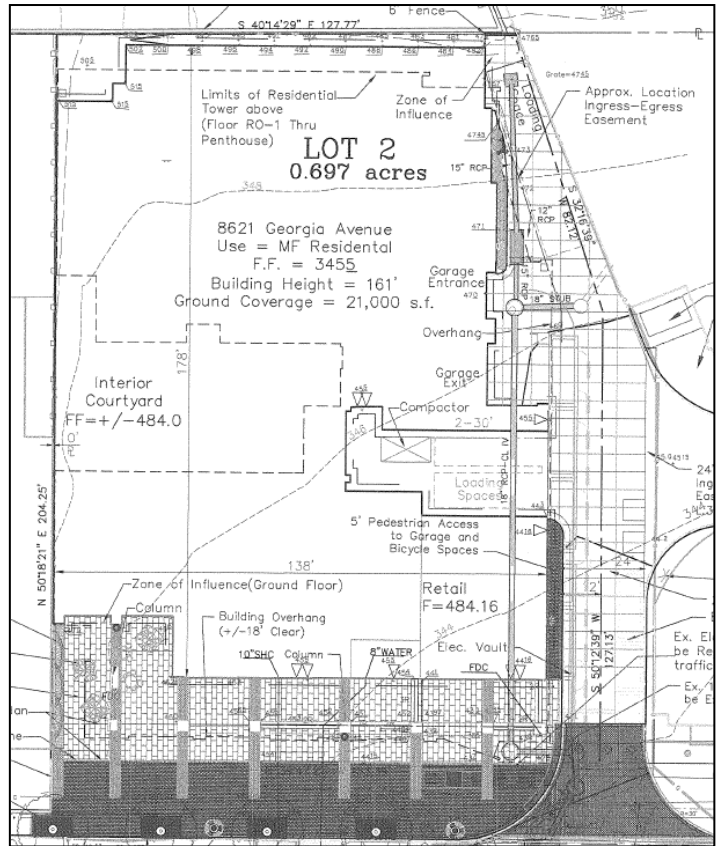


Figure 6: Proposed Site Layout



Figure 6: Rendering of previously approved commercial building with ground floor retail



Figure 7: Rendering of currently proposed residential building with ground floor retail

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff has not received correspondence on either of these applications.

SECTION 2: PROJECT PLAN AMENDMENT

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Project Plan Amendment No. 92010001A, 8621 Georgia Avenue, for a mixed-use development with 1,619 SF of commercial uses and a maximum of 292 dwelling units (including 12.5% MPDUs and 7% WFHUs), on 0.69 acres. All site development elements as shown on the plans stamped by the M-NCPPC on February 22, 2013 are required except as modified by the following conditions:

1. Development Ceiling
The proposed development is limited to 263,356 square feet of gross floor area and a maximum 5.5 FAR including a maximum 1,619 square feet of commercial uses and a maximum 292 dwelling units. The delineation of the total area into 261,737 square feet of residential uses and 1,619 square feet of retail is recognized as preliminary and will be finalized at Site Plan.
2. Housing
The Applicant must provide on-site a minimum of 12.5% of the total number of units as Moderately Priced Dwelling Units, consistent with the requirements of Chapter 25A; and a minimum 17 units as Workforce Housing Units, consistent with the requirements of Chapter 25B, Article V.
3. Building Height and Mass
The proposed development is limited to the building footprint as delineated in the Project Plan drawings submitted to MNCPPC dated February 22, 2013, unless modified at Site Plan review. The proposed development is limited to a maximum building height of 161 feet as determined by the Department of Permitting Services approved building height measurement point.
4. Architecture
The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations shown on Sheets A1-A4 of the submitted architectural drawings, as determined by M-NCPPC Development Review and Urban Design staff, unless modified during Site Plan review.
5. Public Use Space and Amenities
 - a) The Applicant must provide a minimum of 4,225 square feet of public use space (13.8% of net lot area) on-site.
 - b) In-lieu of providing the remaining square feet 1,844 (6.2%) of the required 20% of the net lot area as on-site public use space, the Applicant must contribute to M-NCPPC no less than \$251,497 for the development of Gene Lynch Urban Park, in the Silver Spring CBD. The payment must be submitted to the M-NCPPC prior to release of the first building permit.

- c) At the time of Site Plan the Board may approve an alternative amenity site, as recommended by M-NCPPC staff, to satisfy the Applicant's public use space requirement. The alternative site must be in the public interest and consistent with the Amenity Fund guidelines. Board approval of this alternative would not require an amendment to the Project Plan.
- d) The Applicant must provide public art on-site, integrated into the overall site design.
- e) Final design of the public art must be determined by Certified Site Plan.
- f) As a public amenity, the Applicant must provide streetscape improvements per the Silver Spring Streetscape Standard along the property's frontage on Georgia Avenue.

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 prior to issuance of use and occupancy permits unless modified by the Site Plan development program.
- c) The Applicant must install the landscaping no later than the next growing season after completion of the building and site work.

7. Maintenance

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 entity.

BASIS FOR CONSIDERATION

Project Plans have a standard of review that includes a Basis for Consideration and Findings. The Basis for Consideration is listed below for reference and discussion is incorporated within the Findings Section. Section 59-D-2.43, Basis for Consideration, states: In reaching its determination on the application for the optional method of development and in making the required findings, the Planning Board must consider:

- (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.*
- (b) *Whether the open spaces, including developed open space, are sized and located to provide convenient areas for recreation, relaxation and social activities for the residents and patrons of the development. Open spaces should be planned, designed and situated to provide sufficient physical and aesthetic open areas among and between individual structures and groups of structures. The proposed setbacks, yards and related walkways must be wide enough and located to provide 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 proposed development contributed to the overall pedestrian circulation system.*

Pedestrian walkways must:

- (1) be located, designed and sized to conveniently handle pedestrian traffic efficiently and without congestion;*
 - (2) be separated from vehicular roadways and designed to be safe, pleasing, and efficient for movement of pedestrians; and*
 - (3) contribute to a network of efficient, convenient and adequate pedestrian linkages in the area of the development, including 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 the construction of moderately priced dwelling units in accordance with Chapter 25A of this Code if applicable.*
 - (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.*

FINDINGS

Section 59-D-2.42 of the Zoning Ordinance establishes the findings that must be made by the Planning Board in concert with the basis for consideration.

Staff makes the following findings:

- a) The application would comply with all of the intents and requirements of the zone.*

The subject Site is zoned CBD-2. Section 59-C-6.212 of the Montgomery County Zoning Ordinance establishes the CBD-2 Zone, and this section outlines the description, intent and general requirements of the zone.

The Amendment provides 292 residential units (including 12.5% MPDUs and 7% WFHUs), and 1,619 square feet of street front commercial uses. With a maximum building height of 161 feet, the resulting FAR is 5.5. The maximum FAR permitted in the CBD-2 zone is 5.0, however, Section 59-A-6.18.2(c) states:

To allow the construction of workforce housing units on Site, the Planning Board must permit:

- (1) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent

required for the number of workforce housing units that are constructed, but not by more than 10 percent of the total FAR or number of dwelling units;

(2) a residential density or residential FAR limit established in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum density and FAR of the zone, except as provided in paragraph (1); and

(3) any building height limit established in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.

Furthermore, Section 59-C-6.2, footnote 11 on Zoning Ordinance page C6-43 of the allows the Planning Board to approve a height that exceeds 143 feet, but not 200 feet in the CBD-2 zone under the optional method of development process if:

- (i) the additional height is necessary for the project to accommodate workforce housing under Section 59-A-6.18; however, the additional height must not be more than required for the number of workforce housing units that are constructed; or
- (ii) the additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan or the property is within a revitalization area designated in the applicable sector plan and is located fully or partially within 800 feet of an entrance to a metro station.

There is no specific height recommended for the Property in the Silver Spring CBD Sector Plan. The Applicant proposes to exceed the 143 foot maximum height of the zone by 18 feet to reach a height of 161 feet. Seventeen workforce housing units are proposed and an additional floor is necessary to accommodate these units. The Applicant proposes an 18 foot height increase for one additional floor consisting of 17 dwelling units and rooftop building amenities including a swimming pool, pool lounging and sitting areas, as well as an indoor community room. The height of the units on the top floor is just under 154 feet and the roof of the community room, at the peak of the roof, is 161 feet. The Applicant believes 10 additional feet for the dwelling units and 18 feet for the indoor community room is necessary to provide a penthouse floor commensurate with other buildings in the area. According to the Applicant, residential dwelling unit floor to ceiling heights of 9 or 10 feet is typical of units in downtown Silver Spring and Bethesda. Additional height for the community room will provide a more varied roof line and take advantage of the best vista of the Site. Pedestrians walking up Fidler Lane will be able to see a more interesting building façade and residents will enjoy sweeping views of downtown Silver Spring from a glass enclosed community room space that offers a superior amenity to all residents of the building. The additional height for the community room provides for amenities to benefit not only the market rate units but the greater number of affordable units being proposed with the application.

Seventeen units are proposed on the uppermost floor of the building in concert with the number of workforce housing units provided. Workforce housing units provided solely by the private sector are nonexistent in Silver Spring, and the opportunity to provide such units within close proximity to Metrorail, plentiful bus routes, and a Marc train station is important. The Site is narrow and deep and Staff does believe that the location of the clubroom is appropriate and the height of the room is justified to provide a superior amenity on a site layout where options for placing such amenities are very limited. All of the above considerations support a

reasonable justification for a 161 foot tall building in this location.

The CBD-2 zone is described as the area of land lying generally between the core area and the areas of the lowest density within the central business district. More specifically, Section 56-C-6.212 outlines the intent of the CBD zones:

- (a) To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the Site Plan or combined urban renewal Project Plan is approved on review by the Planning Board.
- (b) 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.
- (c) 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.
- (d) To promote the effective use of transit facilities in the central business district and pedestrian access thereto.
- (e) To promote improved pedestrian and vehicular circulation.
- (f) To assist in the development of adequate residential areas for people with a range of different incomes.
- (g) To encourage land assembly and the most desirable use of land in accordance with a sector plan.

The density and amenities achieved through the optional method of development enables the realization of the recommendations of the 2000 Silver Spring CBD Sector Plan, as described in Finding b) below. The Amendment is a flexible response by the developer to the market. Following extensive marketing of the Site as a commercial project and no viable tenants, further evaluation of the previously approved concept by the Applicant was necessary. At this location, the Applicant concluded that a residential building with street front retail was more suitable in today's economy. The Applicant reviewed other highly successful residential projects in the vicinity of the Subject Site and determined that a residential building within close walking distance to the metro and retail offerings of downtown Silver Spring is a viable use in this location. Much of the development along the north side of Georgia Avenue between Colesville Road and Spring Street is commercial in nature, although residential development is directly across Georgia Avenue and a similar high-rise multi-family building is currently under construction one block west of the Site at 8611 Georgia Avenue. The approved project directly to the east of the Subject Site (#820100100) will be a commercial building that shares a service alley with the proposed residential building. Consolidation of one access point to the two properties will minimize vehicular traffic that interferes with the pedestrian realm on Georgia Avenue.

The residents of the building and customers of the street front retail use will further enliven this block of Georgia Avenue with more pedestrian traffic. A new retail use in this location will likely complement the existing retail uses on the north side of the block, which include an existing financial institution directly west of the Site and physician offices further to the west, near Cameron Street.

The units proposed as part of the project will assist in the development of residences for people with a range of different incomes. In addition to 240 market rate units, 35 moderately priced dwelling units as well as 17 workforce housing units are provided as part of this application. With regards to land assembly, the development area is a recorded lot that did not require any additional property to accommodate a building of this size.

b) The application would be consistent with the applicable sector plan or urban renewal plan.

The Amendment is consistent with the 2000 Silver Spring CBD Sector Plan. The CBD Sector Plan's vision for Silver Spring's future is "to create a development environment that invites revitalization". The Site is zoned CBD-2 and the Applicant is utilizing the optional method of development to achieve revitalization on a vacant stretch of Georgia Avenue. The Plan outlines themes of a transit oriented downtown, residential downtown, commercial downtown, green downtown, civic downtown and pedestrian friendly downtown to achieve this vision. With the addition of residential units in the Amendment, the theme of residential downtown is supported. The Amendment is consistent with five of the six themes; however, the Amendment does not substantially contribute to the civic downtown environment.

The Sector Plan seeks to create a transit oriented downtown and strives to balance the needs of pedestrians and vehicles as well as commuter and local traffic and at the same time maximize the investment in Silver Spring's transit infrastructure. The mixed use building will offer pedestrian access from Georgia Avenue, vehicular access from a service alley and will also be within walking distance of the Silver Spring Transit Center. The application seeks to minimize the role of vehicular traffic and maximize pedestrian access to Georgia Avenue and bus and rail transit infrastructure south of the Site.

With regards to a commercial downtown, the Applicant has revised the Project Plan and Site Plan applications to respond to the local economy. A residential building rather than a commercial building was deemed most viable by the Applicant in this location. The small retail space along the first floor of the building will be ideal for an independent business owner looking to access the Silver Spring employment market which activates Georgia Avenue during the day and the residential market which activates the street at night.

The ground floor retail with residential units on the upper floors will create activity on a site currently used as a parking lot. The ground level retail use will help activate the sidewalk area in front of the building. Residents of the multi-family dwelling units will shop and dine within the Core area of Silver Spring and will most likely reach such destinations by foot. The proposed project will contribute to a pedestrian friendly downtown environment as envisioned by the Sector Plan.

