



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Item 5
MCPB
3/10/05

MEMORANDUM

DATE: March 1, 2005
TO: Montgomery County Planning Board
VIA: Rose G. Krasnow, Chief *RJK*
Michael Ma, Supervisor
Development Review Division
FROM: M. O'Quinn, Planner *MOM*
Planning Department Staff
(301) 495-2187

REVIEW TYPE: Site Plan Review
APPLYING FOR: Approval of 13,638 gross square feet of commercial development of which 8,910 square feet is new construction and 4,728 square feet is existing commercial space to be retained; 6,819 square feet constitutes FAR density, with the remainder as cellar space

PROJECT NAME: 8215 Fenton Street
CASE #: 8-05021
REVIEW BASIS: Montgomery County Zoning Ordinance, Div. 59-D-3,
Site Plan required for the Fenton Village Overlay Zone, §59-C-18.19
Allowance for reduction in required setbacks per §59-C-6.236(d)(4)

ZONE: CBD-1/Fenton Village Overlay Zone
LOCATION: East side of Fenton Street between Silver Spring Avenue and Thayer Avenue, adjoining the Public Alley
MASTER PLAN: Silver Spring CBD Sector Plan
APPLICANT: 8215 Fenton Street, LLC, c/o Robert Hillerson
FILING DATE: December 22, 2004
HEARING DATE: March 10, 2005



STAFF RECOMMENDATION: The staff recommends approval of Site Plan #8-05021 for 13,638 gross square feet of commercial development on 0.217 acres in the Fenton Village Overlay Zone, of which 8,910 square feet is new construction and 4,728 square feet is existing commercial space to be retained; 6,819 square feet constitutes FAR density, with the remainder as cellar space, and allowance for reduction in required building setback per §59-C-6.236(d)(4) with the following conditions:

1. Preliminary Plan Conformance
The proposed development shall comply with the conditions of approval for Record Plat 511-28 approved by the Montgomery County Planning Board May 13, 1971.
2. Site Design
 - a. The proposed on-site public use space shall not be less than 10 percent of the net lot area of the site. The space shall be easily and readily accessible to the general public and used for public enjoyment; paving,

- furnishings and fixtures shall comply with specifications of the Streetscape Guidelines;
- b. Provide "No Parking" signs for the loading area;
- c. Provide details for screening trash and utility meters;
- d. Provide details for all furnishings and fixtures, railings, etc.;
- e. Provide bike rack; include details and specifications;
- f. Provide paving materials specifications for the Art Promenade.

3. Landscaping

- a. Expand the existing streetscape improvements on Fenton Street to conform with the Silver Spring (April 1992) technical manual or as details as per Guideline amendments;
- b. The applicant shall accept the maintenance and responsibility for the proposed streetscape improvements along Fenton and Bonifant Street;
- c. Coordinate with the Department of Housing and Community Affairs prior to installation of the streetscape improvements within the public right-of-way.
- d. Extend the special brick paving on Fenton Street to include a larger area at the building entrance and bordering the public use space.

4. Lighting

- a. Provide a lighting distribution and photometric plan with 2-foot point-by-point calculations, summary report, and tabulations to conform to IESNA standards for commercial development; include any exterior building-mounted fixtures;
- b. All light fixtures shall 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. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads or adjacent residential properties;
- e. The height of the light poles shall not exceed 14 feet including the mounting base.

5. Maintenance Responsibility

The applicant shall be responsible for maintaining the on-site public use space.

6. Transportation Planning

The applicant shall comply with the following conditions of approval from M-NCPPC- Transportation Planning in the memorandum dated March 3, 2005, and other conditions as stated:

- a. Total development under the subject site plan is limited to the above stated density;
- b. Enter into a Traffic Mitigation Agreement with the Maryland-National Capital and Planning Commission and Montgomery County Department of Public Works and Transportation (DPWT) to participate in the Silver Spring Transportation Management Organization;
- c. Coordinate with DPWT Capital Improvement Program project for any construction or changes to the sidewalks, driveways, and any other improvements along the frontage of the property on Fenton Street;
- d. Fulfill the requirements for participation in the Parking District.

7. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated November 1, 2004.

8. Development Program

Applicant shall construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of signature set of site plan. Development Program shall include a phasing schedule as follows:

- a. Streets tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets;
- b. Landscaping and street tree planting associated with each building shall be completed as construction or refurbishment of each facility is completed;
- c. Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.

