



8415 Fenton Street, Preliminary Plan 120120130, Site Plan 820130050

JM

John Marcolin, Planner/Coordinator, Area 1, john.marcolin@montgomeryplanning.org 301 495-4547

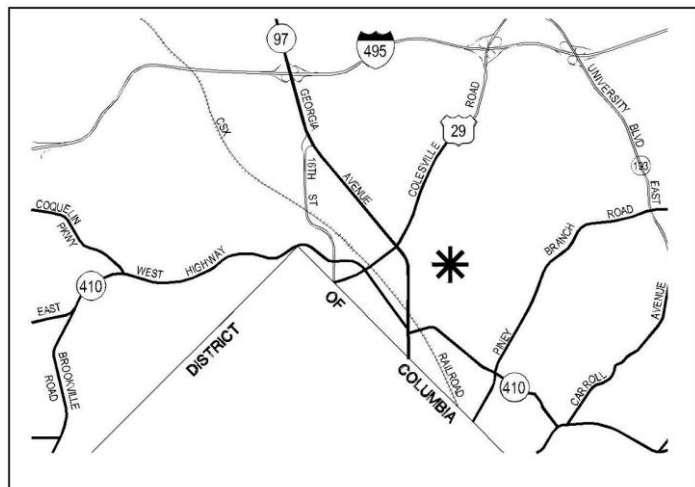
RAK

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

Date of Staff Report: 02/15/13

Description

- Relocation of existing First Baptist Church building, parking lot and support structures located at 8415 Fenton Street for 18,650 square feet of retail, 213,043 square feet of residential development up to 259 dwelling units, including 12.5% MPDUs, and 29,228 square feet of institutional use (church)
- Located at the corner of Wayne Avenue and Fenton Street
- On 117,412 gross square feet (2.7 acres) of CDB-1, CBD-0.5 zoned land and Fenton Village Overlay zone in the 2000 Silver Spring CBD Sector Plan and R-60 zoned land in the 2000 North and West Silver Spring Master Plan area
- Applicant: Fenton Development, LLC



Summary

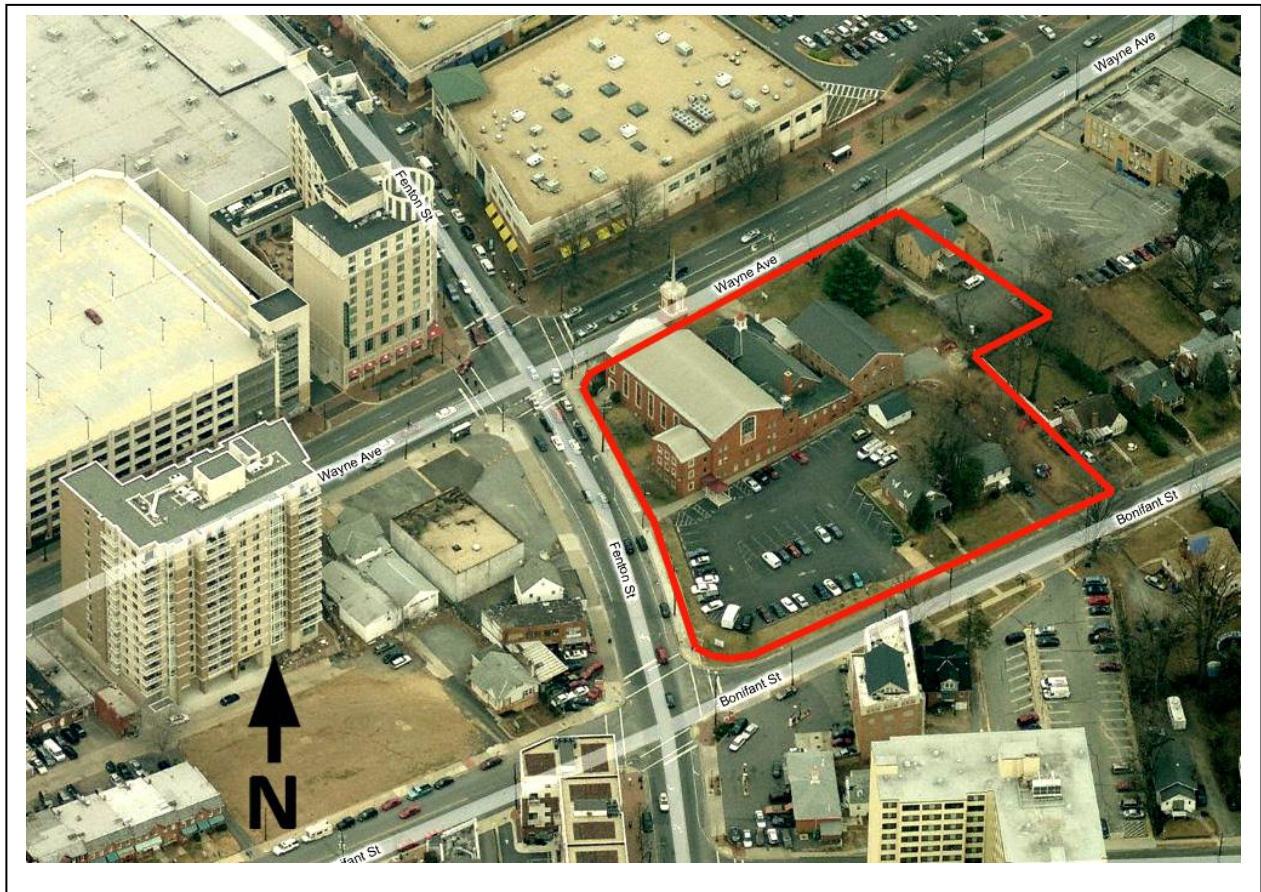
- Staff recommends approval of the Preliminary Plan and Site Plan with conditions. The application proposes 259 dwelling units, 18,650 square feet of retail use and 29,228 square feet of institutional use (church) under the optional method of development. The project will meet part of the parking requirement on-site with underground parking.
- Staff recommends approval of a finding that the full right-of-way dedication requirement on Bonifant Street is not warranted.
- The development will provide a public amenity package that includes the following:
 - Two public plazas on Wayne Avenue and Bonifant Street that feature:
 - A passage way between the two that feature a series of gentle steps and seat walls that address the grade change between Bonifant Street and Wayne Avenue
 - Shade trees, bio-retention planters and specialty paving
 - Benches, tables and chairs
 - An ADA compliant public elevator connecting the two plazas
 - An outdoor play area on Bonifant Street for children who will be served by the Church-Run day care will be available to the public at certain hours.

TABLE OF CONTENTS	
SITE DESCRIPTION	4
Vicinity	4
Site Analysis	5
PROJECT DESCRIPTION	6
Proposal	6
Land Use	7
Architecture	7
Public Amenities	9
Vehicular & Pedestrian Circulation	10
PROJECT ANALYSIS	12
Sector Plan	12
Development Standards	15
Environmental Guidelines	18
FINDINGS	22
RECOMMENDATION & CONDITIONS	36
APPENDICES	45
ILLUSTRATIONS & TABLES	
<i>Vicinity Map</i>	4
<i>Aerial Photograph</i>	5
<i>Plan Views</i>	6
<i>Perspective Views</i>	7-8
<i>On and Off-Site Public Amenity Space</i>	9
<i>Illustrative Landscape Plan</i>	10
<i>Circulation Plan</i>	11
<i>Shadow Studies</i>	14

<i>Detailed Zoning Map</i>	17
<i>Tree Variance Plan</i>	21
<i>Table 1</i>	24
<i>Table 2</i>	25
<i>Table 3</i>	26
<i>Project Data Table</i>	31

CBD are zoned primarily CBD-1 transitioning to CBD-.5 adjacent to the one-family R-60 neighborhoods toward to the east. The adjacent uses include restaurants, salons, residential apartments, a dry cleaner and gasoline stations. The site is within walking distance of the Silver Spring Metro Station and across the street from the future Purple Station to be located at the new Silver Spring Library.

Site Analysis



The subject property is currently improved with the First Baptist Church of Silver Spring, comprised of a sanctuary building with meeting rooms, a day care center, a parking lot on the south west corner of the site and two one-family houses used by the church staff. The site slopes downward in a southeast direction with a grade change of approximately 10 feet. At the southeast corner there are three large deciduous trees. There is a Washington Gas line and vault within the Bonifant Street right-of-way adjacent to the property line. The entire site consists of four zones; from Fenton Street to the east is the CBD-1 zone, CBD-0.5 and the R-60 zone. The Fenton Village Overlay zone encompasses the CBD-1 portion of the site (see zoning map on page 13). The R-60 portion of the site (proposed Lot 2) is

improved with a one-family dwelling presently owned by Saint Michael the Archangel Catholic Church.

PROJECT DESCRIPTION

Previous Approvals

A Project Plan (#920120020) was approved on May 31, 2012 and July 16, 2012 for 18,650 square feet of retail, 215,660 square feet of residential development for a maximum of 259 dwelling units, including 12.5% MPDUs, and 29,228 square feet of institutional use for a religious institution. The mailing date of the resolution is August 15, 2012.

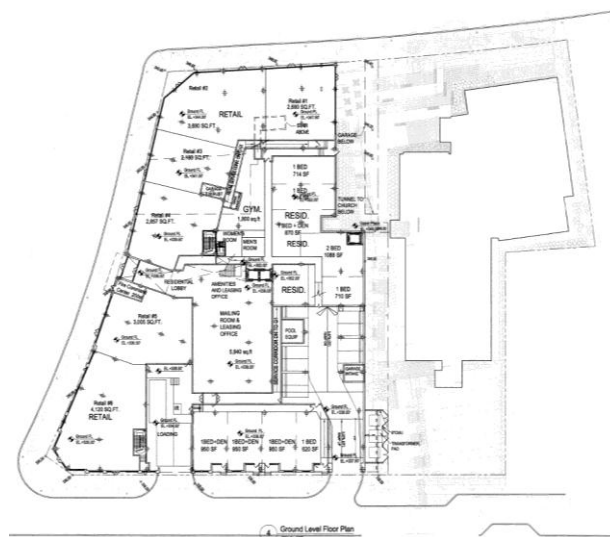
Proposal

Preliminary Plan

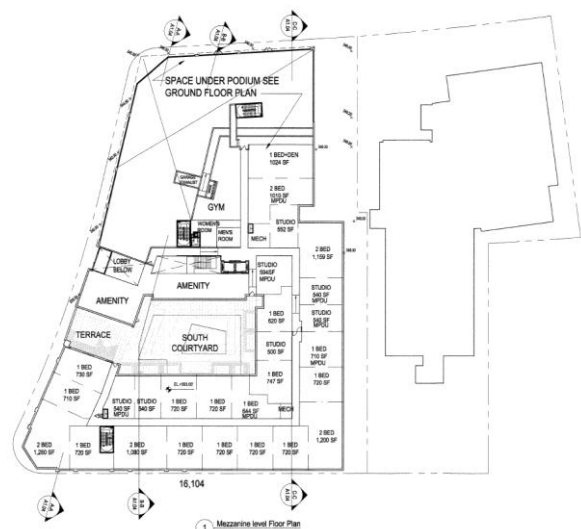
The preliminary plan proposes to consolidate 12 parcels into two lots. Lot 1, with a total area of 53,824 square feet, is planned to accommodate the mixed-use portion of the project. Lot 2, with a total of 32,506 square feet, on the east side of the project will accommodate the future church building.