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

The location, size and intensity of the proposed Amendment are compatible with the existing and potential development in the general neighborhood. The Amendment proposes to increase the height of the building from 143 feet to 161 feet and increase the FAR from 4.0 to 5.5. The maximum 4.0 FAR was achieved with a commercial application and a maximum 5.5 FAR is achieved with a

mixed-use residential/commercial application including workforce housing units. Additional height is only permitted above the 143 feet for workforce housing units. Because the building lies within the core area of the Silver Spring CBD, a building of this height and density will complement existing development and provide a catalyst for future redevelopment within this block. To the northeast of the Site are existing two story retail buildings, which include the recently completed Fillmore performing arts venue. The Montgomery Center Building located directly north of the Site is a 13-story mixed use building with 12 stories of commercial square footage and ground floor retail uses on the first floor. The Twin Towers building across Georgia Avenue to the south is a 15-story mixed use building with ground floor retail along Georgia Avenue and 14 stories of dwelling units above. The seven story Verizon building across the street to the south is a substation for the utility provider. To the east is the Lee Building, a 10 story commercial building which frames the corner of the intersection of Georgia Avenue and Colesville Road and acts as an anchor building for the block. Directly to the west is the three story Encore Building occupied by offices and a financial institution. The building will have balconies visible from Georgia Avenue and a modern building design similar to other recent redevelopment projects in Silver Spring. The garage levels will not be visible from Georgia Avenue and will not degrade the viewshed of surrounding buildings. Infill development of the Property will help create a more cohesive building line along Georgia Avenue and will enhance the east-west pedestrian corridor within Silver Spring. In short, the addition of a residential building in this block will enhance the present mix of uses and not be incompatible or detrimental to existing or future development.

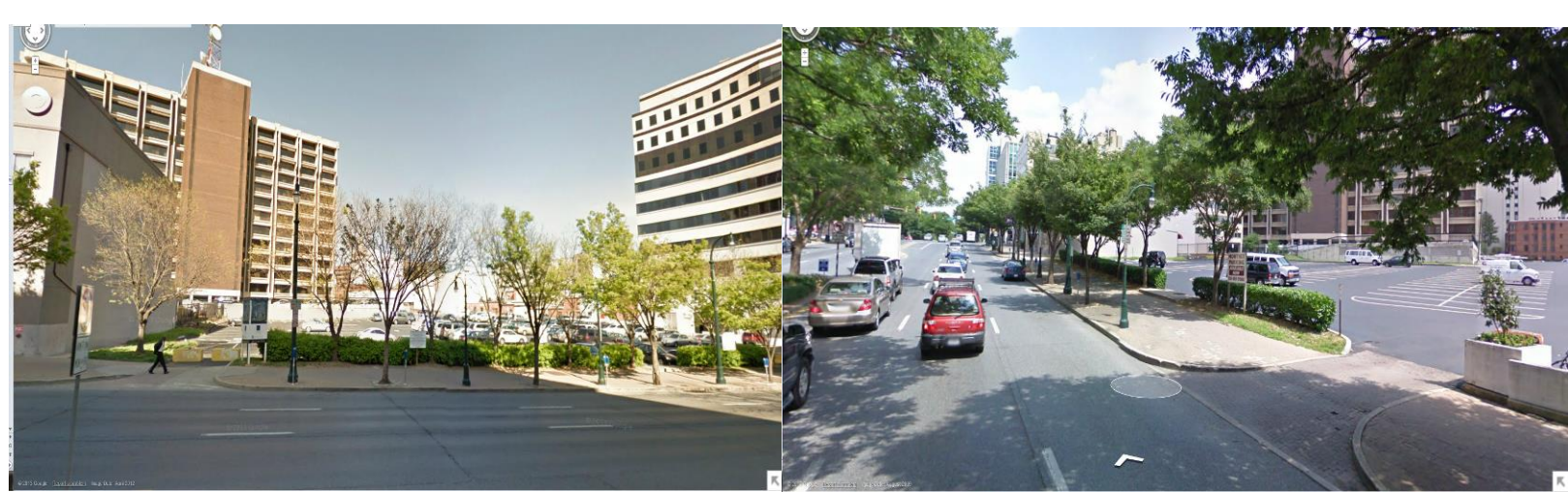


Figure 8: Site pictures

- d) *The application 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, is subject to a traffic mitigation agreement that meets the requirements of that article.*

The additional units proposed under this Amendment will not overburden existing public facilities. The proposed development would be built in one phase. The previously approved Site Plan No. 820110060 satisfied all relevant APF tests for commercial uses. This amendment will generate fewer trips in both the a.m. and p.m. peak hours and, therefore, will not change the APF findings from the previously approved Site Plan. The total number of students generated by the 292 multi-

family high rise units is projected to be approximately 13 elementary, 10 middle, and 12 high school students. The project is located in the service areas of Woodlin Elementary School and Sligo Middle School, and in the base area of Albert Einstein High School. The current FY 2013 Subdivision Staging Policy requires an elementary school facility payment for approvals in the Albert Einstein cluster schools.

(e) The application would be more efficient and desirable than could be accomplished by the use of the standard method of development.

The Amendment continues to develop the Site using the optional method of development, which is more efficient and desirable than the standard method of development. The optional method allows greater densities at key locations, such as those location within close proximity to mass transit, in exchange for greater public amenities and facilities. The Amendment increases the overall density on the Site from 4.0 to an overall 5.5 FAR, and at the same time, it expands the amount of space available for public use on the Site. Construction of a standard method project would yield a building constructed to a maximum of 2.0 FAR with a maximum 60 foot building height. For a site located in the core, a building constructed to standard method requirements would have little public amenities or open space, and would be insufficient to reach the critical mass and density envisioned for the core of Silver Spring and areas within close proximity to a Metrorail station. Additionally, the greater number of affordable housing units provided far exceeds what could be achieved under the standard method. Given the recommendations of the Master Plan and the Site's proximity to transit, employment and services, the optional method of development is much more desirable and efficient for this particular Site.

(f) The application would include moderately priced dwelling units in accordance with Chapter 25A, if the requirements of that chapter apply.

The Amendment includes 35 of 292 units as moderately priced dwelling units, or 12.5% MPDUs, in accordance with Chapter 25A, as approved by DHCA (Appendix B). The previous proposal for a commercial building did not include MPDUs since it did not contain any dwelling units.

(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, under 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Planning Board may approve the Project Plan only if...

While the development does not propose any transfers of public open space or development density from one lot to another, a fee-in-lieu payment to the Amenity Fund is being made to fully meet the public use space requirement.

(h) Any applicable requirements for forest conservation under Chapter 22A.

Environmental Planning Staff reviewed the Amendment for changes that would alter the Forest Conservation Plan exemption granted on September 27, 2007. The Amendment does not change the exempted status of the Property. Per the exemption, a tree save plan is not required. This plan meets all requirements of Chapter 22A of the Forest Conservation Law.

(i) Any applicable requirements for water quality resources protection under Chapter 19.

The proposed storm water management concept approved on January 22, 2013, consists of Environmental Site Design to the maximum extent practicable by using green roof technology and a micro-bioretenion planter box. Additional treatment is provided by the use of a structural proprietary flow-through underground filter. Due to Site conditions, full Environmental Site Design volume cannot be provided and a waiver of the water quantity portion of the requirement is granted.

(j) Any public use space or public facility or amenity to be provided off-Site is consistent with the goals of the applicable Master or Sector Plan and serves the public interest better than providing the public use space or public facilities and amenities on-Site.

The Applicant is providing a fee-in-lieu payment for 6.2% of the public use space requirement, which cannot be provided on-site. The payment for \$251,497 will be contributed to the Amenity Fund that is being directed to the implementation of Gene Lynch Urban Park in the Silver Spring CBD. The public use space on-site will be a viable area along Georgia Avenue for the public. In addition to upgrading the streetscape in front of the Site to the Silver Spring Streetscape standards, the outdoor seating area and public art component will enliven an area along Georgia Avenue in a manner that is consistent with the recommendations in the Silver Spring CBD Sector Plan. The total amount of the Amenity Fund payment for this Project is thus calculated, as demonstrated below, to be \$251,497.

Area	Rate	Fee
Assessed land value (\$3,039,700)	6.2%	\$188,461
1,854 sf. of public use space (6.2% of Net Lot Area) provided off-Site	\$35/square feet	\$63,036
Off-Site public use space contribution	NA	\$251,497

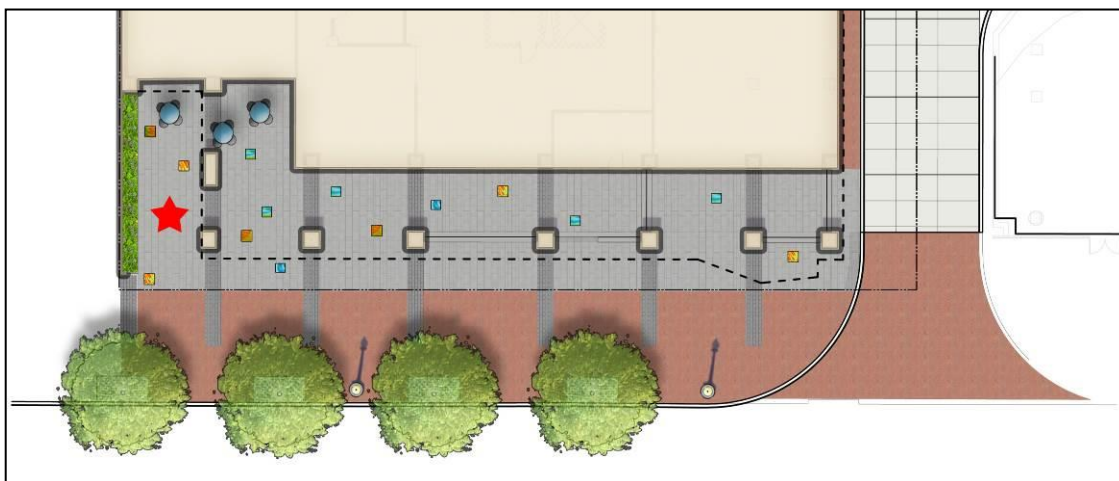


Figure 9: Proposed Public Use Space Rendering

SECTION 3: SITE PLAN AMENDMENT

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan 82011006A, 8621 Georgia Avenue, for a mixed-use development with 292 residential dwelling units (including 12.5% MPDUs and 7% WFHUs) and 1,619 square feet of commercial uses, yielding a 5.5 FAR on 0.69 gross acres. All Site development elements shown on the Site and Landscape plans stamped “Received” by the M-NCPPC on February 22, 2013, are required except as modified by the following conditions.

Conformance with Previous Approvals

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for Project Plan No. 92010001A, or as amended.

Environment

2. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated January 22, 2013, unless amended and approved by the Montgomery County Department of Permitting Services.

Public Use Space and Amenities

3. Public Use Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 4,225 square feet of public use space (13.8% of net lot area) on-site.
- b) In-lieu of providing the remaining square feet 1,844 (6.2%) of the required 20% of the net lot area as on-site public use space, the Applicant must contribute to M-NCPPC no less than \$251,497 for the development of Gene Lynch Urban Park, in the Silver Spring CBD. The payment must be submitted to the M-NCPPC prior to release of the first building permit. Any change to the Amenity Fund recipient at the time of building permit must be presented to the Planning Board.
- c) As a public amenity, the Applicant must provide streetscape improvements per the Silver Spring Streetscape Standard along the property’s frontage on Georgia Avenue.

4. Recreation Facilities

- a) Meet the square footage requirements for all of the applicable proposed recreational elements and demonstrate on the certified Site Plan that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b) Provide the following recreation facilities: indoor community space, picnic/sitting area, pedestrian system, swimming pool, indoor fitness facility, outdoor rooftop terrace and landscaped courtyard.

5. Art
 - a) The Applicant must provide public art on-site, integrated into the overall site design.
 - b) Provide for and install the public art concept designed by artist Catherine Woods, as provided to the Art Review Panel on January 30, 2013.
 - c) Any significant changes to the concept presented on January 30, 2013, must be presented to the Art Review Panel and approved by Area One staff prior to approval of the Certified Site Plan.

Adequate Public Facilities

6. Transportation
 - a) The proposed development is limited to 263,356 square feet of gross floor area and a maximum 5.5 FAR including a maximum 1,619 square feet of commercial uses and a maximum 292 dwelling units.
 - b) The Applicant must participate in the Silver Spring Transportation Management District (TMD) and must enter into an agreement with the TMD prior to release of the first building permit.
 - c) The Applicant must comply with the State Highway Administration letter dated December 7, 2012, or as amended.
7. Schools

The Subject Property is within the Albert Einstein High School Cluster area. If applicable, The Applicant must make a School Facilities Payment to the Montgomery County Department of Permitting Services at the elementary school level at the multifamily unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
8. Validity

The Adequate Public Facility Review (APF) review will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution for Site Plan 820110060 dated January 23, 2012.

Density & Housing

9. Moderately Priced Dwelling Units (MPDUs)

The Applicant must comply with the Department of Housing and Community Affairs letter dated March 1, 2012 and include the following:

 - a) The development must provide on-site a minimum of 12.5% of the total number of units as MPDUs, consistent with the requirements of Chapter 25A.
 - b) The MPDU agreement to build between the Applicant and the Department of Housing and Community Affairs (DHCA) shall be executed prior to the release of any building permits.
 - c) All of the required MPDUs shall be provided on-site.
10. Workforce Housing Units (WFHUs)

The Applicant must comply with the Department of Housing and Community Affairs letter dated March 1, 2013 and include the following:

 - a) The development must provide on-site a minimum 17 units as WFHUs, consistent with the

- requirements of Chapter 25B, Article V.
- b) The WFHUs agreement to build between the Applicant and the Department of Housing and Community Affairs (DHCA) shall be executed prior to the release of any building permits.
 - c) All of the proffered WFHUs shall be provided on-site.

Site Plan

11. Site Design

The exterior architectural character, proportion, materials, and articulation for each building must be substantially similar to the schematic elevations shown in the Certified Site Plan set, as determined by M-NCPPC Area One Division staff.