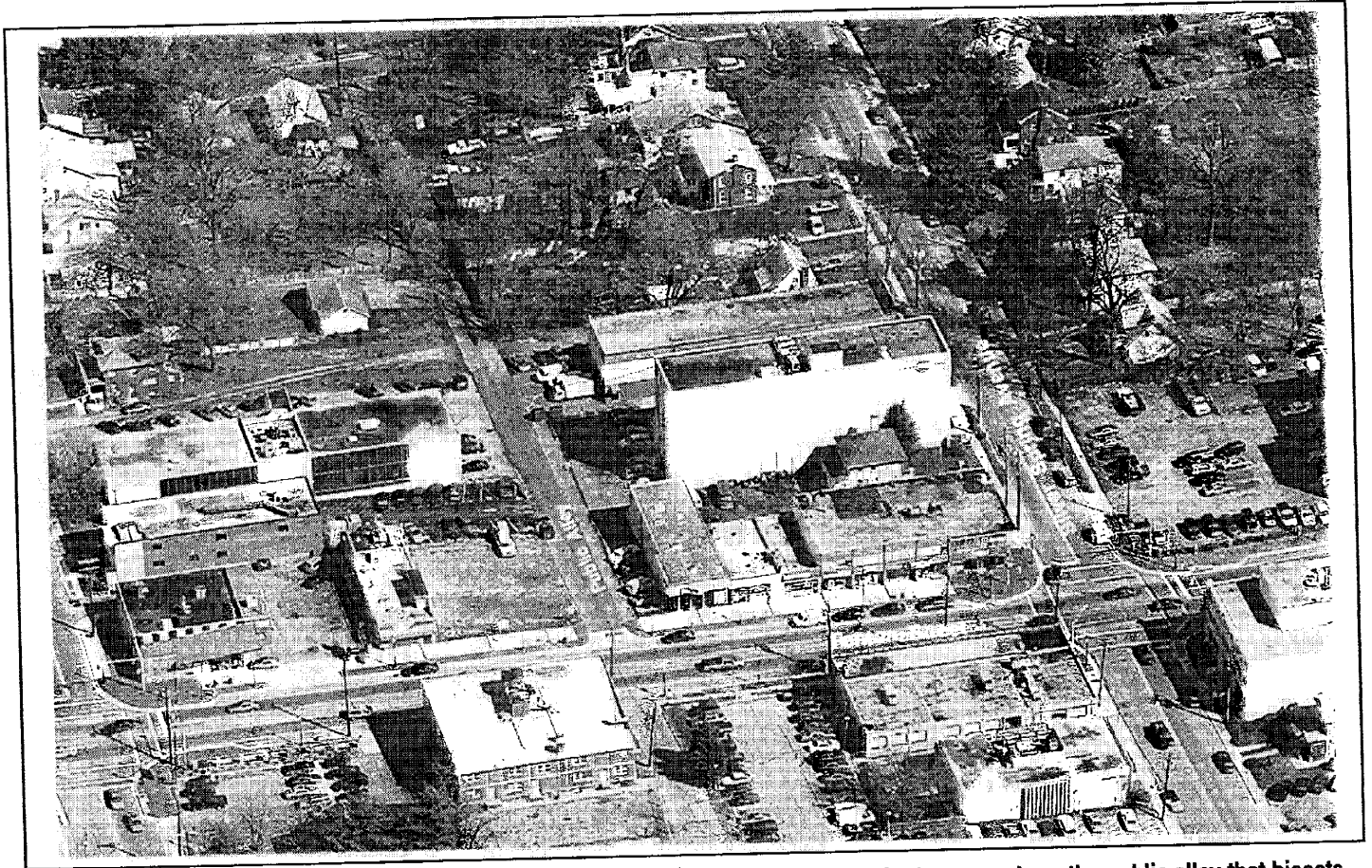
9. Clearing and Grading
No clearing or grading prior to M-NCPPC approval of signature set of plans.

10. Signature Set
Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- b. Show all easements, LODs, ROW's, centerlines, underground stormwater management;
- c. Survey plan certified by civil engineer showing adjoining properties and setbacks of all structures on adjoining properties; show any approvals for adjoining properties, including plan numbers and approval dates;
- d. Site plan showing Sector Plan Streetscape, including extent of special paving, street trees, street lights, furnishings and fixtures;
- e. Development program, inspection schedule, and Site Plan Opinion;
- f. Limits of disturbance.



Perspective drawing showing the proposed building. Note the Fenton Street façade, and the Public Art Promenade that also provides handicapped access.