Site Plan

The Site Plan proposes one mixed-use multi-family apartment building on the west side of the property



Mezzanine Level



Ground Floor

(Lot 1). It will have a total gross floor area of 231,693 sf., including 18,650 sf. of retail and up to 259 dwelling units. The total number of dwelling units includes 12.5% MPDUs (33 units).

This building will sit above a structured parking facility. The building on the east side of the property (Lot

2) will house a new church sanctuary, religious education classrooms and a child day care center. It will have a gross floor area of 29,228 square feet.

Land Use

The proposed development would provide 260,921 square feet of gross floor area for residential, retail and church uses. There will be ground floor retail facing Fenton Street at the corners of Fenton and Wayne and Fenton and Bonifant Street. The upper floors will contain residential uses. The sidewalks will follow the Silver Spring Streetscape Standard while a connection between Wayne Avenue and Bonifant Street will be composed of two public plazas and a pedestrian connector, satisfying the minimum 20% Public Use Space requirement.

Architecture

The design of the building façade on Bonifant Street is intended to have a more traditional look that helps integrate it with the traditional style of architecture in the one-family residential neighborhood to the east. The building façade will incorporate brick and cast stone cornices, lintels and sills that are



Perspective View from Wayne Avenue looking southeast

typical of more traditional architecture. The façade on Wayne Avenue that faces Downtown Silver Spring will have a contemporary design incorporating masonry metal, concrete and glass curtain wall elements. The paving, landscaping and art in the public use space are designed and detailed to clearly indicate that it is a space that is open to the public. The goal of the design is to activate the space by drawing the

public in and through it.

The church building will be connected to the mixed use parking via a passage on a lower level. The



Perspective View from Wayne and Fenton Street

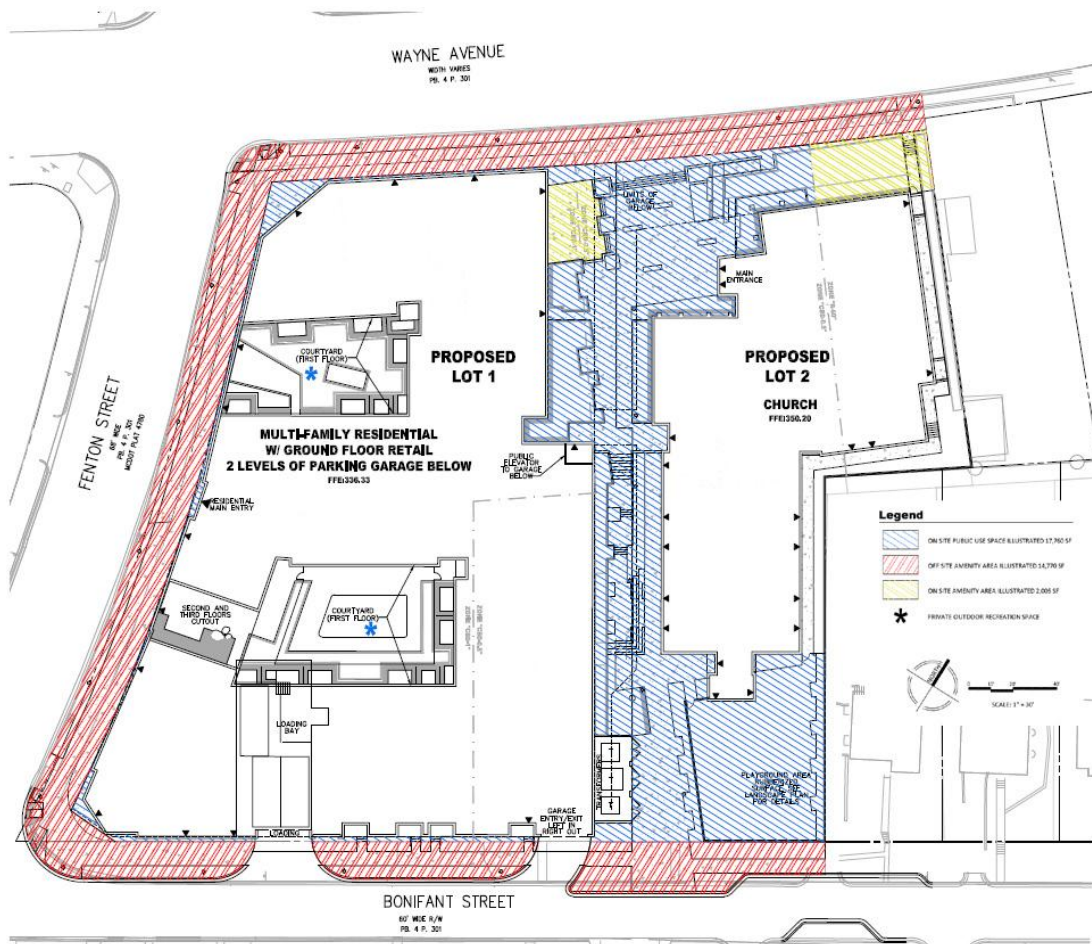


Perspective View from Bonifant Street

primary pedestrian point of access to the residential units in the mixed-use building will be from Fenton Street. The primary point of access to the church will be from Wayne Avenue. Access to the public use spaces and the church will be from Wayne Avenue and Bonifant Street. The mixed use building will be tallest at the corner of Wayne Avenue and Fenton Street adjacent to the taller buildings of downtown Silver Spring. The building will step down in height towards Bonifant Street and the residential neighborhood to the south and east. The residential building at its southeast corner on Bonifant Street will be approximately 45' tall. The proposed church building will be approximately 35 feet tall.

Public Use Space & Amenities

The proposed development provides 17,760 square feet of on-site public use space (22.51% of net lot area), satisfying the 20 percent requirement for Optional Method Development projects in the CBD.



Public Use Space

Approximately 805 square feet of on-site amenity space is provided for outdoor café dining at the north end of the paseo. An additional 1,200 square feet of amenity space is provided on site in the R-60

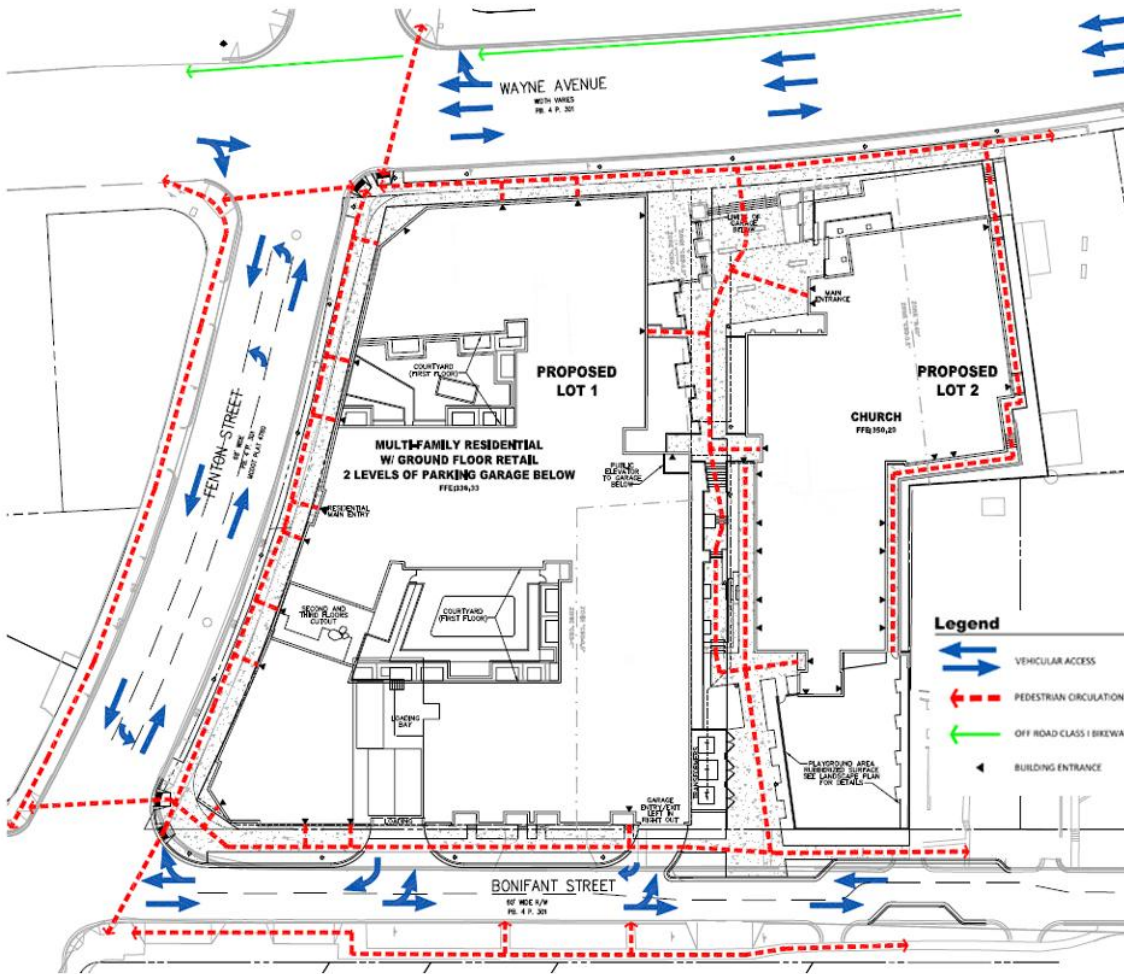
portion of the project. This area is not included in either the on-site public use space calculations or in the off-site amenity space calculations. The project provides 14,770 square feet of off-site public facility and amenity space (17.1% of net lot area). The on-site space is primarily composed of two public plazas and a pedestrian connection between Wayne Avenue to Bonifant Street. The off-site amenity space requirements will be met by replacing existing concrete sidewalks with the Silver Spring Streetscape, including brick sidewalks, trees, lighting, street furniture and the undergrounding of utilities.