12. Landscaping

- a) Provide all landscape structures, including walls, fences, railings, paving, etc. per sheets L1.0-L3.1.
- b) Provide all trees, shrubs and groundcovers in accordance with approved landscape drawings, sheets L4.0-L4.1.
- c) The Applicant must construct the streetscape improvements, including the undergrounding of utilities, consistent with the Silver Spring Streetscape standards.

13. Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to the Illuminating Engineering Society of North America standards for residential/commercial development.
- b) All on-site down light fixtures must be full cut-off fixtures.
- c) Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d) The height of the rooftop light poles shall not exceed 12 feet including the mounting base.

14. Surety

Prior to issuance of first building permit Applicant must provide a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a) Applicant must provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial surety amount.
- b) The amount of the bond or surety shall include plant material, on-site lighting, recreational facilities, site furniture, and entrance piers within the relevant phase of development.
- c) Prior to issuance of the first building permit, exclusive of the sheeting and shoring permit for the structured parking, the Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- d) Bond/surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

15. Development Program

The Applicant must construct the proposed development in accordance with a development

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

- a) Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- b) On-site amenities including, but not limited to, the Plaza (and associated pedestrian access walkways) including all paving, lighting, site furnishings and public art, rooftop terrace, community room, swimming pool, benches, trash receptacles and bicycle facilities must be installed prior to final use and occupancy permit.
- c) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- d) The Public Art feature designed and created by Catherine Woods, and approved as part of the Site Plan, shall be installed prior to issuance of the final Use and Occupancy permit.
- e) The fee-in-lieu payment for the Amenity Fund must be submitted prior to the release of the first building permit.

16. Certified Site Plan

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

- a) Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and Site Plan resolution on the approval or cover sheet.
- b) Add a note to the Site Plan stating that “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading.”
- c) Modify data table to reflect development standards enumerated in the staff report.
- d) Ensure consistency of all details and layout between Site Plan and Landscape plan.

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.*

Neither a development plan, diagrammatic plan nor a schematic development plan was required for the subject Site.

The Site Plan is consistent with Project Plan Amendment No. 92010001A for 8621 Georgia Avenue reviewed concurrently with the subject application in terms of design layout, development standards, and conditions of approval.

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.*

As discussed in the Project Plan findings, the Amendment is in substantial conformance with the recommendations in the Silver Spring CBD Sector Plan. As demonstrated in the Data Table, the Site Plan Amendment meets all the requirements of the CBD-2 Zone under the optional method of development. The proposed uses are allowed in the CBD-2 Zone and the Site Plan meets the purpose of the zone by providing a mixed-use development with primarily residential uses (292 total multi-family units) and first floor commercial uses (1,619 square feet) within close proximity to mass transit facilities.

The proposed Amendment meets the density requirements of the zone and recommendations in the Silver Spring CBD Sector Plan. The overall density, which is proposed at 5.5 FAR on the 0.69-acre Site, is slightly above the maximum density of 5.0 FAR which is permissible pursuant to Section 59-A-6.18.2(c) of the Zoning Ordinance since workforce housing is provided as part of the project.

The Amendment proposes to increase the maximum height of the building from 143 to 161 feet (one additional residential floor to accommodate workforce housing units and increased floor to ceiling height on the rooftop for building amenities). The maximum height permitted in the CBD-2 zone is 143 feet, but the Planning Board can approve a building up to 200 feet in height, under the optional method of development process, if the additional height is necessary for the project to accommodate workforce housing under Section 59-A-6.18. The proposed height of 161 feet is suitable for a residential building in the Silver Spring urban core.

Data Table for the CBD-2 Zone, Optional Method of Development

Development Standard	Zoning Ordinance Permitted/ Required	Approved with 820110130	Proposed for Approval with 82011013A
Site Area (acres)			
Gross Tract Area	18,000 sf	47,883 sf	47,883 sf
Less Dedication for Public ROW Previously dedicated area	n/a	17,486	17,486
Net Lot Area	n/a	30,397 sf	30,397 sf
Density			
Max. Overall (FAR)	5.0	4.0	5.5
Office		3.87	n/a
Retail		0.13	0.03
Residential		n/a	5.47
Residential D.U.s	n/a	n/a	292
MPDUs [Chapter 25A]	12.5%	n/a	12.5% (34 MPDUs)
Workforce housing	Voluntary		7% (17 WFHUs)
Market Rate	240		240

Min. Public Use Space			
Percent of net lot area on-site	20% total (6,079 sf)	5.8% (1,760 sf)	13.8% (4,225 sf)
Percent of net lot area off-site		14.2% (4,319 sf)	6.2% (1,844 sf)
Min. Building Setbacks (ft) [59-C-10.3.8]			
Front	0	0	0
Side (West)	0	0	0
Side (East)	0	0	12
Rear	0	0	0
Max. Building Height (ft)			
	143 ft	143 ft	161 ft
Vehicle Parking (number of spaces-Site is located in parking lot district and Applicant will pay tax for parking not provided)			
Retail	0 per PLD		8
Office	0 per PLD		n/a
Residential	0 per PLD	290	202
Bicycle Parking (number of spaces)			
		5% (1 space per 20 vehicles)	11 or 5% (1 space per 20 vehicles)
Motorcycle Parking			
Number of spaces		2% (of total)	5 or 2% (of total)

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

a) Locations of buildings and structures

The locations of the proposed buildings and structures are adequate, safe, and efficient. The Amendment proposes one building with a similar footprint to the previously approved commercial building. Due to the constraints of a rectangular site area with limited street frontage, a building that occupies the majority of the Georgia Avenue street frontage and extends vertically is the best option in terms of site layout. A building that emphasizes its street presence on Georgia Avenue with the placement of retail square footage, public use space, streetscape improvements, lobby space, and indoor exercise room space within the first floor of the building, visible from Georgia Avenue, will adequately activate Georgia Avenue and address the comfort and safety needs of the pedestrian. The orientation of the front façade of the building also adequately emphasizes the building’s presence from Fidler Lane with attractive exterior lighting and sign placement.



Figure 10: East building facade



Figure 11: North building facade

Solid panels screen the parking from Georgia Avenue and the panels wrap around a portion of the building to screen some of the parking in this way from the alley. The rest of the parking along the alley will be screened by the placement of opaque metal panels with small open areas to allow for natural ventilation.

b) Open Spaces

The open spaces provided are adequate, safe, and efficient. The CBD-2 Zone has a 20% public open space requirement. The Applicant can provide public use space on-site, off-site, or a combination of the two. The public use space is calculated over the net tract area. The Applicant has elected to provide 13.8% of the requirement on-site and 6.2% off-site.

The public use space includes a seating area and feature wall in the northwest portion of the Site. The seating area will be integrated with the public art that will be selected for the feature wall. The seating area is within a pedestrian plaza area that acts as an extension of the pedestrian realm from Georgia Avenue. Paving materials are incorporated on the plaza in a pattern that suggests this extension. The public use space also includes the implementation of the Silver Spring streetscape along Georgia Avenue, which will include brick pavers, street trees, lighting, and street furniture. The Applicant has also shown on the Site Plan the inclusion of a 5 foot-wide sidewalk that extends to the side pedestrian entrance to the building. This sidewalk is adjacent to the building and alley, but separated from the alley with a curb. Staff believes this is acceptable since the sidewalk extends to a secondary entrance in the retail area of the building.

Private open spaces are also provided as part of the amenity package for residents of the building. These spaces include an outdoor rooftop terrace and swimming pool. Immediately adjacent to the roof terrace is a community room with an 18 foot floor to ceiling height at the peak which will provide expansive views of Silver Spring. A landscaped courtyard above the top garage level (level six) of the building is also proposed as a respite area for residents and a means to provide additional daylight to rear units within the building.

The diversity of open spaces proposed is adequately dispersed throughout the development to provide safe and convenient access to all residents while efficiently providing relief from the density being proposed.

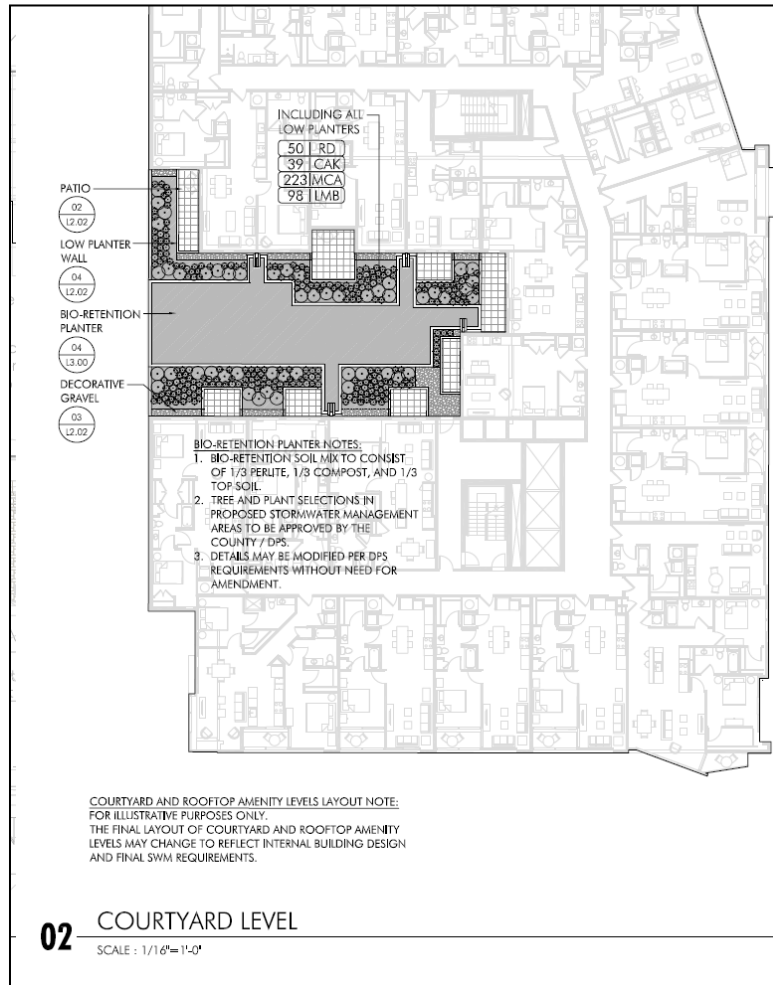


Figure 14: Interior courtyard amenity space

c) Landscaping and Lighting

The Landscape plan submitted as part of the Site Plan is adequate, safe, and efficient. The amendment revises the landscape plan as a response to the new amenity layout and building configuration. The landscape proposed serves several purposes. It provides adequate canopy coverage and shade for public areas. It efficiently defines open spaces and amenity areas by creating an edge or boundary, and adding interest. It also screens and buffers different uses within the project, such as low planters within the courtyard area which provides a degree of privacy to users within the space but does not block sunlight from the surrounding units.

Similarly, the lighting was updated as a response to the new amenity layout and building configuration. The revised lighting is adequate, safe, and efficient.

d) Recreation Facilities

The recreation facilities provided are adequate, safe and efficient. The change to residential units necessitates additional amenities and recreation facilities, which help support the proposed increase in density in this optional method of development project. The

recreation facilities provided within the building, which are included in the recreation calculations, include: indoor community space, picnic/sitting area, pedestrian system, a swimming pool, and an indoor fitness facility. Because of the urban nature of the Site, the Applicant has elected to provide an off-site supply of amenities as well.

As shown below, the recreation calculations for the overall development were updated to include the revised facilities, which satisfy the 1992 M-NCPPC Recreation Guidelines as proposed. These facilities adequately and efficiently meet the recreation requirements of this development on-Site while also providing an adequate off-site supply. All facilities will be safe and accessible opportunities for recreation for various age groups.

Demand		D1	D2	D3	D4	D5
	Number of Units	Tots	Children	Teens	Adults	Seniors
Housing Type		0 to 4	5 to 11	12 to 17	18 to 64	65+
Hi-Rise (5 or more)	292	11.68	11.68	11.68	224.84	134.32

On-Site Supply		D1	D2	D3	D4	D5
	Quantity Provided	Tots	Children	Teens	Adults	Seniors
Recreation Facility		0 to 4	5 to 11	12 to 17	18 to 64	65+
Indoor Community Space		1.05	1.58	3.15	60.71	48.36
Picnic/Sitting		5	5	7.5	25	10
Pedestrian System		1.05	2.10	2.10	91.06	54.40
Swimming Pool		0.53	2.10	2.10	50.59	18.13
Indoor Fitness Facility		0.00	1.05	1.05	40.47	18.13
	total:	7.63	11.83	15.91	267.83	149.02

Off-Site Supply		D1	D2	D3	D4	D5
	Quantity Provided	Tots	Children	Teens	Adults	Seniors
Recreation Facility		0 to 4	5 to 11	12 to 17	18 to 64	65+
Multi-Age Playground		18	22	6	14	2
Picnic/Sitting		10	10	15	50	20
Open Play Area 1		6	9	12	30	2
Tennis		0	1.50	10.50	24	1
Handball		0.00	1.50	2	4	1
	total:	3.68	3.68	3.68	70.82	26.00

Adequacy of Facilities	D1	D2	D3	D4	D5
Total Supply	11.31	15.51	19.59	338.65	175.02
90% Demand	10.51	10.51	10.51	202.36	120.89
Adequate?	yes	yes	yes	yes	yes

e) Pedestrian and Vehicular Circulation Systems

The pedestrian and vehicular circulation systems are safe, adequate, and efficient. The Amendment does not propose any revisions to the pedestrian and vehicular circulation systems. There are three primary entrances/exits to the building from Georgia Avenue, emphasizing the pedestrian realm at the front of the building along this major corridor. Approximately 45 feet separates the building from the curb line of Georgia Avenue, and this space includes the sidewalk, landscaping, street furniture and public use space. In addition to three doors along Georgia Avenue, there is a secondary entrance/exit provided off of the side alley, accessed via a five-foot wide sidewalk, which will provide access to the retail area, garage, and bicycle spaces. Covered bicycle parking and motorcycle parking will be provided within the garage which will provide adequate protection from outside elements.