The subject site is located at 8215 Fenton Avenue, outlined above in red. Note the site frontage along the public alley that bisects the block; The 4-5 story beige Globe Building adjoins the subject site on the block's interior. The street frontage along Fenton Street is comprised of one and two story commercial businesses, including the comic book store, auto store, hair salon, and day spa. This aerial photo shows the sun angle in afternoon, with the shadows cast eastward.

ISSUES OF SITE PLAN REVIEW:

I. Reduction of Building Setback per §59-C-6.236(d)(4)

The applicant requests a reduction of the required building setback, pursuant to the provisions of the zoning ordinance as applied to CBD zones, from the subject site's rear property line where it adjoins the rear property line of Lot 4 and Lot 5 and portions of the rear property line of Lot 2/3 and Lot 19 (developed as the Globe Building).

Setback Required

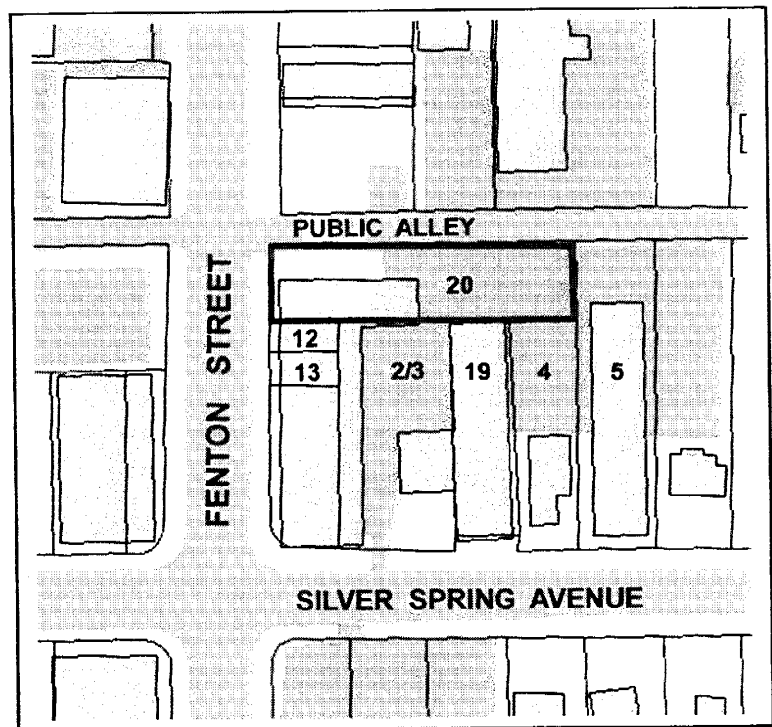
The setback pertaining to the subject application is stated per §59-C-6.236(d)(2), "If the adjoining lot is within the central business district and the proposed building has windows or apertures which provide light, access or ventilation to space intended to be occupied for commercial or residential purposes; and; . . . If the adjoining lot is occupied by a nonresidential building or is recommended by an approved and adopted sector plan for nonresidential use, then a proposed nonresidential building shall be set back from that adjoining lot at least 15 feet."

Allowance for Reduction in Setback

The Zoning Ordinance provides for reduction in setback in any of the CBD zones, per §59-C-6.236(d)(4) "Any setback required by this section may be reduced if approved by the planning board through the site plan approval procedures of division 59-D-3. In such situations, site plan review is limited to the setback of the proposed building, for which applicable exhibits must be provided."

Existing Site Conditions

The subject site, known as Lot 20, is bounded on its south by four properties, as noted from west to east: Lot 12 with frontage on Fenton Street, Lot 2/3, Lot 19 (The Globe Building), and Lot 4; a rear-to-rear relationship is formed between Lot 20 and each of the four lots, primarily by the eastward disposition of the subject parcel and location relative to the public alley. Lot 5 adjoins the site on the east. The existing building on Lot 20, the subject site, is constructed to the lot line that adjoins Lot 12, and Lot 2/3.