Illustrative Landscape Plan

Vehicular and Pedestrian Circulation

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



Circulation Plan

residential neighborhood on Bonifant Street will be slowed by chicanes, which are bump outs in the curb to slow traffic. Vehicular access and additional traffic measures within the public right-of-way were concerns brought to the attention of the applicant and the agencies by the community. Pedestrians will access the site via improved sidewalks along Wayne, Fenton and Bonifant, while those walking to and from downtown Silver Spring will be able to traverse the site through the interior public spaces. Cyclists will be provided on-site racks to safely lock their bikes. Some of the residential and church parking requirements and all of the retail space parking requirements will be satisfied through the Parking lot District. This will reduce the number of daily trips into and out of the proposed underground parking facility, thereby reducing the number of vehicles having to cross the sidewalk on Bonifant Street.

The current right-of-way for Bonifant Street east of Fenton Street is 60 feet wide. The recommendation

in the Sector Plan is for 80 feet on the east side and 70 feet on the west side between Fenton Street and Georgia Avenue. The applicant has requested that the full 80-foot right-of-way on Bonifant Street not be applied as recommended in the Silver Spring CBD Sector Plan. There is no rationale in the Silver Spring CBD Sector Plan that justifies the expansion of the right-of-way of this section of Bonifant Street from 60' to 80' wide. Given that this section of Bonifant Street is the transition point from the CBD into the residential neighborhood it should not have an 80' right-of-way when the section of Bonifant street directly to the west of Fenton Street has a recommended right of way of 70'. Common sense would indicate the opposite. To widen the right of way of this street to 80' with the accompanying increase in pavement width, would encourage higher automobile speeds and greater amounts of traffic at a location where just the opposite is desired by the community. The Montgomery County Department of Transportation supports the reduced width. Staff recommends a 60 foot right-of-way for the section of Bonifant Street east of Fenton Street.

PROJECT ANALYSIS

Sector Plan

The CBD-1 and CBD-.5 portion of the site are located within the boundaries of the Approved and Adopted February 2000 Silver Spring CBD Sector Plan. The Fenton Village Overlay zone overlaps with the CBD-1 zone and is incorporated into the Sector Plan. The Sector Plan articulates six themes or goals for the CBD that serve to guide the evaluation of development proposals (page 14). They are:

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

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

1. Transit Oriented Downtown, Page 16 - The project is within walking distance of the future multi-modal Transit Station and is across from a future Purple Line station, thereby providing future residents with excellent access to a variety of mass transit options.
2. Commercial Downtown, Page 18 – The project will incorporate ground floor retail along the

Fenton Street and at its intersections with Wayne and Bonifant, enlivening the streetscape in Fenton Village with active uses where none presently exist.

3. Residential Downtown, Page 19 - The project includes 259 residential units.
4. Civic Downtown – the project will rebuild the First Baptist Church on the site, preserving this 85 year old civic use in Fenton Village.
5. Green Downtown, Page 22 – The plan provides tree lined streets and a landscaped plaza, featuring bio-filtration planters.
6. Pedestrian-Friendly Downtown, Page 24 –Utilities will be placed underground and improvements will be installed in compliance with the Silver Spring Streetscape Standards (The standard includes street trees, brick paving, street lights and furnishings) on the Wayne Avenue, Fenton Street and Bonifant Street frontages.

The Sector Plan also states that the general urban design guidelines should be incorporated into redevelopment projects in the Silver Spring CBD. Of those listed, the project satisfies the following:

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

Two urban design goals listed on pg. 73 of the Sector Plan, however, do not apply to this application: The first is regarding the incorporation of historic resources in the new development. The 1950's era church building (First Baptist Church of Silver Spring) existing on the subject site was evaluated by the Historic Preservation Commission ("HPC") on March 23, 2011.

The HPC decided not to designate the church either for the Locational Atlas or the Master Plan for

Historic Preservation. On June 23, 2011 the Planning Board considered the HPC recommendation and determined not to prepare a public hearing draft amendment to the Master Plan for Historic Preservation. The second goal that is not achieved is the establishment of the Silver Spring Green Trail on Wayne Avenue. This trail was installed opposite Wayne Avenue with the development of Downtown Silver Spring.

With regard to building height and the surrounding context, numerous Sector Plan citations speak to anticipated infill development with higher-density employment and housing and retail uses in Fenton Village. The shade and massing relationships associated with this proposal are shown in the illustration above. The proposed building will cast the longest shadows on Fenton Street and Wayne Avenue during the winter months. The single family homes to the east of the proposed building will have minimum shadows cast on them during the winter and summer months because the proposed building on the east side of the project are limited to 35' heights and set to the north the single family home on Bonifant Street.



Shadow Study

Employment, Housing, & Land Use

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

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

Fenton Village Overlay Zone

The project is consistent with the recommendations of the Fenton Village Overlay Zone. The Overlay District calls for “...upgraded streetscapes, new housing and a lively mix of multi-cultural, specialty and convenience shops serving local and regional customers...neighborhood-scale commercial uses along Fenton Street...” (Page 60). The project meets these goals by providing ground floor retail space for potential restaurants or convenience shops, new housing and an upgraded streetscape through the implementation of the Silver Spring Streetscape Standards on Wayne Avenue, Fenton Street and Bonifant Street.

North and West Silver Spring Master Plan

The most eastern part of the site is zoned R-60 as recommended in the North and West Silver Spring Master Plan. The North and West Spring Master Plan does not make a specific recommendation for the R-60 zoned property in question. However, it does recommend reconfirming the existing residential zoning in North Silver Spring and recommends that new development, infill development, and special exception uses be compatible with the existing residential character, essentially maintaining the existing land use patterns (page 21). The proposed church use is compatible with the R-60 zone. The R-60 zone permits the institutional use (church) and is appropriate in a residential neighborhood.

Development Standards

Master Plan Zones

The majority of the subject site is zoned CBD-1, CBD-0.5 as recommended in the Silver Spring CBD Sector

Plan and is governed by the development standards in Section 59-C-6.21 and Section-59-C-1.32 of the Montgomery County Zoning Ordinance. The minimum lot size of 18,000 square feet for optional method projects is met. The CBD-1 zoned part of the site fronting onto Fenton Street is within the Fenton Village Overlay Zone.

The project maintains compatibility with the existing residential character of the neighborhood and with the existing land use patterns by locating the church on the east side of the project. The scale of the church, with 35' roof heights (per the R-60 zone), and red brick, is harmonious with the adjacent one-family residential neighborhoods. This church will also act to buffer the neighborhood from the commercial uses located on the western side of the site in the Silver Spring CBD. The belfry or steeple, with an approximate height of 70' is located in the CBD-0.5 zone of the Silver Spring CBD Sector Plan area, thereby keeping taller structures closer to the taller buildings of Downtown Silver Spring.

In summary, the project, by locating the church in the North and West Silver Spring Master Plan area, maintains conformance with the goals of that Master Plan by proposing new development that is compatible with the existing residential character and land use patterns of the neighborhood to the east.

Heights

Normal allowed height in the Fenton Village Overlay zone is 60 feet, stepping down in height to 45 feet at the southeast corner of the site on Bonifant Street, however, the zoning code allows for an increase above the 60 feet for projects with frontage on Wayne Avenue and Fenton Street that include residential or a mix of residential and commercial uses. The proposed height for the residential building along Wayne Avenue at fenton Street is 75 feet per §59-C-18.192(b) (1) (E): “ for properties with frontage on both Wayne Avenue and Fenton Street, notwithstanding the height limitations in subsection (b)(1) (B)-(D), may be increased by 15 feet for a building that includes residential uses or a mix of residential and commercial uses, if such additional height is not more than 200 feet from the right-of-way line for Fenton Street as recommended in the Approved an Adopted 2000 Silver Spring CBD Sector Plan...”

This allows higher densities to be concentrated on the portion of the site that is closer to downtown Silver Spring and lower densities to be closer to the existing one-family neighborhoods to the east and south. The proposal does not adversely affect the surrounding properties in any detrimental way given the urban context. The proposed church building, part of which is located on R-60 property has a proposed mean height of 35 feet with a taller belfry. According to Section 59-B-1.1 building height limits do not apply to belfries, making a belfry taller than 35 feet exempt.



Detailed Zoning Map

Density and uses

The project is proposing a mixed-use total density of 231,643 square feet, exclusive of the R-60 zone, thereby meeting the density requirements of the zones. The optional method of development for

mixed use allows 257,002 gross square feet. Within the CBD zoned portions of the site, 213,043 gross square feet are proposed for residential uses and 18,650 gross square feet are proposed for retail uses. The CBD zones permit the residential, institutional, child day care and commercial uses proposed with this application. The total gross square feet dedicated to church use is 29,228 gross square feet. The R-60 zone permits the institutional (church) use within the boundaries of the R-60 zone. However, 6,852 square feet of the proposed church falls within the R-60 zone and does not figure into the density total. Adding the density in the R-60 zone results in a density over the entire site of 260,921 gross square feet.

Setback and Coverage

The project plan satisfies the public use space requirement by providing two public plazas with the pedestrian connector. There is no setback requirement for optional method requirements in the CBD zone, and the application is proposing to hold the building to the property line for the portions of the project within the CBD. The church is setback 25 feet from Wayne Avenue and 10 feet from the side lot lines to respect the development standards of the R-60 zone. The R-60 zone does have a maximum coverage requirement; however church uses in the R-60 zone are exempt from the requirements under Section 59-B-4.1. As the data table shows, the project satisfies all of the development standards. Because this project is within a Parking Lot District, parking spaces are not required, however, 267 spaces are being provided for the development. The deficient number of spaces will require payment of a fee to the Parking Lot District.

Environmental Guidelines

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

An NRI/FSD (420120030) was completed and approved on September 15, 2011. The NRI/FSD identified any environmental constraints and forest resources on and near the subject property.

The NRI/FSD shows no streams or associated environmental buffers, wetlands, forests or floodplains on-site. There are five significant trees ranging in size from 8-24 inches and 9 specimen trees 30 inches or greater in and within 50' of the proposed development.

Preliminary Forest Conservation Plan

A Preliminary Forest Conservation Plan was submitted on February 6th, 2012 with the project plan application and approved by the Board. The preliminary FCP worksheet and afforestation requirements

have not changed with the Final Forest Conservation Plan application.

Forest Conservation Plan

A Final Forest Conservation Plan (820130050) was submitted on October 23, 2012. The total net tract area is 2.7 acres with an afforestation requirement of 0.40 acres to be met as a fee-in-lieu payment. The property has no forest, streams or wetlands and retains three on-site specimen trees. One of the six offsite specimen trees may need to be removed if impacts to the CRZ tree cause mortality. There will be impacts to the critical root zones of two additional off-site specimen trees.