Vehicular access provided to and from the building remains via a service alley with right-in, right-out circulation that will provide for adequate, safe, and efficient circulation for vehicular movements. The parking area for this mixed use building was revised to include four levels of parking above grade and one full level below grade rather than two levels below and three levels above grade as previously proposed for the commercial building. This reconfiguration does not affect the safety of vehicles entering the loading areas and garage.

If the Site Plan Amendment is approved, the Adequate Public Facilities review remains valid for the Site since the number of trips generated by the proposed residential use is less than the number of trips generated by the office use included in the previously approved Site Plan.



Figure 15: Proposed rooftop amenities

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

The structure and uses proposed are compatible with other uses and Site Plans, and with existing and proposed adjacent development. The future redevelopment of the adjacent property to the east (Site Plan #820100100) will benefit from a shared alley with the Subject Property and will complete development on the block. The limited commercial square footage proposed at the ground level of the building is in response to the extensive retail space that surrounds the development, particularly on nearby Ellsworth Drive. The building will be the tallest on the block, but because it is centrally located within the block and accessed from Georgia Avenue, the building will not be out of character or visibly jarring from the street.

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.*

Environmental Planning Staff reviewed the Site Plan amendment for changes that would alter the Forest Conservation Plan exemption granted on September 27, 2007. The amendment does not change the exempted status of the Property. Per the exemption, a tree save plan is not required. This plan meets all requirements of Chapter 22A of the Forest Conservation Law.

The proposed stormwater management concept approved on October 12, 2010, consists of Environmental Site Design to the maximum extent practicable by using green roof technology and a micro-bioretenion planter box. Additional treatment is provided by the use of a structural proprietary flow-through underground filter. Due to site conditions, full Environmental Site Design volume cannot be provided and a waiver of the water quantity portion of the requirement was granted.

APPENDICES

- A. Previous Approvals
- B. Reviewing Agency Approvals
- C. Applicant's Justification Statement for Increase in Building Height



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

MCPB No. 09-144
Project Plan No. 920100010
Project Name: 8621 Georgia Avenue
Date of Hearing: November 19, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review project plan applications; and

WHEREAS, on August 5, 2009, 8621 Limited Partnership ("Applicant") filed an application for approval of a project plan for a 191,281 sf. mixed-use office building, including approximately 6,209 sf. of retail/restaurant below approximately 185,072 sf. of office uses, ("Project Plan"), on 1.1 acres of CBD-2-zoned land, 75 feet northwest of the intersection of Georgia Avenue and Colesville Road in Silver Spring ("Property" or "Subject Property"); and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920100010, 8621 Georgia Avenue (the "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated November 5, 2009, 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 November 19, 2009, 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

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

WHEREAS, on November 19, 2009, the Planning Board approved the Application, subject to conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 3-0; Commissioners Hanson, Presley, and Wells-Harley voting in favor, with Commissioner Alfandre absent and one seat being vacant.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Project Plan No. 920100010 for a 191,281 sf. mixed-use office building, including approximately 6,209 sf. of retail/restaurant below approximately 185,072 sf. of office uses, on 1.1 gross acres in the CBD-2 zone, subject to the following conditions:

1. Development Ceiling

The proposed development is limited to 191,281 square feet of gross floor area. The delineation of the total area into 185,072 sf. of office and 6,209 sf. retail is recognized as preliminary and will be finalized at Preliminary Plan and/or Site Plan.

2. Building Height and Mass

The proposed development is limited to the building footprint as delineated in the Project Plan drawings submitted to MNCPPC dated August 5, 2009, unless modified at Site Plan review, and up to 143 feet in height.

3. Architecture

The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations shown on Sheets A14-A16 of the submitted architectural drawings, as determined by M-NCPPC Development Review and Urban Design staff, unless modified during Site Plan review.

4. LEED (Leadership in Energy and Environmental Design) Certification

The Applicant must achieve for the proposed building a LEED-NC Silver Rating Certification, at a minimum.

5. Transportation

a. The Applicant must limit development on the property as part of any future Preliminary Plan and/or Site Plan to 185,072 square-feet of office and 6,209 square-feet of retail/restaurant.

b. The Applicant must redesign/reconstruct the Georgia Avenue median opening at Fidler Lane to prevent traffic to and from the property using the median opening. Strategies Applicant may consider in coordination with Maryland State Highway Administration (SHA) include:

i. Extending the median approximately 50 feet to the north to limit the curb opening to 30 feet;

- ii. Redesigning the median opening to restrict use of the opening only by Fidler Lane left turn movements; and
 - iii. Installing signage at the median opening to prohibit turns from Georgia Avenue.
6. Public Use Space and Amenities
- a. The Applicant must provide on-site a minimum of 1,760 sf. of public use space (5.8% of net lot area).
 - b. In lieu of providing as on-site public use space the remaining 4,319 sf. (14.2%) of the required 20% of the net lot area, the Applicant must contribute to M-NCPPC no less than \$582,802 for the implementation of, or acquisition of land for, Fenton Street Urban Park, in the Silver Spring CBD.
 - c. At the time of Site Plan the Board may approve an alternative amenity site, as recommended by M-NCPPC staff, to satisfy the Applicant's public use space requirement. The alternative site must be in the public interest and consistent with the amenity fund guidelines. Board approval of this alternative would not require an amendment to the Project Plan.
 - d. If, by the time of Site Plan review, there are approved Amenity Fund implementation guidelines that yield a different payment amount, the Planning Board may elect to replace the payment amount in Condition 5(b) above, with the new amount.
 - e. Final details regarding the Amenity Fund contribution shall be determined at Site Plan, in coordination with the appropriate Parks Department staff.
 - f. The Applicant must provide public art on-site, integrated into the overall site design.
 - g. The Applicant must present preliminary and final public art concepts to the Art Review Panel prior to approval of the Site Plan.
 - h. Final design of the public art must be determined by Certified Site Plan.
 - i. As a public amenity, the Applicant must provide streetscape improvements per the Silver Spring Streetscape Standard along the property's frontage on Georgia Avenue, as illustrated in the Certified Site Plan, a total of approximately 3,840 sf., or 12.6% of the net lot area.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference, and upon consideration of the entire record and all applicable elements of § 59-D-2.43, the Montgomery County Planning Board, with the conditions of approval, FINDS:

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

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

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

The subject property is covered by the Approved and Adopted Silver Spring CBD Sector Plan (February 2000) and is located in the CBD revitalization area known as the Core. The Sector Plan encourages mixed-use development near the transit center by facilitating market-feasible development and the upgrading of the physical environment. The Project Plan proposes 191,281 sf. of development including approximately 185,072 sf. of office space and up to 6,209 sf. of restaurant/retail uses. The proposed building maximizes FAR (4.0) and reaches the 143-foot building height allowed by the zone.

The project will improve the physical environment with an attractive building and site design, including public art, and the installation of the Silver Spring streetscape standard along all improved sidewalks.

The site is currently developed as a parking lot, and the proposed Project Plan with retail or restaurant uses will activate an empty section of a major boulevard in the CBD Core. The submitted Project Plan is consistent with the recommendations of the Silver Spring CBD Sector plan for this property.

- (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 existing development along Georgia Avenue includes both commercial office and residential uses. These primary uses are supplemented with minimal ground-floor street-activating uses. This Project Plan augments the existing office uses on the Avenue with high-quality office space, and provides opportunities for ground-floor retail and restaurant uses that are lacking on this section of Georgia Avenue, while the proposed public art along the Avenue will help to attract passersby into the space. Further, the Applicant's contribution to the development of public space in the larger Silver

Spring CBD, through the "Amenity Fund", will help provide a most desirable amenity for workers, visitors, and residents. The ground-floor uses and off-site public space will serve not only the weekday office workers, but also the evening and weekend residents of the CBD, bringing pedestrian activity and vitality to what is currently an underutilized space.

- (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 building will maintain the street wall established by the existing adjacent buildings along Georgia Avenue and will help to create along this section of Georgia Avenue an attractive pedestrian destination for workers and residents. The architecture is of high quality and continues the contemporary character of other recent renovations and approved projects along this section of Georgia Avenue. Furthermore, the integration of the public art, landscaping, hardscaping, and architecture sets a high standard for improving the pedestrian experience along the building frontage.

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

The proposed development is within a five-minute walk from the Silver Spring Transit Station and a half-block from several bus stops. The development expects further to provide 30% fewer parking spaces than would be required by code, encouraging tenants and customers alike to avail themselves of the pedestrian network and ample transit options.

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

The proposed development will improve pedestrian circulation primarily through street-activating ground-floor uses potentially to include both retail and a restaurant. The proposed public art, landscaping, hardscaping, and installation of the Silver Spring Streetscape standard will further enhance the pedestrian experience.

The proposal improves vehicular circulation off Georgia Avenue by reducing the overall number of curb cuts along the Avenue and sharing service access with the adjacent property to the south.

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

The proposed development does not include a residential component, but the provision of green office space, ground-floor retail and restaurant uses, public art, and the investment in quality off-site public space all contribute to the development of mixed-use centers that include residential areas where people are able to readily access places for both work and play.

- (7) *"To encourage land assembly and most desirable use of land in accordance with a Sector Plan."*

While this proposal does not include land assembly, the Project Plan's mix of commercial, retail, and restaurant uses, public art, and investment in public use space within the larger CBD are all consistent with the most desirable land use for the affected parcels and are consistent with the goals of the Sector Plan.

Further Intentions of the CBD-2 Zone

Section 59-C-6.213(c) states that it is further the intent in the CBD-2 Zone:

- (1) *"To provide a density and intensity of development which will permit an appropriate transition from the cores of central business districts to the less dense peripheral areas within and adjacent to the districts; and*

At 143' in height, the proposed mixed-use building reinforces the intensity of uses along Georgia Avenue while transitioning between the 200' buildings closer to the Transit Center and the 5-7-story commercial buildings at the edge of the CBD.

- (2) *"To provide an incentive for the development of residential uses to meet the needs of those employed within the central business districts and those who will be able to use the district transit facilities to travel to and from places of employment."*

While this project does not directly provide residential uses, it does provide desirable ground-floor retail and restaurant uses, public art, and investment in public space within the CBD, all of which are amenities essential to attract residential development to the CBD.

Requirements of the CBD-2 zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the development standards proposed for approval. The Board finds, based on the aforementioned data table, and other [uncontested] 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 Board and Binding on the Applicant
Min. Gross Tract Area (square feet)	47,883
Previously Dedicated Area	-17,486
Proposed Dedicated Area	0
Net Lot Area	30,397
Max. Density	
Office (sf.)	185,072
Office (FAR)	3.87
Retail/Restaurant (sf.)	6,209
Retail/Restaurant (FAR)	0.13
Total (sf.)	191,281
Total (FAR)	4.0
Max. Building Height (ft.) (Measured from the center of the building on Georgia Avenue)	143
Max. Stories	13
Min. Building Setbacks (ft.)	
Georgia Avenue ROW	0
Side/Rear	0
Rear	0
Min. Public Use Space, (% of Net Lot Area)	20
Min. On-Site Public Use Space, (sf.)	1,760
Min. On-Site Public Use Space (% of Net Lot Area)	5.8
Min. On-Site Public Use Space provided off-site via	4,319

Amenity Fund (sf.)	
Min. On-Site Public Use Space provided off-site via Amenity Fund (% of Net Lot Area)	14.2
Contribution to Amenity Fund for implementation of Fenton Street Urban Park	\$582,802
• 14.2% of assessed land value; AND	
• 4,319 sf. @ \$35/sf.	
Min. Off-Site Public Amenity Space (sf.)	3,840
Min. Off-Site Public Amenity Space (% of Net Lot Area)	12.6
Min. Total On- & Off-Site Public Use & Amenity Space (sf.)	9,919
Min. Total On- & Off-Site Public Use & Amenity Space (% of Net Lot Area)	32.6
Max. Parking Spaces (site is located in a Parking Lot District and will pay tax for parking not provided)	290

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

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

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

- On-site public art
- Significant financial contribution towards the development of public space in the larger Silver Spring CBD
- LEED-NC Silver Certification
- Streetscape improvements.

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

The Project Plan is covered by the Approved and Adopted Silver Spring CBD Sector Plan (2000). The site is located at 8621 Georgia Avenue, in the Silver Spring CBD revitalization area known as the Core. The applicant proposes retail uses or a

restaurant on the ground floor with the remaining building to be developed as offices, parking will be underground.

The CBD Sector Plan's vision for Silver Spring's future is "intended to create a development environment that invites revitalization." The site is zoned CBD-2 and the applicant is utilizing the optional method of development to achieve revitalization of a neglected stretch of Georgia Avenue. The sector plan outlines themes of transit oriented downtown, commercial downtown and pedestrian friendly downtown to achieve this vision.

Transit Oriented Downtown

The sector plan seeks to create a transit oriented downtown and "strives to balance the needs of commuter and local traffic, of walkers and drivers and to maximize the investment in Silver Spring's transit infrastructure." The proposed retail/commercial building will be within walking distance to the transit center thereby maximizing the public transit infrastructure investment in Silver Spring for future commuters.

Commercial Downtown

Under the Sector Plan, new development in the Core "will serve the local community with a mix of chain and independent businesses, offering convenience and specialty shopping, restaurants, and entertainment." The proposed building will provide new office space reinforcing Silver Spring's role as an employment center. The new retail or restaurant use on the ground floor of the proposed building will offer convenience in shopping or dining to future office workers and local residents.