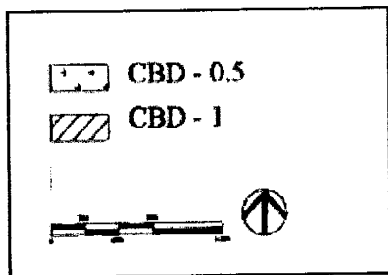
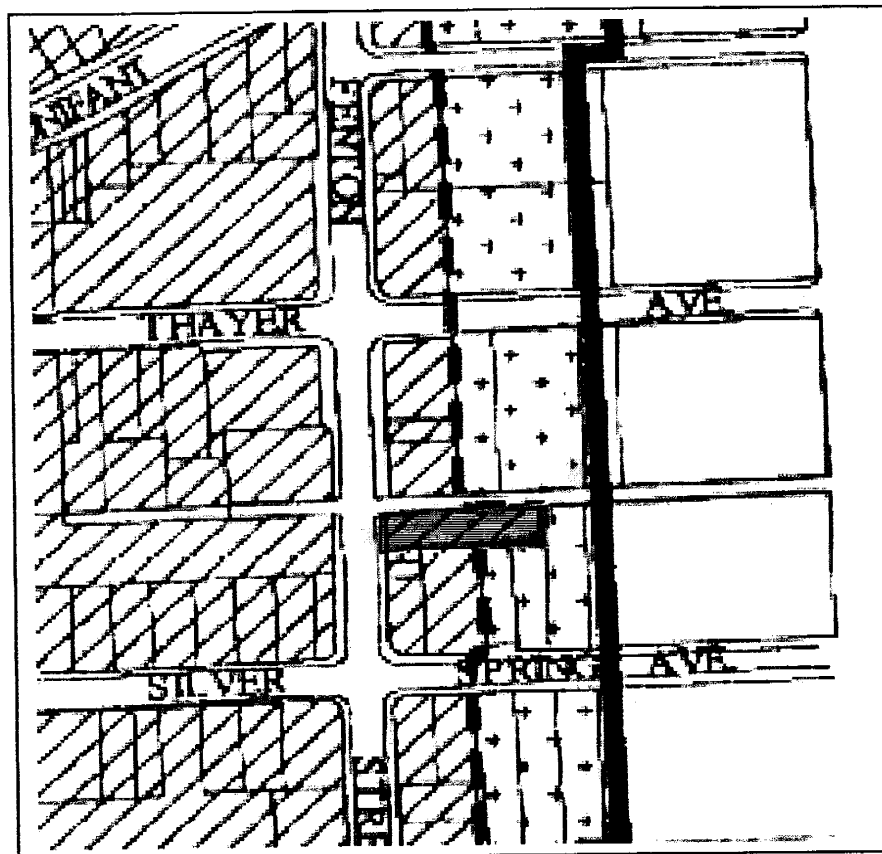


Planometric Map showing the relationship of the subject site (Lot 20) and surrounding parcels. The site is outlined in red.

Context

The surrounding context is comprised of commercial zoning in entirety, that is, Lots 20, 12, 13, and a portion of Lot 2/3 are zoned CBD-1; Lots 19, 4, and 5 are zoned CBD-0.5. The eastern edge of the Silver Spring CBD is "wrapped" by the CBD-0.5, stepping down in intensity next to the R-60 residential zone to the east.

The Sector Plan carefully considered the subject site (Lot 20) in its recommendations for re-zoning that created the Fenton Village Overlay Zone. Clearly, the subject parcel is included within the overlay zone; furthermore, the intent of the Sector Plan recommendations may be seen by the fact that the envelope covering the CBD-1 areas of the block has been extended specifically to include Lot 20, that projects eastward. The more intense development allowed (2.0 FAR) on Lot 20 is clearly demarcated on this zoning map, in relation to the adjacent parcels on the south and east, that is, Lot 19 (the Globe Building), Lot 4, and Lot 5, that are rezoned as CBD-0.5 with a maximum 1.0 FAR.



The subject site (shaded in red) was specifically addressed in the re-zoning implemented by the Fenton Village Overlay Zone: note the eastward extension of the CBD-1 density to include the entire parcel.

Of the adjoining properties, Lot 2/3 and Lot 4 comprise commercial properties that are accommodated in their original residential structures; the structures are located 72 feet and 73 feet, respectively, from the rear property line; Lot 5 supports a 1-story masonry commercial building that features a windowless façade opposite Lot 20, with a fire egress door. The Globe Building, occupying Lot 19, represents the highest level of density in the entire block, with a height of 5 stories (4 stories with ground level parking) that reaches to approximately 65 feet.



Oblique aerial view of the site and surrounding development. The existing building at 8215 Fenton Street may be seen with frontage on Fenton Street. The subject parcel extends lengthwise along the public alley. The 5-story Globe Building may be seen adjoining the rear of the site; this creates a “rear-to-rear” orientation typical of infill CBD development.