County Arborist's Recommendations on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. A variance was submitted to the County Arborist on January 17th, 2012. The County Arborist issued a response (Attachment A) to the variance request on May 24th, 2012 and recommended the variance be approved with the condition that mitigation is provided. The variance was approved at the Project Plan hearing on July 16, 2012.

MITIGATION for TREES SUBJECT to the VARIANCE PROVISIONS

Forest Conservation Description

Fenton Street redevelopment is 2.05 acres with additional off-site disturbance of 0.65 acres. The total net tract disturbance is 2.7 acres.

As a result of this development, there are three on-site trees proposed for removal with significant and potentially fatal impacts to one offsite specimen tree. Mitigation would typically be at a rate that approximates the form and function of the trees removed. Replacement most often occurs at a ratio of 1" DBH for every 4" DBH removed, with a minimum tree replacement size of 3" in DBH or greater. For this site, the total diameter of specimen tree removal is 126 diameter inches. At one-quarter replacement, the Applicant would need to plant eleven (11) 3-inch caliper trees. $(126 \div 4 = (31.5) \div 3 = 11 \text{ trees})$.

Onsite tree mitigation opportunities are restricted due to the underground parking lot, the building layout, and the need for stormwater management. The proposed planting beds are not deep enough to support a mature tree due to the underground parking facility. Therefore, onsite specimen tree

mitigation is not feasible.

Forest Conservation Variance

Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that:

- a. measure 30 inches DBH or greater diameter at breast height (DBH);
- b. are part of a historic site or designated with a historic structure; or
- c. are designated as national, state, or county champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

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

The applicant requested a variance on January 17th, 2012 for the removal of three onsite specimen trees and impact one (1) offsite tree (#11) exceeding 30% to the CRZ. Based on the high chance of mortality, MNCPPC staff requested a revised variance application be made for the removal of tree #11.

The following table identifies specimen trees (> 30" DBH) to be removed both on and offsite.

Tree #	Species	Diameter (inches)	Condition	Disposition	Location	CRZ Impacts (%)
#8	Robinia pseudoacacia	31" DBH	Fair	Remove	Onsite	75.7%
#9	Liriodendron tulipifera	30" DBH	Good	Remove	Onsite	52.5%
#10	Liriodendron tulipifera	35" DBH	Good	Remove	Onsite	54.7%

#11	Acer saccharinum	30" DBH	Good	Remove	Offsite	38.2%
-----	------------------	---------	------	--------	---------	-------

The following table defines the specimen trees (> 30" DBH) that will be impacted by construction due to construction activities within their critical root zones.

Tree #	Species	Diameter (inches)	Condition	Disposition	Location	CRZ Impacts (%)
#3	Acer saccharinum	56" DBH	Fair/Good	Save	Offsite	17.8%
#4	Quercus rubra	46" DBH	Good	Save	Offsite	26.2%

Unwarranted Hardship - As per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship. In this case, the unwarranted hardship would be due to:



This is a small lot within a CBD area and efforts have been made to reduce impacts to the trees on the

site. However, due to the size constraints of the lot, the intended purpose, and the underground parking lot, the specimen trees located within the property and one on the eastern edge of the adjacent property cannot be saved. The exhibit above shows the location of the four specimen trees (3 to be removed with construction, 1 to be removed if it dies) proposed in the variance for removal with impacts to the CRZ of two (2) offsite trees.

Staff Recommendation on Variance

As a result of the above findings, staff recommends the Board approval of the applicant's request for a variance from Forest Conservation Law to remove three (3) specimen trees with impacts to one (1) offsite specimen tree. Should the off-site tree die (tree # 11), it too shall be removed. The variance approval is assumed into the Planning Board's approval of the Forest Conservation Plan.

ANALYSIS AND FINDINGS – CHAPTER 50

Preliminary Plan

Conformance to the Master Plan

The preliminary plan has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The proposed subdivision substantially conforms to the recommendations adopted in the Silver Spring CBD Sector Plan. The proposed lot was reviewed for compliance with the dimensional requirements for the CBD-0.5, CBD-1, and as modified by the Fenton Village Overlay Zone with respect to height, and R-60 zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in Table 1, below. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

In order to approve a preliminary plan of subdivision, the Planning Board must make the following five findings pertinent to Chapter 50:

(a) The proposed lot and associated uses comply with the recommendations of the Approved and Adopted Sector Plan

The Preliminary Plan is consistent with the February 2000, Approved and Adopted Silver Spring CBD Sector Plan and the August 2000 North and West Silver Spring Master Plan. The Silver Spring CBD Sector

Plan provides for the development of Downtown Silver Spring under the following themes: Transit-Oriented, Commercial, Residential, Civic, Green and Pedestrian Friendly. The Fenton Street project is in line with these themes as it provides for mixed-use development (commercial and residential) with significant public amenities in close proximity to the future Purple Line station across the street. It furthers the Plan's goals of creating a mix of housing choices supported by parks, retail, civic uses and employment opportunities adjacent to transit and with convenient access to the greater region.

The North and West Spring Master Plan recommends reconfirming the existing residential zoning in North Silver Spring and recommends that new development, infill development, and special exception uses be compatible with the existing residential character, essentially maintaining the existing land use patterns (page 21). The proposed church use is compatible with the R-60 zone. The R-60 zone permits the institutional use (church) and is appropriate as a transition to a residential neighborhood. The project maintains compatibility with the existing land use patterns by locating the church, which is compatible with one-family residential neighborhoods, on the east side of the project. The proposed church will act to buffer the neighborhood from the commercial uses located on the western side of the site in the Silver Spring CBD. The belfry or steeple, with an approximate height of 70' is located in the CBD-0.5 zone of the Silver Spring CBD Sector Plan area, thereby keeping taller structures closer to the taller buildings of Downtown Silver Spring.

Public Facilities

(b) Public facilities will be adequate to accommodate commercial and residential buildings containing a total of 260,921 square feet, including 259 dwelling units and 18,650 square-feet of commercial uses.

Roads and Transportation Facilities

Right-of-way dedication

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

The applicant proposes to not dedicate additional right-of-way for Bonifant Street because additional right-of-way is not needed to accommodate existing or planned street improvements.

Staff recommends approval of the elimination of the right-of-way dedication, maintaining the existing 60 foot right-of-way on Bonifant Street to the east of Fenton Street within the Silver Spring Sector Plan boundary since the existing 60-foot right-of-way will adequately meet the roadway, access, pedestrian, and bicycle requirements along Bonifant Street to the east of Fenton Street within the CBD boundary. The recommended reduction in right-of-way dedication will not have any negative impact on traffic circulation and safety in the immediate area. The recommended reduction in right-of-way dedication will also reduce the overall impact of this section of the roadway on the residential community to the east. It is also noted that the right-of-way dedication requirement for Bonifant Street, as a secondary residential street to the east of the CBD area, is typically 60 feet and that to the west of Fenton Street, recommended as a two-lane business street, is 70 feet. Therefore the 80 feet recommended right-of-way in the Sector Plan for the section of Bonifant Street between Fenton Street and the eastern CBD boundary is unnecessary.

Adequate Public Facilities Review

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

- **Trip Generation**

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

**TABLE 1
SUMMARY OF SITE TRIP GENERATION
PROPOSED FENTON STREET DEVELOPMENT**

Trip	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
18,650 SF Retail	5	4	9	19	18	37

259 Multi-Family Residential Units	16	62	78	55	23	78
Total Trips	21	66	87	74	41	115

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

- **Local Area Transportation Review**

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

TABLE 2
SUMMARY OF CAPACITY CALCULATIONS
PROPOSED FENTON STREET DEVELOPMENT

Intersection	Traffic Conditions					
	Existing		<i>Background</i>		Total	
	AM	PM	AM	PM	AM	PM
Georgia Ave/Bonifant St	779	672	869	782	907	819
Georgia Ave/Thayer Ave	663	713	744	821	754	833
Fenton St/Thayer Ave	688	795	817	953	824	961
Fenton St/Bonifant St	560	704	683	861	746	921
Fenton St/Wayne Ave	788	827	922	968	931	997
Bonifant St/Cedar St/Houston St ¹	182	385	204	410	204	410
Bonifant St/Site Access Driveway	--	--	--	--	136	205

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

Silver Spring CBD Policy Area Congestion Standard: 1,800 CLV

Silver Spring/Takoma Park Policy Area Congestion Standard: 1,600 CLV

¹ Intersection located within the Silver Spring/Takoma Park Policy Area

As shown in Table 2, under Total (Build) traffic conditions, CLV values for intersections included in

the study were estimated to be below the respective Silver Spring CBD Policy Area and Silver Spring/Takoma Park Policy Area congestion standards (1,800 CLV and 1,600 CLV, respectively). Based on this analysis, the subject application satisfies the LATR requirements of the APF test.

- **Policy Area Mobility Review**

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

TABLE 3
PAMR MITIGATION REQUIREMENT CALCULATION
PROPOSED FENTON STREET DEVELOPMENT

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

D. Trip Credit (D1 = A1 – C1)	19	66
Adjusted PAMR Mitigation Requirement		
E. (E1 = D1 – B1)	+14	+57
[PAMR: Excess/Pass = +ve; Deficit/Fail = -ve]	(Pass PAMR)	(Pass PAMR)

As shown in Table 3, using Countywide trip generation rates, the density proposed on the site would generate 106 “new” peak-hour trips during the weekday morning peak period and 181 “new” peak-hour trips during the weekday evening peak period (Line A1). With the requirement to mitigate 5% of the “new” peak-hour trips, the PAMR mitigation requirement for the development are 5 peak-hour trips during the weekday morning peak period and 9 peak-hour trips during the weekday evening peak period (Line B1).

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

The PAMR CBD trip credit, which is the difference in “new” trips between the Countywide and CBD trip generation for the density proposed on the site, are 19 peak-hour trips during the weekday morning peak period and 66 peak-hour trips during the weekday evening peak period (Line D1).

With the above credits, it is seen that the PAMR mitigation requirement for the proposed development is fully mitigated during the morning peak-hour (5 trip PAMR mitigation requirement vs. 19 trip CBD PAMR credit) as well as during the evening peak-hour (9 trip PAMR mitigation requirement vs. 66 trip CBD PAMR credit) (Line E1).

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

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The property is proposed to be served by public water and public sewer. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that consideration of a depressed curb along Wayne Avenue in front of the public plaza and a load bearing access area on the public sidewalk might be appropriate to satisfy safety concerns. Final

details to be approved at time of building permit. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the property. The subject property is within the Northwood High School cluster area, which is currently operating between 105-120% of capacity at the high school level, and a school facilities payment is not required. Electrical, telecommunications, and gas services are also available to serve the property.