Pedestrian Friendly Downtown

The Sector Plan encourages "development of active streets and sidewalks busy with people walking to shop, to commute, or for pleasure. They will become downtown's defining feature, and will support activity creating the setting for the community. " As submitted, the combination of ground level retail uses and office uses on the upper floors will create activity on a site presently used as a parking lot. The ground level retail or restaurant use will activate the streets and sidewalks with people and provide opportunities for workers and residents to shop or dine in a revitalized community setting.

The submitted project plan conforms to the Approved and Adopted Silver Spring CBD Sector Plan vision and recommended themes for a revitalized downtown Silver Spring. This project plan develops an underutilized property on a major boulevard in the CBD Core into a functional mixed-use development that contributes and enhances Silver Spring's revitalization efforts.

- (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 proposed development is comparable in terms of urban design, including height, setback, and ground-floor articulation, to the other commercial buildings along this section of Georgia Avenue, but goes a step further to set a high design standard for the redevelopment of the area. The building maintains the existing streetwall established by the existing buildings on the block, and improves the pedestrian activation of the sidewalk along the property. The Applicant has coordinated with an adjacent property owner to share service facilities, reducing curb cuts and improving the pedestrian experience.

- (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.*

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. 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 and/or site 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 on this site would allow a density of only 3 FAR with a building height of 60', resulting in a building out of character with the planned intensity of redevelopment along Georgia Avenue at the CBD core. Further, there would be no requirement for public amenities and the public use space requirement would be reduced by one-half, removing the public art and significant investment in concentrated public use space in the CBD. 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 does not require MPDUs because it does not include any residential uses.

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

The proposed development is located on one existing lot and does not propose any open space or density transfers.

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

The project is exempt from the requirements of the forest conservation law.

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

The Applicant has submitted plans to DPS to satisfy applicable requirements of Chapter 19. The review remains ongoing and will be completed at Preliminary and/or Site Plan review.

(j) Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the applicable Master or Sector Plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.

The proposed financial contribution toward the implementation of public use space off-site, specifically the realization of Fenton Street Urban Park, is consistent with, and specifically identified as a public benefit in, the Silver Spring CBD Sector Plan. Given the constraints of the subject site, providing the full complement of public use space required by the zone would necessitate pushing the building away from the street and would create an undesirable condition at the street level, with unclear delineation between public and private space. Typically, such places have the residual character of the un-owned space and are uninviting and under-utilized. In contrast, Fenton Street Urban Park is an ideal gateway location into the Fenton Village section of Silver Spring, with residential, commercial, service, educational/civic, retail, and restaurant uses all within walking distance. When realized, this park will provide a valuable community amenity that is scarce in the CBD. The implementation of Fenton Street Urban Park serves the public interest far better than providing the space on the subject site.

BE IT FURTHER RESOLVED, that all elements of the plans for Project Plan No. 920100010, 8621 Georgia Avenue, stamped received by M-NCPPC on August 5, 2009, are required except as modified by the above conditions of approval; and

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

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

BE IT FURTHER RESOLVED, that the date of this Resolution is DEC 14 2009 (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 Presley, seconded by Vice Chair Wells-Harley, with Chairman Hanson, Vice Chair Wells-Harley, and Commissioner Presley present and voting in favor of the motion, and Commissioner Alfandre absent, at its regular meeting held on Thursday, December 10, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board

8621 Georgia Avenue

Verizon Maryland, Inc.
P. O. Box 152206
Irving, TX 75015-2206

LDG, Inc.
8601 Georgia Avenue, #200
Silver Spring, MD 20910-3438

Board of Directors
Saddle Ridge Condominium
P. O. Box 221350
Chantilly, VA 20153

Woodlin Elementary School
2101 Luzerne Avenue
Silver Spring, MD 20910

Sligo Middle School
1401 Dennis Avenue
Silver Spring, MD 20902

Contact
Chevy Chase Crest
Homeowners Assn.
6935 Wisconsin Ave., Suite 40
Chevy Chase, MD 20815

Silver Spring Library
8901 Colesville Road
Silver Spring, MD 20910

LDG, Inc.
8601 Georgia Avenue, #200
Silver Spring, MD 20910-3438

Melinda Wilkins
Bonaire Homes Assn.
P. O. Box 1041
Silver Spring, MD 20910-00

Chevy Chase Bank FSB
c/o Leasing Department, 9th Fl.
7501 Wisconsin Avenue
Bethesda, MD 20814-6519

Management Services, LLC Emiroglu
Woodside Mews Homeowners Assn.
673 Potomac Station Dr. NE Ste 618
Leesburg, VA 20176

Robert Middleton
Cameron Hill Homeowners A
8517 Second Avenue
Silver Spring, MD 20910

Twin Towers Joint Venture
c/o Southern Management Corp.
1950 Old Gallows Road, #600
Vienna, VA 22182-3970

CONTACT
Hartford-Thayer Condo.
Board of Directors
500 Thayer Avenue
Silver Spring, MD 20910

Tobi Suarez
Rock Creek Gardens Condo.
2224A Washington Avenue
Silver Spring, MD 20910

Gudelsky Co.
11900 Tech Road
Silver Spring, MD 20904-1910

Manager
Elizabeth House Residents Assn.
1400 Fenwick Lane
Silver Spring, MD 20910

President
North Woodside-Montgomery E
P. O. Box 8022
Silver Spring, MD 20907-8022

Albert Einstein High School
11135 Newport Mill Road
Kensington, MD 20895

Claire Maurer
Parkside Plaza Condo. Assn.
9039 Sligo Creek Parkway
Silver Spring, MD 20901

Loren Basies
Sligo Park Hills Citizens Assn.
11 Sussex Road
Silver Spring, MD 20910

Encore Properties LLC
8665 Georgia Avenue
Silver Spring, MD 20910-3405

Steve Butler
Park Sutton Condo.
1900 Lyttonsville Road
Silver Spring, MD 20910

Judith Koenick
Rock Creek Forest Citizens Ass
2714 Washington Avenue
Chevy Chase, MD 20815

Susan Reutershan
3 Bethesda Metro Center, #800
Bethesda, MD 20814

President
Carolyn Condo. Assn.
614 Sligo Avenue, #504
Silver Spring, MD 20910

Rose Crenca
Sligo-Branview Community As
9101 Flower Avenue
Silver Spring, MD 20901

Barbara and Brian Ditzler
1225 Noyes Drive
Silver Spring, MD 20910

Bob Elks
Saddle Ridge Condominium
12701 Fairlake Circle #400
Chantilly, VA 20153

Mark Gabriele
Seven Oaks-Evanswood
Citizens Assn.
831 Woodside Parkway
Silver Spring, MD 20910

Robert Colvin
East Silver Spring Citizens Ass
841 Gist Avenue
Silver Spring, MD 20910

Michael Diegel
Allied Civic Group
P. O. Box 13238
Silver Spring, MD 20911

Barbara Ditzler
Woodside Park Civic Assn.
1225 Noyes Drive
Silver Spring, MD 20910

Contact
Washington Metro Area
Transit Authority
600 Fifth Street, N.W.
Washington, D. C. 20001

Alan Bowser
Park Hills Civic Assn.
409 Deerfield Avenue
Silver Spring, MD 20901

Evan Glass
South Silver Spring
Neighborhood Assn.
7915 Eastern Avenue, #1007
Silver Spring, MD 20910

Jim Fary
Sierra Club
Montgomery County Group
2836 Blue Spruce Lane
Silver Spring, MD 20906-3166

Timothy Greene
Woodside Forest Citizens Assn.
9408 Pine Oak Drive
Silver Spring, MD 20910

Jim Evans
North Takoma Citizens Assn.
703 New York Avenue
Takoma Park, MD 20912

Michael Welsh
North Hills of Sligo Civic Assn
9505 Dallas Avenue
Silver Spring, MD 20901

Steve Myers
Woodside Way Community HOA
1714 Leighton Wood Lane
Silver Spring, MD 20910

Andrew Kleine
Presidents Council of Silver Spring CA
9417 Worth Avenue
Silver Spring, MD 20901

Judith Christensen
Montgomery Preservation, Inc.
6 Walker Avenue
Gaithersburg, MD 20877

Teresa Wilbon
Three Oaks Homeowners Assn.
9223 Three Oaks Drive
Silver Spring, MD 20910

Deana Angelastro
Cameron Hill Homeowner's Assn.
1225 Fidler Lane
Silver Spring, MD 20910

Jim Burke
Woodside Park Civic Assn.
1422 Highland Drive
Silver Spring, MD 20910

Property Manager
Three Oaks Homeowners Assn.
6915 Laurel Bowie Rd., Ste 103
Bowie, MD 20715

Richard Bush
Woodside Way Homeowner's Assn.
1711 Leighton Wood Lane
Silver Spring, MD 20910

Christine Morgan
Woodside Park Civic Assn.
1008 Woodside Parkway
Silver Spring, MD 20910

John Luke
Montgomery County Air Park
7940 Air Park Road
Gaithersburg, MD 20879

Jim Humphrey
Montgomery County
Civic Federation
5104 Elm Street
Bethesda, MD 20814

Mary Parker
Sligo Park Hills Citizens Assn
9 Sussex Road
Silver Spring, MD 20910

Bruce Williams
City of Takoma Park
7500 Maple Ave.
Takoma Park, MD 20912

Ilona Blachard
City of Takoma Park
7500 Maple Avenue
Takoma Park, MD 20912

Jerry McCoy
Silver Spring Historical Societ
800 Thayer Avenue
Silver Spring, MD 20910-450

Webb Smedley
Woodside Civic Assn.
8704 Second Avenue
Silver Spring, MD 20910

William Anderson, Jr.
Allied Civic Group
160 Norwood Road
Silver Spring, MD 20905

Mike Kraft
PROGRESS
120 Dale Drive
Silver Spring, MD 20910

Charles Wolff
Silver Spring-Takoma
Traffic Coalition
635 Bennington Drive
Silver Spring, MD 20910

Pedro Porro
Spanish Speaking People
Of Montgomery
5729 Bradley Boulevard
Bethesda, MD 20814

9-100010 - 8621 Georgia Avenue
Reviewer - Elza Hisei-McCoy

DVA Architects
Rick Donnally
400 Professional Drive, Suite 200
Gaithersburg, MD 20879

Traci Bennett
Manchester Gardens Condo. Assn.
6917 Arlington Road, Suite 350
Bethesda, MD 20814

Ayanna Rice
Manchester Gardens Condo. Assn.
9045 Manchester Road
Silver Spring, MD 20901

Walter Gottlieb
Indian Spring Citizens Assn.
P. O. Box 3724
Silver Spring, MD 20918

3521 Limited Partnership
Jason Goldblatt
7811 Montrose Road, Suite 500
Rockville, MD 20854

Parker Rodriguez, Inc.
Trini Rodriguez, RLA
101 North Union Street, Suite 320
Alexandria, VA 22314

Contact
Chevy Chase Crest Homeowners Assn.
6935 Wisconsin Avenue, Suite 400
Chevy Chase, MD 20815

Suzanne Wulff
Manchester Gardens Condo. Assn.
9027 Manchester Road
Silver Spring, MD 20901

Tony Hausner
Indian Springs Citizens Association
203 Brewster Avenue
Silver Spring, MD 20910

Macris, Hendricks & Glascock, P.A.
Brian Donnelly
9220 Wightman Road, Suite 120
Montgomery Village, MD 20886

Miller, Miller & Canby
Jody Kline, Esq.
200-B Monroe Street
Rockville, MD 20850

Board of Directors
Saddle Ridge Condominium
P. O. Box 221350
Chantilly, VA 20153

Bruce Williams
City of Takoma Park
7500 Maple Avenue
Takoma Park, MD 20912

Congresswoman Donna Edwards
U.S. House of Representatives
434 Cannon House Office Building
Washington, D. C. 20515-2004

George Sauer
Citizens for a Better Montgomery
8307 Post Oak Road
Potomac, MD 20854-3479

Ronald McNabb
TROT
12435 Meadowood Drive
Silver Spring, MD 20904

Julius Cinque
Northern Montgomery
County Alliance
22300 Slidell Road
Boyd's, MD 20841

Montgomery County
Civic Federation
3009 Jennings Road
Kensington, MD 20895

JAN 23 2012



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 11-73
Site Plan No. 820110060
Project Name: 8621 Georgia Avenue
Date of Hearing: July 21, 2011

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 November 19, 2009, the Planning Board approved Project Plan 920100010 (MCPB Resolution 09-144) for a 191,281-square-foot mixed use office building, including approximately 6,209 square feet of ground floor retail/restaurant uses below approximately 185,072 square feet of office uses on 1.1 acres¹ of CBD-2 zoned land, located on Georgia Avenue opposite the intersection of Fidler Lane ("Property" or "Subject Property"); and

WHEREAS, on February 15, 2011, 8621 Limited Partnership ("Applicant"), filed an application for approval of a Site Plan for a mixed use building of 191,281 square feet comprised of approximately 6,209 square feet of ground floor retail/restaurant uses below approximately 185,072 square feet of office uses on the 0.69 acres of the Subject Property² ("Site Plan" or "Plan"); and

WHEREAS, Applicant's Site Plan application was designated Site Plan No. 820110060, 8621 Georgia Avenue (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 11, 2011, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

¹ The Gross Tract Area of the Property is 1.1 acres (47,883 s.f.). As a result of previous dedication of 17,486 s.f. of land, the Net Tract Area for development is 0.69 acres (30,397 s.f.). MCPB Resolution 09-144 for approval of Project Plan 920100010 referred to the Gross Tract Area of the Property, while this Resolution for approval of the corresponding Site Plan refers to the Net Tract Area because that is how the Property was presented in their respective hearings.