Proposed Site Design and Setbacks

The subject site plan proposes a building addition that extends the linear form of the existing structure eastward, re-enforcing the elongated shape of the parcel itself. The building design proposes the continuation of the existing "party wall" that adjoins Lot 12 (at Fenton Street) from its existing end point along the property line of Lot 2/3 to the west property line of Lot 19 that constitutes the west edge of the Globe Building. The building line accommodates the interior courtyard, then continues along the rear of Lot 4 and the side of Lot 5.

Lot 2/3 Adjacencies:

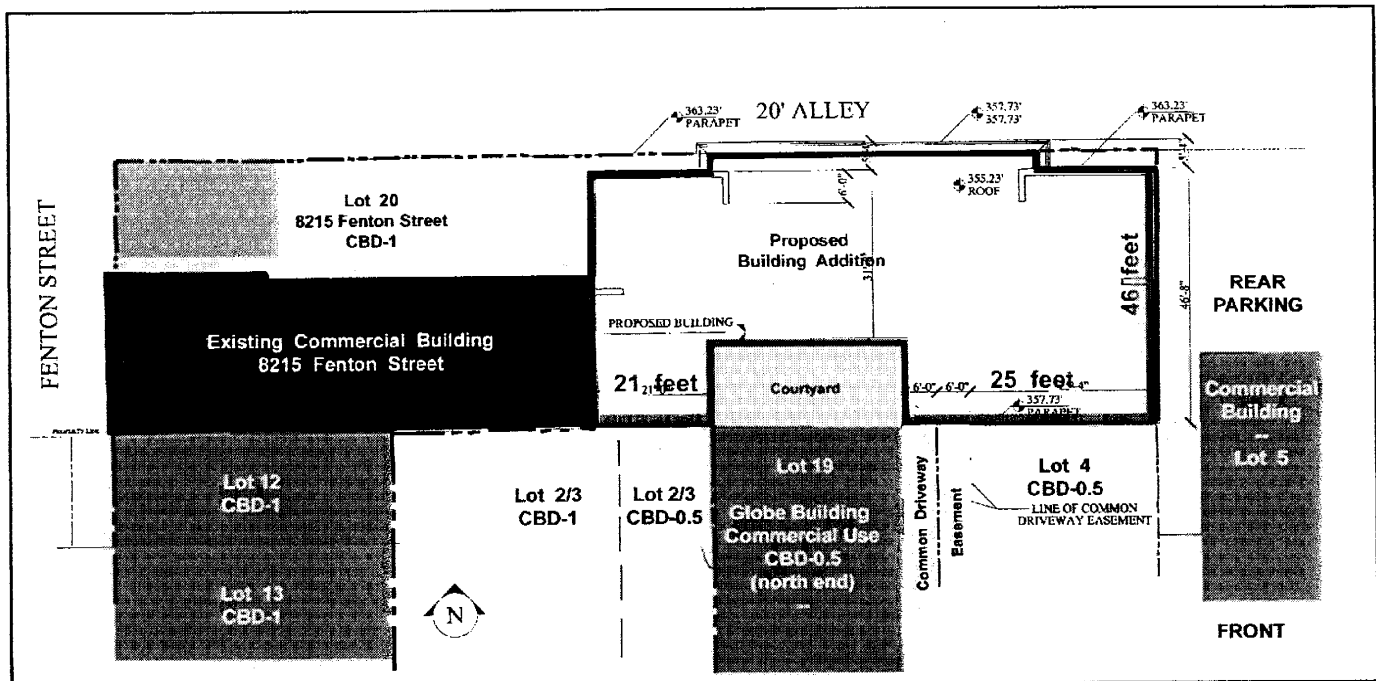
The southern façade of the existing structure on the subject site is constructed along approximately 35 feet of the north property line of Lot 2/3. The subject site plan proposes to extend the structural plane for the length of the Lot 2/3, or 21 feet, to the western edge of the Globe Building; thus, the request for reduction in setback corresponds to the proposed wall extension.

Lot 19 Adjacency:

An interior open-air courtyard, approximately 36 feet in width, is proposed to provide a 15-foot setback adjacent to the Globe Building's north building façade, also the north property line of Lot 19. The building elevation that directly faces the Globe Building features proportioned, unitized fenestration with windowless wing walls. The applicant seeks a reduction in the 15-foot setback requirement for six linear feet along the common property line at the eastern edge. This six-foot strip functions as part of a shared driveway easement that is used by the tenants of Lot 19 for access to the first floor parking garage and for access to the rear of Lot 4.