Environment

(c) The Applicant proposes to record 2 lots with a net lot area of 53,829 square feet for Lot 1 and 32,506 square feet for lot 2 after right-of-way dedication for Fenton Street and Wayne Avenue. The lot size, width, shape and orientation are appropriate. A preliminary forest conservation plan has been submitted and approved that satisfies all the applicable requirements of the Chapter 22A.

(d) A preliminary forest conservation plan has been submitted and approved that satisfies all the applicable requirements of the Chapter 22A.

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

An NRI/FSD (420120030) was completed and approved on September 15, 2011. The NRI/FSD identified any environmental constraints and forest resources on and near the subject property.

The NRI/FSD shows no streams or associated environmental buffers, wetlands, forests or floodplains on-site. There are five significant trees ranging in size from 8-24 inches and 9 specimen trees 30 inches or greater in and within 50' of the proposed development.

Preliminary Forest Conservation Plan

A Preliminary Forest Conservation Plan was submitted on February 6th, 2012 with the project plan application. The preliminary FCP worksheet and afforestation requirements have not changed with the Final Forest Conservation Plan application.

Final Forest Conservation Plan

A Final Forest Conservation Plan (820130050) was submitted on October 23, 2012. The total net tract area is 2.7 acres with an afforestation requirement of 0.40 acres to be met as a fee-in-lieu payment.

The property has no forest, streams or wetlands and retains three specimen trees. One offsite specimen tree may be removed if impacts to the CRZ tree cause mortality. There will be impacts to the critical root zones of two additional off-site specimen trees.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

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

The property is located predominantly within the CBD of Silver Spring under the Optional Method of development. The Project Plan was approved on July 16th, 2012 which maximizes density and use of the site as recommended in the Silver Spring Master Plan.

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

The requested variance is based on the need to maximize development within the CBD zones. The proposed plan would not be feasible if the square footage of the lot were restricted to save the existing trees.

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

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

- (d) *Will violate State water quality standards or cause measurable degradation in water quality.*

There will be a few small planting beds onsite that will provide both vegetation and amended soil volumes. The vegetation will aid in cooling surface temperatures within the immediate area, aid in carbon sequestration, and provide pollination opportunities.

The proposed bio-retention facilities will improve runoff quality and quantity by filtering, cooling, utilizing, and slowly releasing stormwater into the storm drain network.

Stormwater Management

The MCDPS Stormwater Management Section conditionally approved the Stormwater Management Concept for the Application July 10, 2012. The stormwater management concept consists of a waiver of on-site channel protection measures due to existing shallow storm drain inverts. On-site water quality control will be met via green roofs, and bio-filtration systems.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. The proposed subdivision substantially conforms to the recommendations adopted in the Master Plan. The lots were reviewed for compliance with the dimensional requirements for the CBD-0.5, CBD-1 zones, and as modified by the Fenton Village Overlay zone for building height, and the R-60 zone, as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Citizen Correspondence and Issues

The applicant has met with nearby residents and with representatives of the East Silver Spring Citizens Association (ESSCA). A pre-application meeting was held on August 28, 2012. The meeting was attended by 15 members of the community. The architect presented the project to the community and explained how the proposed facades and buildings heights will be compatible with Bonifant Street and the one-family home to the immediate southeast. The building and façade designs were well received by the community. Citizen concerns have been adequately addressed by the recommended changes.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Silver Spring CBD Sector Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies. Therefore, approval of the application with the conditions specified above is recommended.

Site Plan

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The site plan is consistent with the approved Project Plan 920110010 in every respect, including density, public use space, scope and design.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The residential, retail and institutional uses are allowed in the CBD-1 and CBD 0.5 Zones and the Fenton Village Overlay Zone. The R-60 Zone permits the institutional and residential uses.. The building is 75 feet tall at the corner of Wayne Avenue and Fenton Street, stepping down to 45 feet at the southeast corner of the property, closest to the existing single family neighborhood located here. The application is providing over 39 percent of the net lot area toward public use space, facilities and amenities, of which over 22 percent will be on-site public use space. The CBD zones as part of the optional method of development does not require setbacks and is not providing setbacks, however the R-60 zone requires development standards that are satisfied with this application. The site plan fulfills the purposes of the zone by providing residential development compatible with adjacent residential and commercial uses in the Silver Spring Central Business District.

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

Development Standard	Permitted/ Required	Proposed for Approval and Binding on the Applicant
Building Height (feet)		

CBD-Zone-59-C-18.192(b)(1)(E)	75	75
CBD-Zone-FVOZ	60	60/45
R-60	35	35
Setbacks (feet)		
CBD-1 & CBD-0.5		
Front (Wayne Ave)	n/a	0
Front (Fenton Street)	n/a	0
Front (Bonifant Street)	n/a	0
R-60		
Front (Wayne Ave)	25	25
Side East	8 and 10 with a total of 18	10
Site Area (square feet)		
Net lot Area	n/a	86,335
Previous Dedications	n/a	27,989
Dedications this plan	n/a	3,088
Gross Tract Area	18,000	117,412
Density		
CBD-1: Floor Area Ratio	3.0	3.05
Allowable S.F.	189,885	192,965
CBD-0.5: Floor Area Ratio	1.5	0.87
Allowable S.F.	67,117	38,728
Total CBD Density:	257,002	231,643
R-60	N/A	6,852
Total Project Density	257,002	260,921
Combined FAR across CBD-1 and CBD-0.5 zones:	2.378	2.359
Public Use Space (% of net lot)		
On-Site Public Use Space	20	22.51
Off-Site Public Facility and Amenity Space	n/a	17.10
Total Public Use, Facility & Amenity Space	20	39.64
Parking		
MPDUs		
Efficiencies: 8	4	
One bedroom units: 19	12	

Two bedroom units: 6	5	
Market Rate units:		
Efficiencies: 56	56	
One bedroom units: 129	162	
Two bedroom units: 41	62	
Total Residential Parking	301	252
Retail Parking 18,650 sf @3.5 sp/1000 sf	66	0
Church Parking 1 space per 4 seats x.07 if within 500' of public lot	128	16
Total Vehicle Spaces	495	268*

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

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

The buildings are located on the site to create a consistent street wall on Wayne Avenue, Fenton Street and Bonifant Street. They frame the proposed public plaza and paseo or pedestrian pass-thru between Wayne Avenue and Bonifant Street.

The buildings and structures of the proposed development are located on the Property line and step down in height towards the one-family neighborhood to the southeast, which is appropriate for the character envisioned by the Master Plan. There is easy access to the building from adjoining sidewalks and parking. The locations of the buildings and structures are adequate and efficient, while meeting the aesthetic concerns of the area, and do not pose any safety concerns on the site.

The open space that is provided is 18, 375 square feet in size, not including the 1200 square feet located in the R-60 zone. It serves the church community by providing a public gathering space in the plaza facing Wayne Avenue while also providing a convenient short cut for pedestrians traveling between Bonifant Street and Wayne Avenue. Landscaping provides shade trees and

planters with ornamental plantings that will be used for stormwater management. Public art, composed of art wall at the transformer enclosure, art glass in the stairs between the two plazas and a large dichromatic art glass sculpture will create an interesting focal point in the public use space and help draw people into it are no recreation facilities required for the institutional and commercial uses on. However, a tot lot on the south side of the project facing Bonifant Street provides recreation opportunities for children using the day care that will be operated by the church. The tot lot will be open to the public during non-day care hours. Additional recreation facilities will be provided for the residents including an indoor fitness facility, community room and pool to satisfy the recreation guidelines. The recreation facilities exceed the minimum percentage required for each age group and are adequate, safe and efficient.

Demand		D1	D2	D3	D4	D5
	Number of Units	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
Housing Type						
HIGH RISE	259	9.1	10.4	10.4	198.9	119.1

On-Site Supply		D1	D2	D3	D4	D5
	Quantity Provided	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
Recreation Facility						
Picnic/Sitting	4	4.0	4.0	6.0	20.0	8.0
Tot lot	1	9.0	2.0	0.0	4.0	1.0
Pool	1	0.5	2.1	2.1	49.7	17.9
Pedestrian System	1	0.9	2.1	2.1	89.5	53.6
Community Room	1	0.9	1.6	1.0	59.7	47.7
Indoor Fitness Facility	1	0.0	1.0	1.0	39.8	17.9
	total:	15.3	12.8	12.2	262.7	146.1

Adequacy of Facilities		D1	D2	D3	D4	D5
a.	Gross Total Supply	18.2	40.4	42.8	410.62	203.7
b.	% Demand met on site	201	389.6	433.5	206.2	170.9
e.	90% Demand	8.19	9.36	9.36	179.01	107.19
f.	Adequate?	yes	yes	yes	yes	yes

In the public right-of-way street trees and lighting are provided to enhance the pedestrian environment. Lighting in the public plaza will create enough visibility to provide safety. The open spaces, landscaping, and site details adequately and efficiently address the needs of the proposed use and the recommendations of the Master Plan, while providing a safe and comfortable environment.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. Safety is enhanced by several improvements: There is a green panel between the sidewalk and the major building access points on Fenton Street and Wayne Avenue. These planted panels will discourage pedestrians from making dangerous mid-block crossings at these points. The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation. This balance of design with the site, the recommendations of the Master Plan, and the needs of the use is an efficient and adequate means to provide a safe atmosphere for pedestrians, cyclists, and vehicles.

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

The proposed mixed-use development is compatible with the existing and proposed adjacent and confronting uses. The multi-family residential uses and ground floor retail reflect the land use pattern along Fenton Street.

The structures themselves are in scale with the nearby buildings and are located such that they will not adversely impact existing or proposed adjacent uses. The taller buildings occupy the outer edges of the site along Fenton Street and Wayne Avenue, adjacent to the taller buildings across Wayne Avenue in the CBD core. The building heights step down to be more in scale with the one-family homes to the southeast.

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.*

An NRI/FSD (420120030) was completed and approved on September 15, 2011. A Final Forest

Conservation Plan is conditioned for approval as part of this review. The total net tract area is 2.7 acres with an afforestation requirement of 0.40 acres to be met as a fee-in-lieu payment.

The property has no forest, streams or wetlands and retains three specimen trees. On offsite specimen tree may be removed if impacts to the CRZ tree cause mortality. There will be impacts to the critical root zones of two additional off-site specimen trees.

The MCDPS Stormwater Management Section approved the Stormwater Management Concept for the Application July 10 2012, The stormwater management concept consists of a waiver of on-site channel protection measures due to existing shallow storm drain inverts. On-site water quality control will be met via green roots, and bio-filtration systems.

PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS

Preliminary Plan Conditions

The Preliminary Plan meets all requirements established in the Subdivision Regulations and it is in substantial conformance with the recommendations of the Master Plan. Staff recommends approval of Preliminary Plan 120120130 and associated final forest conservation plan, subject to the following conditions:

1. Total development is limited to 2 lots for a maximum of 259 residential dwelling units, 18,650 square feet of commercial uses, and 29,228 square feet of institutional use (church). A minimum of 12.5% of the total number of dwelling units must be Moderately Priced Dwelling Units.
2. The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan (820130050) approved as part of this Preliminary Plan, subject to: Board approval of the applicant's request for a variance from Forest Conservation Law to remove three specimen trees with impacts to one offsite specimen tree and its potential removal should the tree not survive impacts . The variance approval is assumed into the Planning Board's approval of the Forest Conservation Plan.
3. The Certified Final Forest Conservation Plan must include the following:
 - a) The Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department prior to issuance of a Sediment Control Permit from the Department of Permitting Services. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.

- b) A fee-in-lieu which satisfies the 0.40 acre afforestation requirement must be submitted by the Applicant and approved by M-NCPPC staff prior to any clearing, grading or construction activity within the project area.
 - c) The Final Forest Conservation plan must be signed by the plan preparer and the Applicant must provide and sign the developer's certificate.
4. The Applicant must provide analysis and attenuate for any noise levels exceeding those recommended by the Planning Boards Noise Guidelines for interior levels.
 5. The sediment and erosion control plan and stormwater management plan must be submitted with the revised Final Forest Conservation Plan to ensure consistency with the Limits of Disturbances (LOD's) and the associated tree preservation measures.
 6. The Applicant must satisfy all conditions prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
 7. The Applicant must dedicate and show on the final record plat the following rights-of-way along the property frontage consistent with the 2000 Approved and Adopted Silver Spring CBD Sector Plan and as modified below:
 1. Wayne Avenue – minimum of 40 feet from the roadway right-of-way centerline,
 2. Fenton Street – minimum of 40 feet from the roadway right-of-way centerline, and
 3. Bonifant Street – minimum of 30 feet from the roadway right-of-way centerline in-lieu-of the standard 40 feet recommended by the Master Plan.
 8. The Applicant must execute a Public Improvement Easement Agreement over the area that would have been required for standard truncation at the corner of Wayne Avenue and Fenton Street with Montgomery County Department of Transportation (DOT) prior to the release of any building permit for the proposed development, to allow DOT to construct, modify, and maintain the sidewalk within the truncation area in the future.
 9. The Applicant must enter into a Traffic Mitigation Agreement ("Agreement") with the Planning Board and Montgomery County Department of Transportation (MCDOT) to participate in the Silver Spring Transportation Management District (TMD). The Applicant must execute the Agreement prior to the release of any building permit for the proposed development.
 10. The Applicant must dedicate all road rights-of-way to the full width mandated by the Silver Spring CBD Sector Plan with the exception of Bonifant Street per #5 above.
 11. Prior to recordation of the plat(s) the Applicant must satisfy MCDPS requirements to ensure the construction of a minimum 15 foot wide sidewalk along the property frontage on Wayne Avenue,

Fenton Street and Bonifant Street, unless construction is waived by MCDPS.

12. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated July 10, 2012, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
13. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated February 15, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
14. The Applicant must enter into a Traffic Mitigation Agreement (“TMAg”) with the Planning Board and DOT to participate in the Silver Spring Transportation Management District (TMD) and must execute the TMAg prior to the release of any residential building permit for development on the site. The TMAg must include those trip mitigation measures recommended by MCDOT, except as modified herein.
15. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
16. Prior to recordation of any plat, Site Plan No. 8201300050 must be certified by MNCPPC Staff.
17. The record plat must show necessary easements.
18. Final approval of the number and location of buildings, on-site parking, site circulation, and sidewalks will be determined at site plan.
19. No clearing, grading or recording of plats prior to certified site plan approval.
20. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.

Other limitations for site development may also be included in the conditions of the Planning Board's approval.

21. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
22. The subject property is within the Northwood High School cluster area, which is currently operating between 105-120% of capacity at the high school level, and a school facilities payment is required.
23. The Applicant must make a School Facilities Payment to MCDPS at the high school level at low-rise w/structured parking 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.

SITE PLAN RECOMMENDATIONS AND CONDITIONS

Staff recommends approval of site plan 820130050 and the associated final forest conservation plan, Fenton Street, for 18,650 square feet of retail, 213,043 square feet of residential, including 259 multi-family dwelling units including 12.5% MPDUs and 29,228 square feet of institutional use (church) on 2.70 acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on January 10, 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 920120020 as listed in the Planning Board resolution dated August 15, 2012.

- a. 22.51% Public use space (on-site and off-site facilities and amenities).
- b. Silver Spring Streetscape standards for Wayne Avenue, Fenton Street and Bonifant Street.
- c. Public Art consisting of dichromatic glass risers in the stairs between the upper and lower plaza and a 25-30 foot dichromatic glass sculpture.

Environment

2. Forest Conservation

The Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department prior to issuance of a Sediment Control Permit from the Department of Permitting Services. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan. The Applicant has approval to remove three onsite with the potential to

remove one offsite specimen tree.

3. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated July 10, 2012 unless amended and approved by the Montgomery County Department of Permitting Services. The sediment and erosion control plan and stormwater management plan must be submitted with the revised Final Forest Conservation Plan to ensure consistency with the Limits of Disturbances (LODs) and the associated tree/forest preservation measures.

4. LEED Certification

The Applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. Before the issuance of any use and occupancy certificate, the Applicant must inform M-NCPPC staff of the LEED Certification Level for which they are applying. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to staff a written report for public record purposes only from the Applicant's LEED consultant analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost. Submission of this report constitutes compliance with this condition.

Parks, Open Space, & Recreation

5. 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. At a minimum, provide the following recreation facilities: four picnic/sitting areas, tot lot, pool, a pedestrian system, indoor community room, and an indoor fitness facility.

6. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, tot lot, all plantings, steps, paving, handrails, public elevator, public art and stormwater

recharge areas. The applicant is also responsible for maintaining the public elevator that will provide wheelchair access between the upper and lower plaza (public use space).

Density & Housing

7. Moderately Priced Dwelling Units (MPDUs)

- a. The proposed development must provide 12.5 percent MPDUs of the total number units on-site in accordance with the letter from the Department of Housing and Community Affairs to M-NCPPC dated February 4, 2013.
- b. The MPDU agreement to build shall be executed prior to the release of any residential building permits.
- c. All of the required MPDUs must be provided on site.

Site Plan

8. Site Design

- a. The exterior architectural character, proportion, materials, dimensions and articulation must be substantially similar to the schematic elevations shown on Sheets A 1.04-A1.05 of the submitted architectural drawings, as determined by the M-NCPPC Area 1 staff.
- b. Church architectural plans and engineering plans to be coordinated with grading plan shown on the landscape architecture plans received January 28, 2013 by time of Certified Site Plan.

9. Landscaping

- a. Provide proposed landscaping per plan, sheets L1.00-L4.10. Applicant to install all trees, shrubs and perennials per approved plans. All hardscape features including walls, steps, planters, retaining walls, and fencing to be installed per above plans.
- b. The Applicant must provide a green panel between the street trees in front of the residential entry on Fenton Street and in front of the Church entry on Wayne Avenue.

10. Private Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential/commercial development.
- b. All onsite down - light fixtures must have house-side shields towards residential windows.

- c. House-side shields shall be installed on all fixtures causing potential glare or excess illumination on any perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels shall not exceed 0.5 foot candles (fc) at any property line abutting residential properties.
- e. The height of the on-site light poles shall not exceed 12 feet including the mounting base.

11. Public Art and Amenities

- a. Provide for and install the public art concept designed by Studio William Cochran, as presented to the Planning Department's Art Review Panel on January 30, 2013, and illustrated in the Certified Site Plan.
- b. Any significant changes to the concept presented on January 30, 2013 must be presented to the Art Review Panel and approved by Development Review staff before Certified Site Plan.
- c. Significant changes to the concept, as determined by Development Review staff, proposed after Certified Site Plan will require a Site Plan Amendment.
- d. The Applicant must provide a public elevator must be installed in the public use space between Wayne Avenue and Bonifant Street to accommodate handicap access.

12. Surety

Prior to issuance of first building permit within each relevant phase of development, 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, 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.

13. 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.
- a. On-site amenities including, but not limited to, sidewalks, benches, trash receptacles, and bicycle facilities must be installed prior to release of a use and occupancy permit.
- b. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- c. The development program must provide phasing for installation of on-site landscaping and lighting.
- d. Community-wide pedestrian pathways and recreation facilities, including the paseo and the tot lot, must be completed prior to issuance of the final use and occupancy permit for the church.
- e. Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
- f. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

14. 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 off all details and layout between site plan and landscape plan.
- e. Plans for proposed church to be reconciled with engineering and landscape architecture plans.

APPENDICES

Appendix A: Section 59-D-2.43

Appendix B: Preliminary Plan Data Table and Checklist

Appendix C: Agency Letters

Appendix A

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

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

Appendix B:

Preliminary Plan Data Table and Checklist

Plan Name: Fenton Street				
Plan Number: 120120130				
Zoning: CBD-0.5, CBD-1, R-60 and Fenton Village Overlay Zone				
# of Lots: 2				
# of Outlots: 0				
Dev. Type: Optional				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval the Preliminary Plan	Verified	Date
Minimum Lot Area	18,000 s.f.	53,829 s.f. & 32,506 s.f.	JM	2-15-13
Minimum Public Use Space	20%	22.51%	JM	2-15-13
Height	75'	70' +/-	JM	2-15-13
Max. mixed-use FAR with min. 33% Residential for CBD-0.5	1.5	0.87	JM	2-15-13
Max. mixed-use FAR with min. 33% Residential for CBD-1	3.0	3.05	JM	2-15-13
MPDUs	12.5%	12.5%	JM	2-15-13
Site Plan Req'd?	Yes	Yes	JM	2-15-13
FINDINGS				
SUBDIVISION				

Lot frontage on Public Street	YES	JM	2-15-13
Road dedication and frontage improvements	YES	JM	2-15-13
Environmental Guidelines	YES	JM	2-15-13
Forest Conservation	YES	JM	2-15-13
Master Plan Compliance	YES	JM	2-15-13
Historic Preservation	NO		
Stormwater Management	YES	Agency Letter	7-10-12
Water and Sewer (WSSC)	YES	DRC	11-26-13
10-yr Water and Sewer Plan Compliance	YES	DRC	11-26-13
Well and Septic	NO		
Local Area Traffic Review	YES	JM	2-15-13
Fire and Rescue	YES	Agency Letter	
Other (i.e., schools)	YES	JM	2-15-13



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

July 10, 2012

John Clapsaddle
Vika, Inc.
20251 Century Blvd., Suite 400
Germantown, MD 20874

Re: Stormwater Management **CONCEPT** Request
for Fenton Street
Preliminary Plan #: 120120130
SM File #: 241567
Tract Size/Zone: 2.1 Ac./CBD-05, CBD-1, R-60
Total Concept Area: 2.59 Ac.
Lots/Block: 14-25/4
Watershed: Sligo Creek

Dear Mr. Clapsaddle:

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 proposes to meet required stormwater management goals via ESD to the MEP. Due to the shallow existing storm drain system structural treatment of the remaining ESDv is not possible. A waiver of quantity control is granted for the entire site.