² See footnote #1.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 100, Bethesda, MD 20814 Chairman's Office: 301.495.4600 Fax: 301.495.1320

MNCPPC Legal Department

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

100% recycled paper

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on July 21, 2011, 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 July 21, 2011, the Planning Board approved the Application subject to conditions on the motion of Commissioner Anderson; seconded by Commissioner Presley; with a vote of **4-0**, Commissioners Anderson, Carrier, Presley, and Wells-Harley voting in favor. Commissioner Dreyfuss was absent from the Hearing.

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. 820110060 for a mixed use building of 131,281 square feet comprised of approximately 6,209 square feet of ground floor retail/restaurant uses below approximately 185,072 square feet of office, on the Property, subject to the following conditions:

Conformance with Previous Approvals

1. Project Plan Conformance

The development must comply with the conditions of approval for Project Plan 920100010 as listed in MCPB Resolution 09-144, except as modified by the Site Plan.

Environment

2. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated October 12, 2010 unless amended and approved by the Montgomery County Department of Permitting Services.

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-DCPPC 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.

Public Use Space and Amenities

4. Public Use Space

- a. The Applicant must provide a minimum of 1,760 square feet of public use space (5.8% of net lot area) on-site.
- b. In lieu of providing the remaining 4,319 square feet (14.2%) of the required 20% of the net lot area as on-site public use space, the Applicant must contribute to M-NCPPC no less than \$582,802 for the development of Gene Lynch Urban Park, in the Silver Spring CBD. The payment must be submitted to the M-NCPPC prior to the release of the first building permit.

5. Amenities

As a public amenity, the Applicant must provide a total of approximately 3,840 square feet, or 12.6% of the net lot area of streetscape improvements per the Silver Spring Streetscape Standard along the property's frontage on Georgia Avenue.

6. Art

- a. Provide for and install the public art concept designed by artist Rodney Carroll, as provided to the Planning Department's Art Review Panel on June 29, 2011, and illustrated in the Certified Site Plan
- b. The proposed art must be presented to the Art Review Panel and approved by Area One staff prior to completion of the Certified Site Plan.
- c. Significant changes to the concept, as determined by Area One staff, proposed after Certified Site Plan will require a Site Plan Amendment.

Transportation & Circulation

7. Transportation

- a. The Applicant must participate in the Silver Spring Transportation Management District (TMD) and must enter into an agreement with the TMD prior to release of the first building permit. The Applicant must comply with the draft letter from the State Highway Administration dated June 1, 2011 [Appendix D], or as amended, to provide the following:

1. Formalize the pedestrian crossing of Georgia Avenue at its intersection with Fidler Lane on the south side of the intersection with an attractive landscaped pedestrian refuge and a pedestrian activated walk signal, if approved by SHA.
2. Extend corner curbing at Georgia Avenue/Fidler Lane to further facilitate the pedestrian crossing
3. Provide a southbound left-turn lane at Fidler Lane, if approved by SHA.

b. Adequate Public Facilities

1. The APF review for this development will remain valid for 85 months from the date of mailing of the Planning Board Resolution for the Site Plan.
2. Total development under the subject site plan is limited to a maximum total of 191,281 sf. of development comprised of approximately 6,209 square feet of retail/restaurant and 185,072 square feet of office uses.

Site Plan

8. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A13-A16 (stamped June 23, 2011 by the Planning Department) of the submitted architectural drawings, as determined by M-DCPPC Area One staff.

9. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards commercial development.
- b. All onsite down-light fixtures must be full cut-off fixtures.
- c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. The height of the rooftop light poles shall not exceed 12 feet, including the mounting base.

10. Landscape Surety

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

- a. The amount of the surety shall include plant material, on-site lighting, and site furniture within the relevant block of development. Surety to be posted prior to issuance of first building permit.
- b. Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c. Completion of plantings to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

11. Development Program

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

- a. A Pre-Construction Meeting to be held with a DPS-Site Plan Enforcement Inspector prior to commencing construction. The project will be completed in one phase. All construction is to be staged from Georgia Avenue unless otherwise agreed to by other adjacent parties. All site features will be completed prior to issuance of the final Use and Occupancy permit.
- b. The trip mitigation agreement must be completed prior to the issuance of the first commercial building permit.
- c. No clearing or grading prior to M-NCPPC approval of certified site plan, except for demolition of the existing surface parking lot as necessary to accommodate improvements to Georgia Avenue, and all necessary alterations to reconfigure the existing driveway to maintain vehicular circulation, egress and parking. Parking access shall be maintained from Georgia Avenue.
- d. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan.
- e. Streetscape improvements including paving, lighting, street furniture and tree planting and other landscaping, for Georgia Avenue and all on-site public use space areas to be completed prior to release of the final Use

and Occupancy permit for the building. Street tree planting and other landscaping can be installed up to 6 months after the issuance of the final Use and Occupancy permit to address construction and weather related issues.

- f. The Plaza (and associated pedestrian access walkways) including all paving, lighting, site furnishings and public art, as well as any other on-site amenities including, but not limited to paths, benches, trash receptacles and bicycle facilities, shall be completed prior to release of the final Use and Occupancy permit for the building.
- g. The Public Art feature designed and created by Rodney Carroll, and approved as part of the site plan, shall be installed prior to issuance of the final Use and Occupancy permit.
- h. The in-lieu payment for the amenity fund must be submitted prior to the release of the first building permit.

12. Certified Site Plan

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

- a. Include the final stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- c. Modify the development program on the Cover sheet stamped "6/23/2011" by the Planning Department; add landscaping to note #5 and remove note #8.
- d. Modify data table to reflect development standards enumerated in the staff report.
- e. Ensure consistency of all details and layout between site plan and landscape plan.

- f. Provide the transportation improvements on the certified site plans as approved by SHA.

BE IT FURTHER RESOLVED, that all site development elements as shown on 8621 Georgia Avenue drawings stamped by the M-NCPPC on June 23, 2011, 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 as presented at the Hearing and set forth in the Staff Report, 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, 920100010 except where expressly modified by the Planning Board.

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 in the project Data Table below. The building height, density, setbacks, vehicular access and public use space design remain unchanged from the approved Project Plan.

Data Table

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 for Site Plan Approval and Binning on the Applicant
Min. Gross Tract Area (square feet)	18,000	47,883
Previously Dedicated Area		-17,486
Proposed Dedicated Area		0
Net Lot Area		30,397
Max. Density		
Office (sf.)		135,072
Office (FAR)		3.87
Retail/Restaurant (sf.)		5,209
Retail/Restaurant (FAR)		0.13
Total (sf.)	191,532	191,281
Total (FAR)	4.0	4.0
Max. Building Height (ft.) (Measured from the center of the building on Georgia Avenue)	143	143
Max. Stories	n/a	13
Min. Building Setbacks (ft.)		
Georgia Avenue ROW	n/a	0
Side/Rear	n/a	0
Rear	n/a	0
Min. Public Use Space, (% of Net Lot Area)	20	20
Min. On-Site Public Use Space, (sf.)	6,079	760
Min. On-Site Public Use Space (% of Net Lot Area)	-	5.8
Min. On-Site Public Use Space provided off-site via Amenity Fund (sf.)	-	4,319
Min. On-Site Public Use Space provided off-site via Amenity Fund (% of Net Lot Area)	-	14.2
Contribution to Amenity Fund for implementation Gene Lynch Urban Park <ul style="list-style-type: none"> • 14.2% of assessed land value; AND • 4,319 sf. @ \$35/sf. 	-	\$532,802
Min. Off-Site Public Amenity Space (sf.)	-	3,840
Min. Off-Site Public Amenity Space (% of	-	12.6

Net Lot Area)		
Min. Total On- & Off-Site Public Use & Amenity Space (sf.)	-	9,919
Min. Total On- & Off-Site Public Use & Amenity Space (% of Net Lot Area)	-	32.6
Max. Parking Spaces (site is located in a Parking Lot District and will pay tax for parking not provided)	401 (0 per PLD)	290

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

a. Locations of 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 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.

b. Open Spaces

The plan includes 5.8 percent of the net lot area for public use on-site, including a forecourt with a public art component adjacent to Georgia Avenue and associated streetscape improvements along Georgia Avenue. The in-lieu payment for the remainder of the public use space requirement promotes the development of other public spaces within the core area. The Board finds that this contributes to an improved pedestrian experience that is adequate, safe, and efficient.

c. Landscaping and Lighting

The plan includes adequate levels of lighting for street level public spaces including the shared access drive. Landscaping is well placed and allows good sight lines for adequate surveillance for safety while providing tree canopy shade on the sidewalk. The existing street trees, which are zelkovas, may be removed to allow for installation of the Silver Spring streetscape along Georgia Avenue with new elm trees consistent with the current streetscape design. The Board finds that this contributes to an adequate, safe and efficient site plan.

d. Recreation Facilities

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

e. Pedestrian, Bicycle and Other Vehicular Circulation Systems

The vehicular circulation allows entries and exits from Georgia Avenue for both parking and service from a service alley shared with the adjacent property. This improves the pedestrian circulation by reducing and consolidating the curb cuts on Georgia Avenue. The slope of Georgia Avenue is managed well in the design of the pedestrian access from the sidewalk to the forecourt, arcade and building entrance. Steps are kept to a minimum and connectivity is maximized with ample level areas for entering the forecourt and building. High visibility between the sidewalk, public use space and public art, and visual cues in the pavement design, contribute to the connectivity. Access to an interior bicycle storage area is also provided from the service alley. Pedestrian, bicycle and other vehicular circulation is adequate, safe, and efficient.

The Board discussed additional improvements within the Georgia Avenue right-of-way, a state road, for the benefit of increased pedestrian safety and vehicular circulation. The Board recognized that any improvements on Georgia Avenue would require approval from the State Highway Administration and encouraged the Applicant to continue coordinating with the SHA to implement the improvements as conditioned and subsequently approved by SHA.

Adequate Public Facilities (APFO) was reviewed with this site plan application since a preliminary plan was not required. The Board found that the application satisfies the APF ordinance for the transportation related improvements associated with this development.

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, including the adjacent office buildings and other mixed-use structures, in terms of 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 is exempt from providing a Forest Conservation Plan. The proposed stormwater management concept was approved by the Department of Permitting Services (DPS) on October 12, 2010. The stormwater management concept consists of "Environmental Site Design to the Maximum Extent Possible" using a green roof. Additional treatment is provided by the use of a structural proprietary flow-through underground filter. Due to site conditions, onsite recharge cannot be provided. A waiver of water quality control has been granted for a small area that will not drain to the proposed water quality structure.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and 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

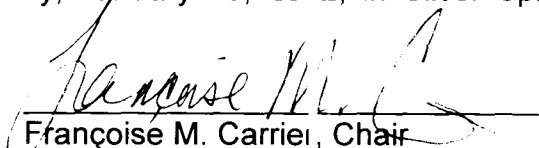
BE IT FURTHER RESOLVED, that the date of this Resolution is JAN 23 2012 (which is the date that this Resolution is mailed to all parties of record); and JAN 23 2012

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 Vice Chair Wells-Harley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley present and voting in favor of the motion at its regular meeting held on Thursday, January 19, 2012, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board

**RICHARD BRUSH, MANAGER
MCDPS-WATER RES. PLAN REVIEW
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850**

**MR. HADI MASOURI
MCDP-BUILDING CONSTRUCTION
255 ROCKVILLE, PIKE 2ND FLOOR
ROCKVILLE, MD 20850**

**MS. GAIL LUCAS, MANAGER
MCDPS-BUILDING CONSTRUCTION
255 ROCKVILLE PIKE 2ND FLOOR
ROCKVILLE, MD 20850**

**MR. GREG LECK
100 EDISON PARK DRIVE 4TH FLOOR
GAITHERSBURG, MD 20878**

**MR. JOSEPH Y. CHEUNG, MANAGER
MCDPS-RIGHT OF WAY PERMITTING
AND PLAN REVIEW
255 ROCKVILLE PIKE 2ND FLOOR
ROCKVILLE, MD 20850**

**MR. GREG NICHOLS, MANAGER
MCDPS-LAND DEVELOPMENT
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850**

**MR. MICHAEL REAHL, MANAGER
MCDPS-SEDIMENT/STORMWATER
INSPECTION AND ENFORCEMENT
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850**

**MR. EHSAN MOTAZEDI
MCDPS-SITE PLAN ENFORCEMENT
MANAGER
255 ROCKVILLE PIKE 2ND FLOOR
ROCKVILLE, MD 20850**

**MR. JAY BEATTY, MANAGER
MCDPS-WELL AND SEPTIC
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850**

**MR. LEROY ANDERSON, MANAGER
MCDPS-RIGHT OF WAY DEVELOPMENT
INSPECTION AND ENFORCEMENT
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850**

**MS. SUSAN SCALY-DEMBY, MANAGER
MCDPS-ZONING
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850**

**MR. CHRISTOPHER ANDERSON
MPDU MANAGER
DHCA COUNTY OFFICE BUILDING
255 ROCKVILLE PIKE
ROCKVILLE, MD 20850**

**LISA S. SCHWARTZ
SENIOR PLANNING SPECIALIST
MONTGOMERY COUNTY DEPARTMENT
OF HOUSING AND COMMUNITY
AFFAIRS
100 MARYLAND AVENUE, 4TH FLOOR
ROCKVILLE, MD 20850
DVA ARCHITECTS
RICK DONNELLY
400 PROFESSIONAL DRIVE
SUITE 200
GAITHERSBURG, MD 20879**

**8621 LIMITED PARTERSHIP
JASON GOLDBLATT
7811 MONTROSE ROAD
SUITE 500
ROCKVILLE, MD 20854**

**MACRIS, HENDRICKS & GLASCOCK, PA
BRIAN DONNELLY
9220 WIGHTMAN ROAD
SUITE 120
MONTGOMERY VILLAGE, MD 20886**

**PARKER RODRIGUEZ, INC.
TRINI RODRIGUEZ, RLA
101 NORTH UNION STREET
SUITE 320
ALEXANDRIA, VA 22314**

**MILLER, MILLER & CANBY
JODY KLINE, ESQ.
200-B MONROE STREET
ROCKVILLE, MD 20850**

**SHA
STEVEN D. FOSTER, CHIEF
ACCESS MANAGEMENT DIVISION
707 NORTH CLAVERT STREET
BALTIMORE, MD 21202**

**MILLER, MILLER & CANBY
BRIAN MISTYSN
200-B MONROE STREET
ROCKVILLE, MD 20850**



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

January 22, 2013

Diane R. Schwartz Jones
Director

Pearce Wroe
Macris, Hendricks, and Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, MD 20886-1279

Re: Stormwater Management *CONCEPT* Request
for Johns Hopkins Applied Physics Laboratory
Property
SM File #: 233645
Tract Size/Zone: 0.697 Ac./CBD-2
Total Concept Area: 0.90 Ac.
Lots/Block: 2
Parcel(s): N213
Watershed: Lower Rock Creek

Dear Mr. Wroe:

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 ESD to the MEP by using green roof technology and a micro-bioretenention planter box. Due to site conditions, full ESD volume can not be provided and a waiver of the water quantity portion of the requirement is granted.