Lot 4 and Lot 5 Adjacencies

The building design features the continuation of the south façade along the adjoining property line of Lot 4 and Lot 5. The elevations are proposed as windowless facades, intended to create the typical interior block "party wall" relationship with future development of Lot 4. The existing structure on Lot 5 features an egress door facing the proposed building's windowless elevation on the east.



The above diagrammatic plan shows the existing building on Lot 20 (shown in black); the proposed building addition (outlined in black, with red indicating request for setback reduction); footprints of buildings on adjacent lots, including the Globe Building (shown in grey); the green area shows the proposed courtyard between the Globe Building and the proposed addition. Note the public use space along the Fenton Street frontage (pink) and the art promenade, site circulation and handicapped access (yellow). [Drawing not to scale]

Discussion

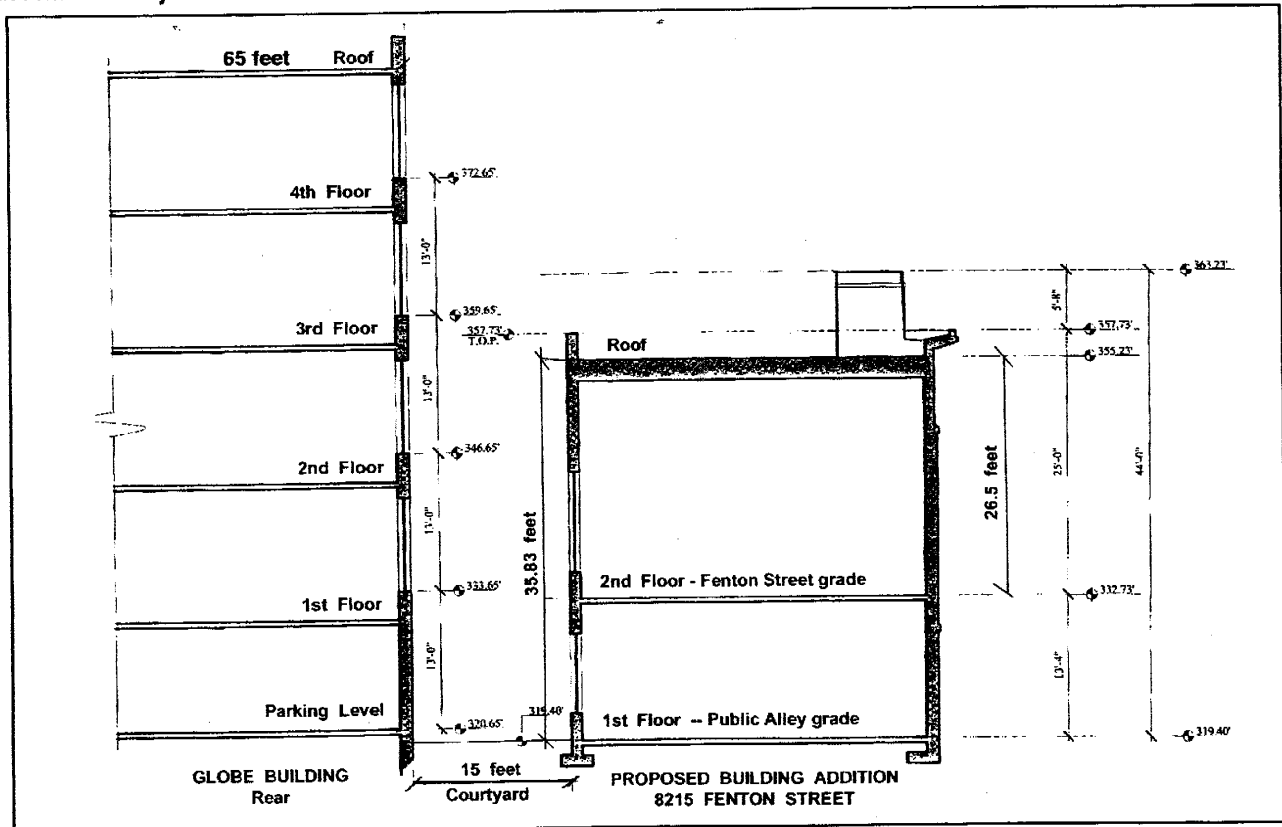
The difficulties of developing this partially-built site, generated by its irregular parcel shape and topography along with its surrounding non-conforming context, are aptly characterized as challenges of infill development, or re-development of residual lots created vis-à-vis planning priorities of the 1960's. That this "problem" lies within the Silver Spring CBD is indeed fortuitous; its location within the Fenton Village Overlay Zone provides opportunity to seek a more creative solution that fulfills the intent of this unique zone and its Sector Plan.