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. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.
6. At a minimum, a Pe of 1.0 is to be provided for Lot 1 and a Pe of 1.2 is to be provided for Lot 2. At time of design, you are encouraged to provide more volume, as possible.
7. Provide easements and covenants for all structures. Also provide a narrative on the plan explaining how to access the structures for inspection and maintenance.
8. All underground garage inlets are to drain to WSSC.

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



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

February 4, 2013

Mr. John Marcolin
Area 1 Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Fenton Street
Preliminary Plan No. 120120130
Site Plan No. 820130050

Dear Mr. Marcolin:

The Department of Housing and Community Affairs (DHCA) has reviewed the responses of the applicant to DHCA's Development Review Committee (DRC) comments and the revisions to the above Preliminary and Site Plans. The overall MPDU bedroom distribution of eight (8) efficiencies, 19 one-bedroom units, and six (6) two-bedroom units is correct based on the market unit distribution of 56 efficiencies, 129 one-bedroom units, and 41 two-bedroom units. However, please note that if the bedroom distribution of the market units changes, the bedroom distribution of the MPDUs will need to be changed as well.

The proposed sizes and locations of the MPDUs appear to be acceptable; however, the conceptual architectural plans that have been provided at this stage are illustrative only and are insufficiently detailed for a full review by DHCA. DHCA will need to review more detailed architectural plans at certified site plan.

DHCA recommends Approval of the Preliminary and Site Plans with the following condition:

- At certified site plan, DHCA will need to review and approve MPDU bedroom compositions, locations, sizes and unit layouts.

Sincerely,

Lisa S. Schwartz
Senior Planning Specialist

cc: Scott C. Wallace, Linowes and Blocher LLP
William R. Landfair, VIKA Maryland LLC

S:\Files\FY2013\Housing\MPDU\Lisa Schwartz\Fenton Street DHCA Letter 2-4-2013.doc

Division of Housing and Code Enforcement

Code Enforcement
FAX 240-777-3701

Moderately Priced
Dwelling Unit
FAX 240-777-3709

Housing Development
and Loan Programs
FAX 240-777-3691

Landlord-Tenant Affairs
FAX 240-777-3691

9. Proved a copy of the mechanical drawings. This should include a schematic drawing that shows all roof areas draining to storm water structures and all covered garage areas draining to WSSC.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is **required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,

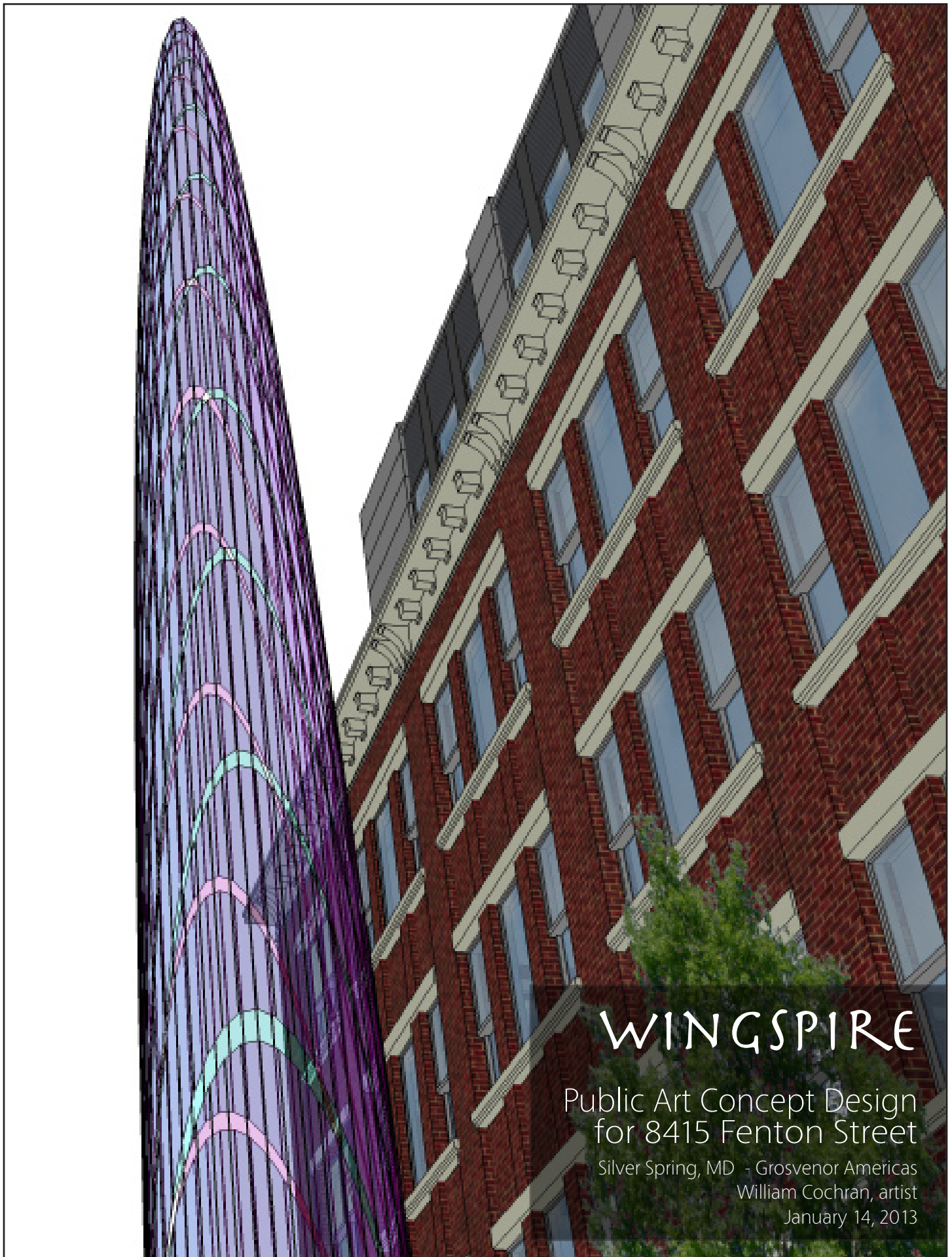


Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB: tla CN241567 Fenton Street.DWK