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. This site is considered to be redevelopment.
6. Use the latest design criteria from MCDPS for the BMPs being used.
7. All covered parking is to drain to the WSSC sewer system.
8. Provide copy of mechanical drawings, with schematic profiles, showing that roof water drains to the water quality structures and that the covered parking drains to WSSC.
9. The green roof to be provided will cover a minimum of 3,168 sqft (15%) of the overall roof area. The minimum thickness of the green roof is to be 8 inches. The design and use of additional green roof is encouraged.

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

10. Include on the design plans a narrative explaining how the planter box and green roof are to be accessed for inspection and maintenance.

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,

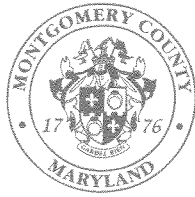


Richard R. Brush, Division Chief
Water Resources Section
Division of Land Development Services

RRB:ita CN233645 Johns Hopkins Applied Physics Laboratory Property Second Revision.DWK

cc: SM File # 233645

QN -Waived; Acres: 0.90
QL -- Onsite; Acres: 0.90



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

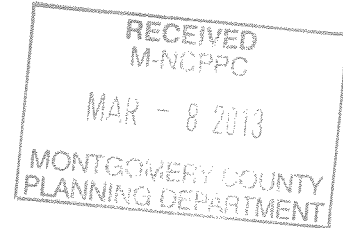
Isiah Leggett
County Executive

March 1, 2013

Richard Y. Nelson, Jr.
Director

Ms. Erin Grayson
Area 1 Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: 8621 Georgia Avenue
Project Plan Amendment No. 92010001A
Site Plan Amendment No. 82011006A



Dear Ms. Grayson:

The Department of Housing and Community Affairs (DHCA) has received the revised plans for 8621 Georgia Avenue, which include MPDUs and Workforce Housing Units (WFHUs). In the current plans, the number of WFHUs (17) matches the number of additional units on the top floor, so the plans appear to be in compliance with the Zoning Ordinance and Chapter 25B of the Montgomery County Code. In addition, the applicant has agreed to make all of the WFHUs available for rent at the 90% median income level, rather than three rent levels of 75%, 90% and 110% of median income (however, in any case, the maximum allowable rent for a WFHU must not be more than 80% of the rental rate of market rate units of the same bedroom size.)

DHCA recommends that the Planning Board approve the applicant's current Project and Site Plan Amendments; however, please note that there should be one less efficiency WFHU and one more two-bedroom WFHU based on the market unit bedroom mix. DHCA will need to review and approve the MPDU and WFHU bedroom mix, unit layouts and locations at certified site plan.

Sincerely,

Lisa S. Schwartz
Senior Planning Specialist

- cc: Brigg Bunker, Foulger-Pratt Development
- Brian Donnelly, Macris, Hendricks & Glascock, P.A.
- Jody S. Kline, Miller, Miller & Canby
- Jalal Greene, DHCA
- Christopher J. Anderson, DHCA

S:\Files\FY2013\Housing\MPDU\Lisa Schwartz\8621 Georgia Ave DHCA Letter 3-1-2013.doc

Division of Housing

Moderately Priced Dwelling Unit FAX 240-777-3709	Housing Development & Loan Programs FAX 240-777-3691	Landlord-Tenant Affairs FAX 240-777-3691	Licensing & Registration Unit 240-777-3666 FAX 240-777-3699
---	---	---	---

100 Maryland Avenue, 4th Floor • Rockville, Maryland 20850 • 240-777-3600 • www.montgomerycountymd.gov/dhca





FIRE MARSHAL COMMENTS

DATE: 08-Jan-13
TO: Brian Donnelly
Macris, Hendricks & Glascock
FROM: Marie LaBaw
RE: 8621 Georgia Ave
920100010 820110060 820110060A

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **11-Dec-12**. 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.

***** Site plan amendment approval *****



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

Darrell B. Mobley, *Acting Secretary*
Melinda B. Peters, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

December 7, 2012

Re: Montgomery County
8621 Georgia Ave
MD 97 in Silver Spring
SHA Tracking No. 11APMO016
Transportation Statement

Mr. Cherian Eapen
Planner/Coordinator Area 1 Team
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Mr. Eapen:

Thank you for the opportunity to review the Transportation Statement prepared by The Traffic Group Inc., dated August 22, 2012 (received by the AMD on November 13, 2012) for the proposed 8621 Georgia Avenue residential/retail development in Montgomery County, Maryland. The major report findings and the Maryland State Highway Administration (SHA) comments and conclusions are as follows:

- The previous development proposal, which SHA commented on in a letter dated June 1, 2011, called for the development of 185,153 sq. ft. of office space and 6,209 sq. ft. of retail space. The new development plan calls for 278 residential apartment units and 1,500 sq. ft. of retail space, which translates to a reduction of 178 AM peak hour trips and 185 PM peak hour trips compared to the previous proposal. As with the previous development proposal, access to the development is located along the east side of MD 97 (Georgia Avenue) between Cameron Street and US 29 (Colesville Road) within the Silver Spring CBD from one (1) right-in/right-out site access driveway on MD 97.
- The Transportation Statement did not include any updated CLV analyses based on the reduction in projected trips. Results of the previous analysis indicated that all of the study area intersections were operating well within the congestion standards for this area.
- The Transportation Statement concluded that, based on M-NCPPC's finding of adequacy for the previous development plan for this site, and on the projected reduction in trips with the updated development plan, the development should be approved by M-NCPPC staff with no off-site improvements required (which was the case for the previous approval).

It should be noted that, although previously approved by M-NCPPC, the original TIS for this development was *not approved* by the SHA, pending resolution of several comments.

My telephone number/toll-free number is _____

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

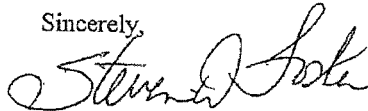
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

Because the original comments from SHA's June 1, 2011 letter were not addressed, and based on the lack of any new facts in the Transportation Statement addressing those original comments, the SHA reiterates the need for the following comments to be addressed before the subject site can be approved and plans can be submitted for SHA's review and release of an Access Permit:

1. SHA's original comment stated that, "there is concern regarding the close proximity of the site access to the existing median break at Fidler St." While the proposed median extension provides some benefit in this regard, the SHA remains concerned about the possibility of vehicles to/from the development utilizing this break in order to access the site driveway. Alternatives are needed to further reduce the potential for this movement to occur.
2. Analyze impacts to the left turn/U-turn lanes on NB and SB MD 97 at Cameron Street.
3. The site access is less than 300 feet from Cameron Street. Synchro/SimTraffic modeling and/or a gap study are needed to analyze vehicles maneuvering across three northbound MD 97 through lanes to make a U-turn at Cameron Street.

SHA will require the submission of six (6) hard copies and one (1) electronic revised traffic impact study and point-by-point response. Please send this information to the SHA Access Management Division addressed to Mr. Steven D. Foster to the attention of Mr. Nick Driban and reference the SHA Tracking Number on the submission. Unless specifically indicated in the SHA response on this report, the comments contained herewith do not supersede previous comments made on this development application. Please keep in mind that you can view the reviewer and project status via the SHA Access Management Division's web page at (<http://www.roads.maryland.gov/pages/amd.aspx>). If you have any questions regarding the enclosed traffic report comments, please contact Mr. Nick Driban at 410-545-0398 or via email at cdriban@sha.state.md.us.

Sincerely,



Steven D. Foster, Chief
Access Management Division

cc: Ms. Maria Bhatti, SHA District 3
Mr. Glenn Cook, The Traffic Group Inc.
Ms. Rola Daher, SHA TFAD
Ms. Mary Deitz, SHA RIPD
Mr. Nick Driban, SHA AMD
Mr. Bob French, SHA CPD
Mr. Roy Gothie, SHA RIPD
Mr. Greg Leck, MCDOT
Mr. Subrat Mahapatra, SHA TFAD
Ms. L'Keisha Markley, SHA RIPD
Mr. Mark McKenzie, SHA AMD
Ms. Anyesha Mookherjee, SHA District 3
Mr. Scott Newill, SHA AMD
Mr. Johnson Owusu-Amoako, SHA CPD
Mr. Saed Rahwanji, SHA TDSD
Mr. Errol Stoute, SHA TDSD
Mr. Morteza Tadayon, SHA TFAD



January 14, 2013

MEMORANDUM

TO: Erin Grayson, Planner
Area 1 Planning Division

VIA: Robert Kronenberg, Acting Division Chief
Area 1 Planning Division

FROM: Marc Lewis-DeGrace, Transportation Planner
Area 2 Planning Division

SUBJECT: Site Plan No. 82011006A
8621 Georgia Avenue
Silver Spring CBD Policy Area

This memorandum is Area 1 transportation planning staff's review of the subject site plan to replace the approved 185,153 sq. ft. of office space and 6,209 sq. ft. of retail space with 292 high-rise apartments and 1,619 sq. ft. of retail space.

RECOMMENDATIONS

Area 1 transportation planning staff recommends the following conditions related to the Adequate Public Facilities (APF) test of the transportation requirements for the subject site plan amendment:

1. The Applicant must limit the site plan amendment to a maximum of 292 high-rise apartments and 1,619 sq. ft. of retail space.
2. The Applicant must enter into a Traffic Mitigation Agreement with the Montgomery County Department of Transportation (MCDOT) and the Planning Board to participate with the Silver Spring Transportation Management Organization (TMO) to achieve and maintain the non-auto driver mode share goals as recommended in the *Silver Spring Central Business District Sector Plan*. The Applicant must enter into a Traffic Mitigation Agreement prior to the issuance of any building permits.
3. The Applicant must comply with requirements contained in the letter from the Maryland State Highway Administration (SHA) dated December 7, 2012 regarding traffic impacts at the intersection of Georgia Avenue (MD 97) and Cameron Street.
4. The Applicant must redesign/construct the Georgia Avenue median opening at Fidler Lane to prevent traffic to and from the property using the median opening. Such traffic control

Grayson, Erin

From: Crispell, Bruce <Bruce_Crispell@mcpsmd.org>
Sent: Tuesday, January 08, 2013 2:23 PM
To: 'Jody Kline'; Turpin, Janice; Dian Thomson
Cc: Grayson, Erin; BBunker@foulgerpratt.com; MKillian@foulgerpratt.com; bdonnelly@mhgpa.com; Harris, Samantha
Subject: RE: 8621 GEORGIA AVENUE BUILDING - PROJECT AND SITE PLAN AMENDMENT APPLICATIONS
Attachments: CIP Downcounty Consortium.pdf

Jody,

I have reviewed the project and site plan amendment application for 8621 Georgia Avenue. I estimate that the 292 residential high-rise units will generate approximately 13 elementary, 10 middle, and 12 high school students. The project is located in the service areas of Woodlin Elementary School and Sligo Middle School, and in the base area of Albert Einstein High School. Albert Einstein High School is part of the five high school Downcounty High Schools Consortium. Students at 8621 Georgia Avenue may choose to attend the base area high school, Albert Einstein, or one of the four other high schools in the consortium—Blair, Kennedy, Northwood or Wheaton.

Woodlin Elementary School is currently over capacity and planning for an addition is underway with an opening date to be determined in a future capital improvements program. Sligo Middle School and Albert Einstein High School are projected to remain within their capacities for the whole six year forecast period. I am attaching pages from the recently released *FY 2014 Capital Budget and Amendments to the FY 2013–2018 Capital Improvements Program (CIP)* for your further information about the schools that would serve students residing at 8621 Georgia Avenue.

The current FY 2013 Subdivision Staging Policy requires an elementary school facility payment for subdivision approvals in the Albert Einstein cluster schools.

Let me know if I can be of further assistance.

Bruce

Bruce Crispell

Director, Division of Long-range Planning
Montgomery County Public Schools
(240) 314-4702 (office)
(301) 279-3062 (fax)

45 West Gude Drive, Suite 4100
Rockville, Maryland 20850
bruce_crispell@mcpsmd.org

From: Jody Kline [<mailto:JSKline@mmcanby.com>]
Sent: Tuesday, January 08, 2013 12:54 PM
To: Turpin, Janice; Dian Thomson
Cc: erin.grayson@mncppc-mc.org; BBunker@foulgerpratt.com; MKillian@foulgerpratt.com; bdonnelly@mhgpa.com; Crispell, Bruce; Harris, Samantha
Subject: RE: 8621 GEORGIA AVENUE BUILDING - PROJECT AND SITE PLAN AMENDMENT APPLICATIONS

Noted. Thank you.