Applicant Position: The proposed building and site re-development will contribute to the revitalization of the Silver Spring CBD and the rejuvenation of the Fenton Village Area. The proposal will provide a useful addition to the commercial space available in the CBD; the building will provide column-free interior space suitable for a dance studio, film, or graphics firm. The streetscape improvements, including the brick-paved sidewalks and public use space adjacent to the public right-of-way promises to enhance the pedestrian activity of Fenton Street, amenities normally required of Optional Method projects.

The unusual dimensions of the site itself, along with the shape of the parcel itself and the sloping topography, limit the options for feasible development. The imposed physical limitations, in contrast to the incentives of the Overlay Zone, create a challenge to achieving an acceptable balance of density vs. functional building footprint. The applicant states that the reduction in setback is suitable for this site because:

- The Zoning Ordinance provides for flexibility in setback requirements for CBD Zones, subject to Site Plan review;
- Site conditions in the CBD zones are frequently optimized by structures built to the lot lines with continuous building walls;
- The height of the proposed building is limited to 26.5 feet as measured from Fenton Street grade; the small brick parapet walls on the building front along the public alley extend only 8 feet above the roof line;
- The design provides for the 15-foot setback adjacent to the Globe Building by means of the interior courtyard featuring fenestration.

Sectional drawing showing the proposed building addition and the Globe Building. The rear-to-rear relationship is accommodated by

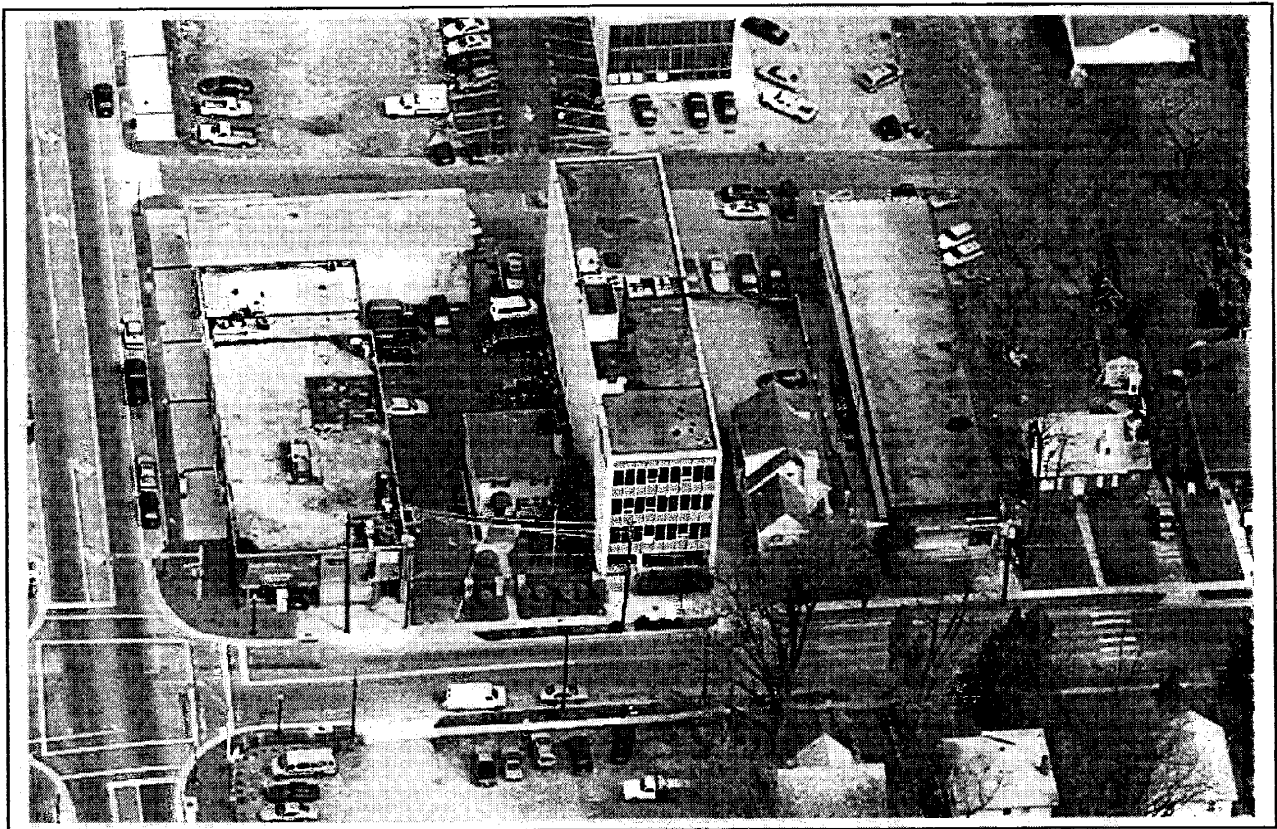


Community Position:

The East Silver Spring Citizens Association has submitted a letter in support of the proposed application. The association commends several aspects of the proposed design, including the height and density, the public use space, the art promenade, and the internal courtyard adjacent to Lot 19. The citizens group notes that the proposal, "upholds the concept of Fenton Street Village as a village."

Adjacent Property Owner Position:

The adjacent property owner of the 5-story Globe Building has expressed objection to several aspects of the proposed building design because of his concern that the height and rear building line of the development would block the windows of the Globe Building (Lot 19) from receiving adequate light, air, and ventilation. The owner has stated that the new, 2-story building addition would cast shadows on his building, attributable to the height; additionally, the owner has stated his objection to the applicant's request for reduction of setback from the adjoining rear property line based on his opinion that the proposed courtyard featuring a 15-foot setback is too small to provide adequate light and ventilation and to mitigate the effects of the 26-foot building height.



Aerial oblique photograph showing the 5-story Globe Building on Silver Spring Avenue, at center. The existing building at 8215 Fenton Street (the subject site plan) may be seen at the upper left adjoining the alley. The two residential structures on the east and west sides of the Globe Building are sited approximately 8 feet and 15 feet, respectively, from the Globe Building.

Staff

Recommendation:

Staff supports the proposed reduction in the building setbacks from Lot 2/3, Lot 19, Lot 4 and Lot 5, per §59-C-2.623(d)(4) and finds that the proposed development meets the intent of the CBD-1 zone and the Fenton Street Overlay Zone. The proposed development meets the standards for compatibility with no detrimental effect.

The uses on all lots surrounding the subject site are commercial and located within the CBD. As typical of CBD block interiors, the resulting orientation of the subject lot to the adjoining lots constitutes a "rear-to-rear" relationship. As such, the proposed development acknowledges this rear-to-rear relationship, accommodating a rear courtyard that provides sunlight and air. The proposed building height, 25.6 feet at the Fenton Street grade, is consistent with surrounding development; the 35 feet roof height at the alley grade is consistent and compatible with the surrounding and proposed development.

The proposal conforms to Sector Plan goals for the revitalization of the Fenton Village and utilizes innovative design for re-development. The scale and intensity of development of the Fenton Village was carefully considered at the time of the Sector Plan and the subsequent rezoning: the subject site was delineated as CBD-1 and included within the Fenton Village Overlay Zone that provides for by-right development of 2.0 FAR; in contrast, Lot 19 was identified within the CBD-0.5 zone, allowing 1.0 FAR, or significantly less density than its neighboring Lot 20. The massing and scale of the proposed building is compatible with surrounding development and other development within the Fenton Village. It should be noted that the proposed building provides an FAR of 0.52, about 25% of the allowed density of 2.0 FAR; the height, as measured from Fenton Street is 25.6 feet, approximately 55% of the allowed 45-foot height for commercial use on the site.

With respect to the Globe Building (Lot 19): The building, constructed in the 1960's, far exceeds development standards currently allowed: the building footprint extends fully to the lot line on the west (and about 8 feet from the adjacent house); and on the north adjoining the subject site (Lot 20) the building footprint also extends to the lot line. At the street frontage on Silver Spring Avenue, the building footprint extends to within about 5 feet of the right-of-way; on the east the building footprint extends to within 6 feet of the east property line (and about 10 feet from the adjacent house), necessitating the shared driveway easement for site ingress. Building coverage represents more than 75% of the lot area and the building rises to a height of 65 feet (approximately). The Globe Building, if proposed today, would require approval of a reduction in setback for the 34 feet of its façade that adjoins the subject Lot 20 and would be limited to a height of 45 feet.

Finally, the affected façade of the Globe Building is the north elevation that receives minimal direct sunlight, if any; additionally, this exposure comprises the rear façade of the building that in its current state, faces an alley used for parking. The ground floor of the Globe Building, hence, a portion facing the proposed interior courtyard, is used for structured parking. Staff finds that the interior courtyard proposed adequate addresses any issue of light and air.