cc: C. Conlon
SM File # 241567

ESD Acres:	2.59
STRUCTURAL Acres:	0.00
WAIVED Acres:	2.59



WINGSPIRE

Public Art Concept Design
for 8415 Fenton Street

Silver Spring, MD - Grosvenor Americas
William Cochran, artist
January 14, 2013

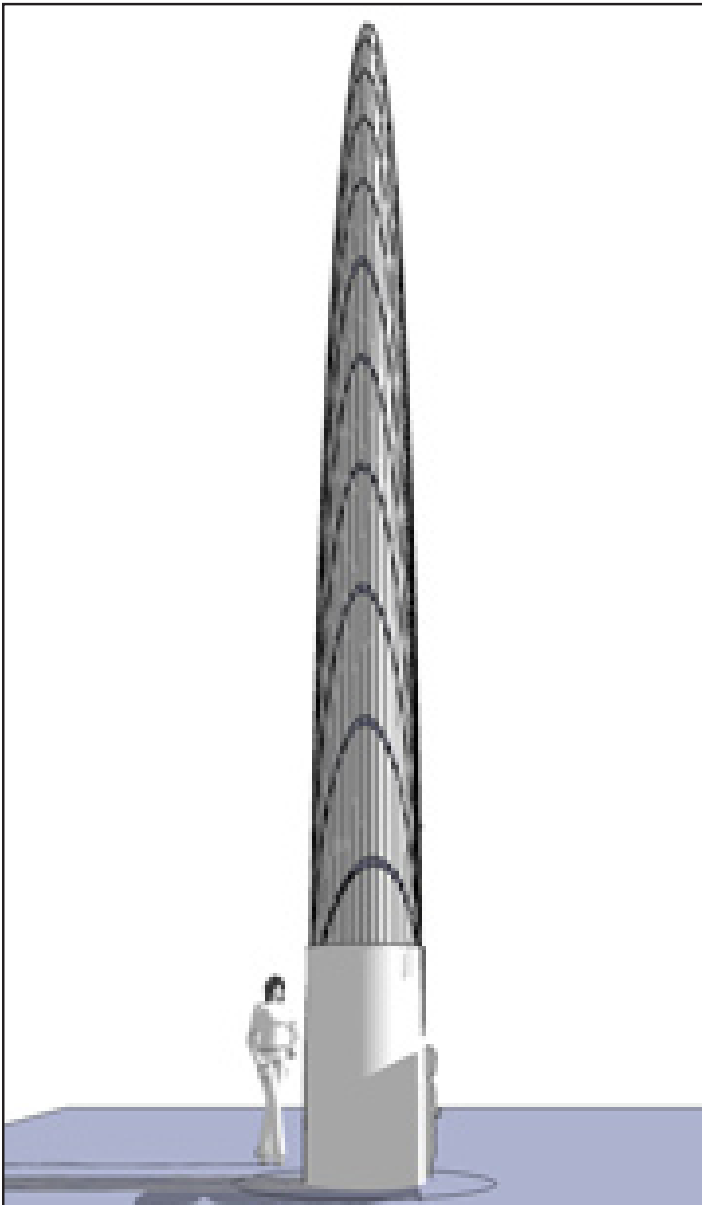
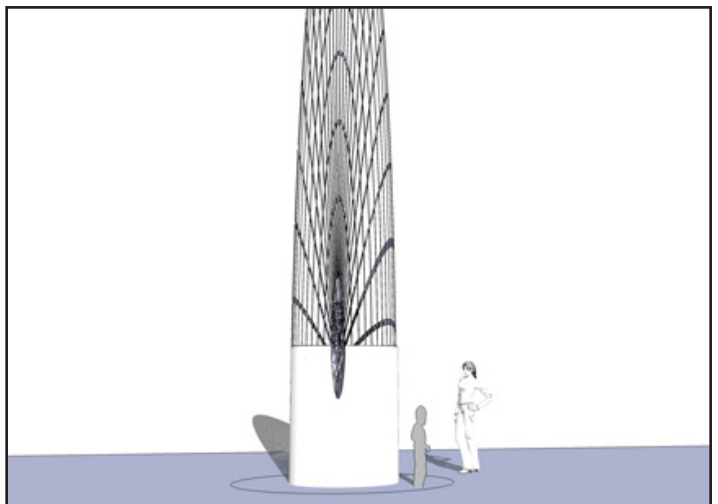
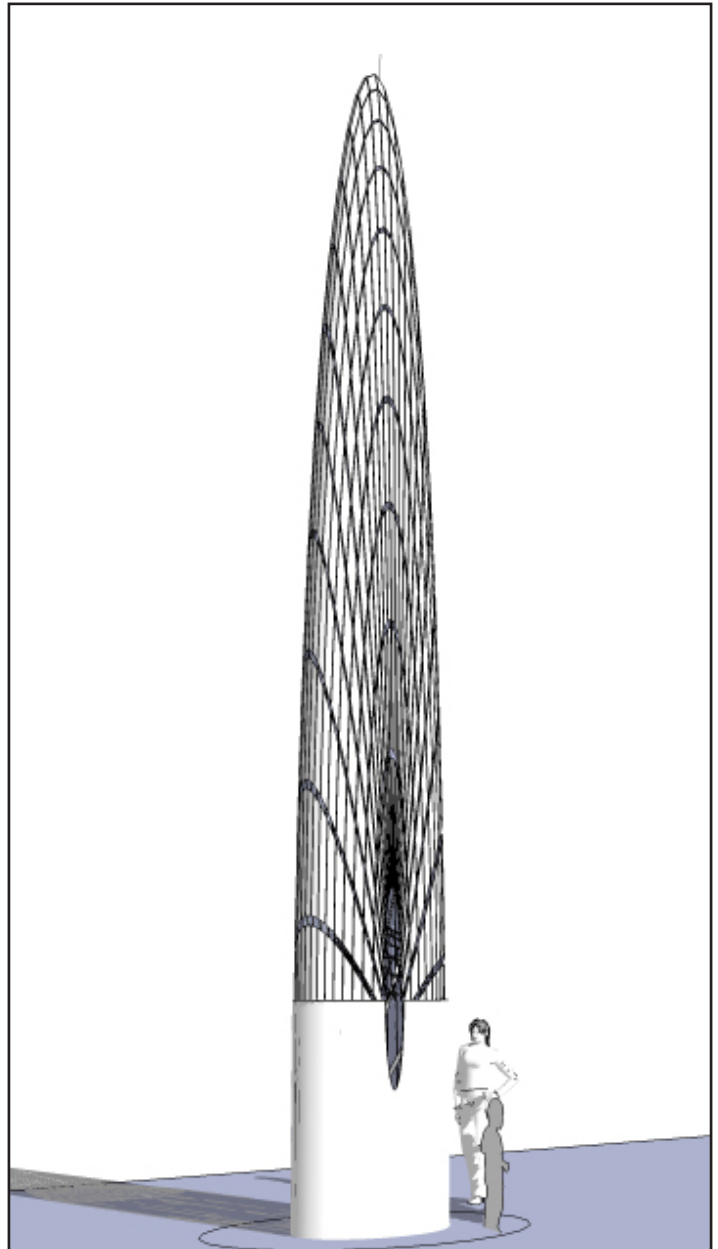


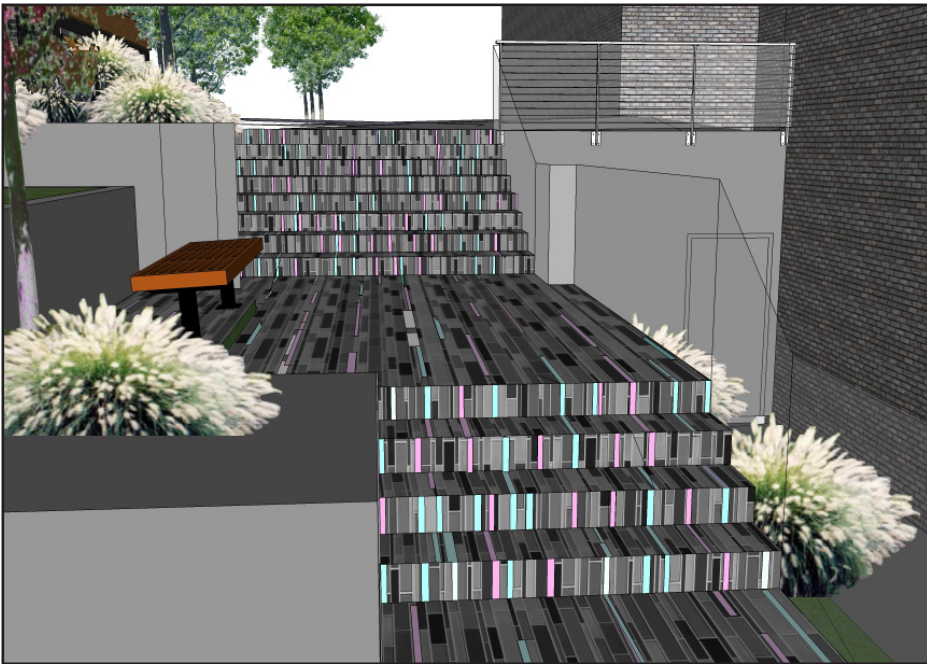
Public Art for the 8415 Fenton Street Paseo

The 220' long paseo at the 8415 Fenton Street will often have children passing or playing within it. A small amphitheater-like array of steps will be used by the children for outdoor activities. For this and other reasons, the client and design team desire art that appeals to all ages, especially children.

The strategy for the art is to create a soaring vertical wing-shaped spire of dichroic glass that catches and reflects the light of the sky in semi-mirrored surfaces with pure, highly transparent and ever-changing color.

Colors and light will reflect throughout this form to create a focal point that is visible from the streets and plazas at each end of the paseo and from the top of the stairs.



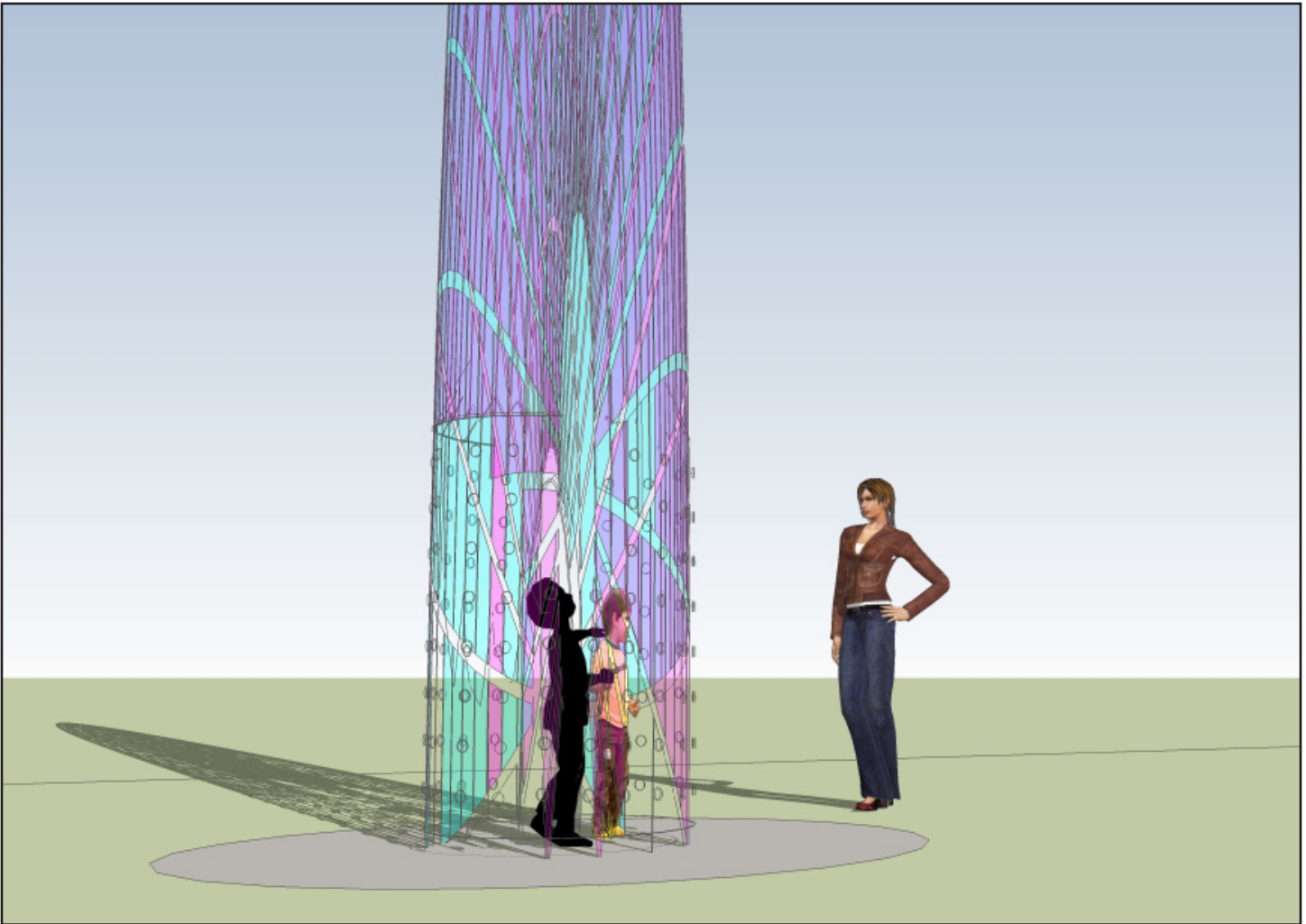


To animate the passageway with light, linear stone pavers on a running bond are interspersed with narrow strips of laminated and tempered dichroic glass surfaced with non-slip fired glass grit.

The strips of glass tile reflect the light of the sky and change color in response to the atmospheric conditions as the viewer moves through the space.

This creates the abstraction of a river of light that cascades down the stairs, illuminating and enlivening them both day and night.





All of the light that reflects in Wing Spire and the stairs comes from the sky overhead by day. At night the spire is illuminated from within and below, while the stairs and risers reflect light from above.

The artist hopes to build the base of the sculpture in a manner that will allow passersby to look up into the luminous thirty-foot tall form.