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

January 14, 2013

MEMORANDUM

TO: Erin Grayson, Planner
Area 1 Planning Division

VIA: Robert Kronenberg, Acting Division Chief
Area 1 Planning Division

FROM: Marc Lewis-DeGrace, Transportation Planner
Area 2 Planning Division

SUBJECT: Site Plan No. 82011006A
8621 Georgia Avenue
Silver Spring CBD Policy Area

This memorandum is Area 1 transportation planning staff's review of the subject site plan to replace the approved 185,153 sq. ft. of office space and 6,209 sq. ft. of retail space with 292 high-rise apartments and 1,619 sq. ft. of retail space.

RECOMMENDATIONS

Area 1 transportation planning staff recommends the following conditions related to the Adequate Public Facilities (APF) test of the transportation requirements for the subject site plan amendment:

1. The Applicant must limit the site plan amendment to a maximum of 292 high-rise apartments and 1,619 sq. ft. of retail space.
2. The Applicant must enter into a Traffic Mitigation Agreement with the Montgomery County Department of Transportation (MCDOT) and the Planning Board to participate with the Silver Spring Transportation Management Organization (TMO) to achieve and maintain the non-auto driver mode share goals as recommended in the *Silver Spring Central Business District Sector Plan*. The Applicant must enter into a Traffic Mitigation Agreement prior to the issuance of any building permits.
3. The Applicant must comply with requirements contained in the letter from the Maryland State Highway Administration (SHA) dated December 7, 2012 regarding traffic impacts at the intersection of Georgia Avenue (MD 97) and Cameron Street.
4. The Applicant must redesign/construct the Georgia Avenue median opening at Fidler Lane to prevent traffic to and from the property using the median opening. Such traffic control

measures that the Applicant may consider as required by the Maryland State Highway Administration (SHA) include:

- Extending the median approximately 50 feet to the north to limit the curb opening to 30 feet.
- Redesigning the median opening to restrict use of the opening only by Fidler Lane left turn movements.
- Installing signage at the median opening to prohibit turns from Georgia Avenue.
- Completely closing the median break to restrict all movements across Georgia Avenue.

DISCUSSION

Site Location and Vehicular Site Access Point

The proposed 8621 Georgia Avenue development is located along the east side of Georgia Avenue between Colesville Road (US 29) and Cameron Street. Access to the property is via a right-turn in/right-turn out driveway along Georgia Avenue as restricted in Recommendation No. 4. In addition, SHA has required additional studies of the traffic impacts at the intersection of Georgia Avenue and Cameron Street per Recommendation No. 3.

Transportation Demand Management

As described in Recommendation No. 2, participating in the Silver Spring TMO is recommended because the subject site is a residential development located in the Silver Spring Central Business District (CBD) Policy Area. Therefore, the Applicant must participate with the Silver Spring TMO to achieve and maintain the non-auto driver mode share goals as specified in *Silver Spring Central Business District Sector Plan*.

On-Site Parking

The Applicant is located within the Silver Spring Parking Lot District and is not required to provide on-site parking. However, the Applicant is proposing to provide up to 210 on-site parking spaces. Access to the parking garage is proposed from Georgia Avenue.

Available Transit Service

Ride-On routes 14, 16, 20, and 22 and Metrobus routes J5, Q-1, Q-2, Q-4, Y-5, Y-7, Y-8, and Y-9 operate on Georgia Avenue along the property frontage. The site is located within 1,700 feet walking distance from the Silver Spring Metrorail Station.

Sector-Planned Roadway

In the 2000 Approved and Adopted *Silver Spring Central Business District Sector Plan* Georgia Avenue (MD 97) along the western edge of the property is designated, as a six-lane major highway (M-8) with a minimum right-of-way width of 126 feet between Spring Street to the north and Colesville Road to the south.

Local Area Transportation Review (LATR)

The table below shows the net new number of weekday peak-hour trips generated by the proposed redevelopment of the office building into apartments during the weekday a.m. peak period (6:30 to 9:30 a.m.) and the p.m. peak period (4:00 to 7:00 p.m.):

<i>Proposed Land Use Redevelopment</i>	<i>AM Peak Hour</i>	<i>PM Peak Hour</i>
	Total	Total
8621 Georgia Avenue, Previous Approved		
185,153 sq. ft. General Office	259	259
6,209 sq. ft. General Retail	3	12
New Trips	262	271
New Proposed for Comparison		
1,619 sq. ft. General Retail	1	3
292 High-Rise Units	88	88
New Trips	89	91
Net New Trips	-173	-180

Trip rates are from the Local Area Transportation Review and Policy Area Mobility Review Guidelines.

A traffic study is not required to satisfy the Local Area Transportation Review (LATR) test because the net number of additional peak-hour trips is less than zero.

APF Review

The previously approved Site Plan No. 820110060 satisfied all relevant APF tests for commercial uses. This amendment will generate fewer trips in both the a.m. and p.m. peak hours and, therefore, will not change the APF findings from the previously approved Site Plan. Thus the APF test has been satisfied.

MLDG

cc: Robert Kronenberg
Wes Guckert
Sande Brecher

Law Offices Of
MILLER, MILLER & CANBY
MM&C
 CLIENT FOCUSED. RESULTS DRIVEN.

200-B MONROE STREET, ROCKVILLE, MARYLAND 20850 P: 301.762.5212 F: 301.424.9673 WWW.MILLERMILLERCANBY.COM

All attorneys admitted in Maryland and where indicated.

PATRICK C. MCKEEVER (DC)
 JAMES L. THOMPSON (DC)
 LEWIS R. SCHUMANN
 JODY S. KLINE
 ELLEN S. WALKER

MAURY S. EPNER (DC)
 JOSEPH P. SUNTUM
 SUSAN W. CARTER
 ROBERT E. GOUGH
 DONNA E. MCBRIDE (DC)
 GLENN M. ANDERSON (FL)

HELEN M. WHELAN (DC, WV)
 MICHAEL G. CAMPBELL (DC, VA)
 SOO LEE-CHO (CA)
 AMY C.H. GRASSO (DC)
 DAMON B. OROBONA (DC)

JSKLINE@MMCANBY.COM

February 28, 2013

Ms. Erin Grayson
 Area 1 Planning Team
 M-NCPPC
 8787 Georgia Avenue, Third Floor
 Silver Spring, MD 20910

RE: Project Plan Amendment Application No. 92010001A,
 Site Plan Amendment Application No. 12011006A;
 8621 Georgia Avenue Building

Dear Erin:

As a result of extended discussions with you and your colleagues at M-NCPPC, the Applicant desires to modify the pending plans for project plan amendment and site plan amendment approval for the project known as the "8621 Georgia Avenue Building". Per your request, the following information is being provided to support the height increase in the building as provided in the Zoning Ordinance, and a companion increase in FAR.

1. Authority for Increase in Height.

As we have all discussed numerous times, the Zoning Ordinance allows for an increase in height, above the basic 143 feet permitted in the CBD-2 zone, for a mixed use building reviewed under the optional method of development. Specifically, footnote 11 to Section 59-C-6.235 reads:

"Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, if: (i) the additional height is necessary for the project to accommodate workforce housing under Section 59-A-6.18; however, the additional height must not be more than required for the number of workforce housing units that are constructed;"

Our research also brought to our attention Section 59-A-6.18.2(c)(1) (“Allowances”) of the Zoning Ordinance which logically states that the residential density or residential FAR of a zone may “. . . be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent of the total FAR or number of dwelling units;”. It is on the basis of this statutory provision that our total project FAR has increased to 5.5 FAR (10% of the permitted FAR) and has increased in the number of dwelling units to 292 by the addition of 17 work force housing units in an amount less than 10% of the total number of dwelling units.

2. Conformance With The Requirements of Section 59-C-6.235(b) Demonstrating that Additional Height is Necessary To Accommodate Workforce Housing Units.

A. The amended project plan application for the 8621 Georgia Avenue Building has been increased in height from 143 feet to 161 feet. The primary element of height increase is attributable to an additional floor to the building. Increasing the number of stories from eleven (11) to twelve (12) floors creates space for the additional 17 WFH units.

Under separate cover, we will be providing you with detailed information about the dimensional breakdown for each floor of the building showing how the structure reaches the height of 161 feet.

In summary, as explained above, additional building height is being utilized to create space for the first work force housing units by a private entity in Montgomery County and to make those units some of the finest affordable housing units in Silver Spring.

B. The entire increase in building height is associated with an additional floor primarily devoted to residential units and Amenity space. That additional floor creates the space for 17 additional units, the same number of workforce housing units that are being added to the project and allocated through the building according to DHCA standards. And the height of the penthouse floor is consistent with typical units found in such a location and will have additional floor to ceiling clearance in order to justify a marginal rental increase to underwrite the cost of delivering workforce housing units in the project. Furthermore, as will be explained in more detail below, the additional height will allow the Applicant to create an Architectural feature emphasizing views from the Metro up Fidler Avenue and frames views from Georgia Avenue and a unique enclosed community space on the rooftop that will benefit the tenants of the WFU units and other tenants of the building.

3. Compliance With Section 59-D-2.43(b) (Adequate Amenity Space).

Section 59-D-2.43 of the Zoning Ordinance, in establishing the findings for the Planning Board in approving a project plan amendment application, requires a showing that “. . .the open spaces proposed, including developed open space, are sized and located to provide convenient areas for recreation, relaxation and social activities for the residents and patrons of the development.” The 8621 Georgia Avenue Building cleverly satisfies this requirement in a manner that provides tremendous physical and visual benefits for the residents of the building. Because the building occupies substantially all of its lot area and because of the need to accommodate adequate parking for the additional workforce housing units, there is limited space on the ground level for amenities. As a result, the only available space for recreation and social activities for the residents is on the rooftop.

After devoting the majority of the rooftop space to residential units, the remainder is allocated to areas for relaxation and socialization for the residents and their guests. The amenities include space for outdoor activities (pool, lounging, sitting areas) and indoor activities in an adequately sized community room that has been specifically located and designed to take advantage of vistas toward the core of Silver Spring along the Fiddler Avenue viewshed. In order to create an environment commensurate with the attractiveness of the setting, the ceiling elevation of the community room has been slightly raised in order to create more volume. With floor to ceiling glass windows overlooking the Silver Spring Central Business District, this community space, and the outdoor facilities associated with it, uniquely satisfy the requirements of Section 59-D-2.43(b).

4. Multiple Public Benefits Achieved by Height Increase

A. Increased Number of Affordable Housing Units

The principal public benefit that is achieved by allowing for a height increase in the proposed building is the ability to introduce workforce housing units into this new multi-family community, which are the first workforce housing units created by the private sector in Montgomery County.

The project has always “penciled out” as being “tight” in terms of its feasibility and economic return. There is certainly no room for the developer to voluntarily offer to provide more affordable dwelling units. But in this case, the public interest (encouragement for increased affordable housing units) and private interests (construction of a more identifiable and more amenity-rich apartment community) are in concert. By using the incentive provisions of Sections 59-C-6.235(b) footnote 11 and 59-A-6.18.2(c)(i) of the Zoning Ordinance, the Applicant has been able to create a taller, more distinguished structure and has been able to increase the number of affordable housing units.

What this program does for the profile of the apartment community is to add another segment of the population of Montgomery County, those persons who qualify under the workforce housing restrictions, to live in a quality multi-family setting in a central business district environment when they might otherwise have to live much further away from downtown Silver Spring.

B. Creation of an Iconic Structure.

When the building at 8621 Georgia Avenue previously went through the project plan and site plan review phases as an office building, the Applicant was encouraged to take advantage and to enhance the northeast oriented view shed created by the right-of-way of Fidler Lane extending from the Silver Spring Metro station and terminating at the subject property. Unfortunately, due to the height limits for buildings imposed by CBD-2 zoning (143 feet), and the nature of architecture for a successful office building, the currently approved plans for the 8621 Georgia Avenue Building probably achieved less urban design impact than staff had hoped for from this site.

The change in the intended use of the property from commercial/employment to residential, and employment of the incentive provisions of the Zoning Ordinance,

allows a small portion of the top of the building to rise in height to 161 feet and to become a more identifiable landmark feature along both Georgia Avenue and at the terminus of the Fidler Lane view corridor. Creation of an iconic structure at this location satisfies the goals and recommendations of the Silver Spring Central Business District Sector Plan to create signature structures along the Georgia Avenue corridor and to create visual landmarks from the Metro station at the core.

C. Enhance the Quality of Design of the Proposed Building.

Use of the relevant provisions of the Zoning Ordinance that allows for an increase in building height and FAR also translates into enhanced architecture and design for the proposed building.

An example in the refinement of the exterior of the building is the treatment of balconies and a portion of the façade at the southeast corner. Here the use of irregular floor planes for the balconies, and an eye-catching feature incorporated in the building's façade, creates interest and asymmetry at the termination point of the Fidler Lane viewshed.

The luxury of having more dwelling units in the building than would be allowed by conventional CBD-2 development within 143 foot height envelope has encouraged the Applicant and its architects to design a building with more character and more appeal than might otherwise be achieved with a smaller, shorter building. Increasing the height of the building has also improved its mass and its scale. The designer's theme of creating a light, floating "frame" of a façade is enhanced by the added building height.

We hope that this detailed information provides you with the Applicant's justification for why the amended project plan application satisfies the requirements of the Zoning Ordinance for exceeding a 143 foot height limit in the CBD-2 zone.

Sincerely yours,

MILLER, MILLER & CANBY

A handwritten signature in black ink that reads "JODY KLINE". The letters are bold and slightly slanted, with a horizontal line above the "J" and "K".

Jody S. Kline

JSK/dlt

cc: Robert Kronenberg
Brigg Bunker
Bryant Foulger
Dick Knapp
Brian Gobell
Danny Wiechert
Brian Donnelly