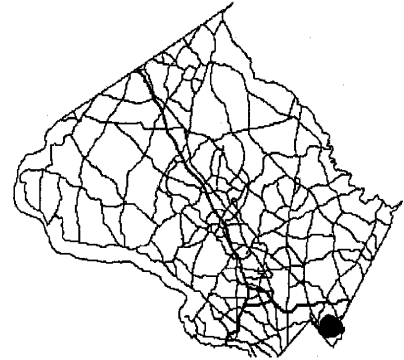
MEMORANDUM

DATE: September 8, 2004
TO: Montgomery County Planning Board
VIA: Rick Hawthorne, Chief *RH*
 Michael Ma, Supervisor *ma*
 Development Review Division
FROM: Robert A. Kronenberg, RLA *RAK*
 Planning Department Staff
 (301) 495-2187



PROJECT NAME: Portico
CASE #: 9-04003A
REVIEW TYPE: Project Plan

ZONE: CBD-R2
APPLYING FOR: Approval of approximately 170,000 gross square feet of development, including 158 residential condo units, of which 24 will be MPDUs on approximately 0.65 acres

LOCATION: 1203 Fidler Lane, 100 feet southwest of Ramsey Avenue on Fidler Lane in Downtown Silver Spring

MASTER PLAN: Silver Spring Central Business District

REVIEW BASIS: Division 59-D-2.11 of the Zoning Ordinance requires submission of a Project Plan as part of the application for the use of optional method of development for a CBD zoned property.

APPLICANT: 1203 Fidler Lane, LLC
 C/o The Patriot Group, LLC

FILING DATE: May 12, 2003
HEARING DATE: September 23, 2004

Attached is the staff report for the proposed Portico Project Plan. The Planning Board public hearing for this application is scheduled for September 23, 2004. A draft Planning Board opinion for the Project Plan will be available on September 8, 2004. The staff recommends **Approval** with conditions as delineated in the staff report.

TABLE OF CONTENTS

Staff Recommendations.....	3
Summary and Development Issues.....	6
Project Description	
• Surrounding Vicinity.....	11
• Site Description.....	12
• Project Description-Proposal.....	13
• Prior Approvals.....	19
Basis for Consideration of Issues.....	19
Required Findings	
• Compliance with the intent and requirements of the zone.....	21
• Compliance with the Sector Plan.....	27
• Compatibility with the general neighborhood.....	29
• Adequacy of the existing or programmed public services.....	29
• More desirable than the standard method of development.....	30
• Provision of moderately priced dwellings units (MPDUs).....	31
• Development involved in more than one lot or one CBD zone.....	31
• Requirements for forest conservation.....	31
• Requirements for water quality resource protection.....	31
Appendices	
• A-Memos from staff and other county agencies	
• B-Letter from the Applicant and Attorney's to the Cameron Hill Home Owner's Association	
• C-Letters from the Cameron Hills Home Owner's Association and community	
• D-Parking Counts from the Montgomery County Department of Public Works & Transportation Parking Lot District	

STAFF RECOMMENDATION FOR PROJECT PLAN: Approval of Project Plan #9-04003A for approximately 170,000 gross square feet, including 158 condominium apartments units, of which 24 are MPDUs, with the following conditions:

1. Development Ceiling

The proposed development shall be limited to 170,000 square feet of gross square feet for a total of 158 condominium apartments units, including 24 Moderately Priced Dwelling Units.

2. Building Height/Mass

The height of the proposed building shall not exceed the maximum permitted height of 143 feet.

3. Transportation Improvements

- a. The applicant shall dedicate 30 feet from the centerline to provide for a total of 60 feet right-of-way for Fidler Lane as recommended in the Silver Spring CBD Sector Plan.
- b. Provide 20 feet of pavement to serve the garage with turnaround on Fidler Lane.
- c. Provide 17 feet of sidewalk (existing) on the south side and 15 feet of sidewalk on the north side of Fidler Lane.
- d. Provide standard Silver Spring streetscape along the property line on Fidler Lane, and extend the streetscape off-site on Fidler Lane and Ramsey Avenue across the property frontage of Lot 5 (Cubanos Restaurant).

4. Moderately Priced Dwelling Units (MPDUs)

The applicant shall provide 15% or 24 MPDUs on-site, consistent with the requirements of Chapter 25A. The applicant is receiving a 22% density bonus for providing additional MPDUs on the site.

5. Public Use Space

- a. The applicant shall provide 26.3 percent of on-site public use space and 20.3 percent of off-site public use space.
- b. The proposed public use space must be easily and readily accessible to the general public and used for public enjoyment. All streetscape improvements shall be in accordance with the *Silver Spring Streetscape Plan (April 1992)* Technical Manual or as amended.

6. Streetscape

- a. The applicant shall provide the full streetscape improvements along the Fidler Lane frontage using the *Silver Spring Streetscape Plan (April 1992)* Technical Manual.

The following elements are proposed: stone, precast concrete, brick pavers, street trees, lighting, and any other details that are necessary, including the undergrounding of utilities along the frontage of the property, to fulfill the Silver Spring streetscape standards.

- b. Off-site improvements shall be provided from the northeast property line of the subject site, to the intersection with Ramsey Avenue in front of Lot 5 (currently Cubanos Restaurant). The following elements for off-site improvements are proposed: brick pavers, lighting, and any other details that are necessary, including the undergrounding of utilities on the south side of Ramsey Avenue, to fulfill the Silver Spring streetscape standards.

7. Public Art

- a. A public art program shall be developed to include a 16-foot-tall, hand-carved stone sculpture in the form of a graceful “Arc” reaching skyward. This elegant structure acts as a marker for the outdoor public space, being created as a pocket park with this new building structure as a backdrop. The arc-form echoes the distinctive curved balconies that distinguish this building and will be clearly visible from the plaza in front of the Silver Spring Metro Station. This artwork follows in the tradition of minimalist sculpture where the beauty of the natural stone is brought out. The surface will be a thermal and bush-hammer finish with a semi-rough texture. The sculpture will be shaped by the artist’s hand giving it a hand-wrought character. The park and sculpture will be softly lit in the evening to enhance the streetscape, inviting pedestrians and commuters to enjoy and relax.
- b. The public space will also feature six hand-carved benches made of cut stone. The plan-form of these benches will also reinforce the “Arc” concept of the sculpture. The tops of the benches will be sandblasted smooth to allow for comfortable seating. The paving will be designed with a curving pattern that compliments the sculpture and the benches.
- c. The art proposal for the project shall be fully developed and reviewed by the Planning Board’s Art Panel prior to site plan review.

8. Staging of Amenity Features

- a. The proposed project shall be developed in one phase.
- b. Landscaping to be installed no later than the next growing season after completion of building and public plaza.
- c. Art work to be installed prior to occupancy of the building.

9. Maintenance and Management Organization

Initially, the applicant, and subsequently, within ninety days of formation, the Condominium Association shall become a member and enter into an agreement with the Silver Spring Urban District for the purpose of maintaining public open spaces and participating in community events.

10. Coordination for Additional Approvals Required Prior to Site Plan Approvals

The applicant shall secure the following additional approvals prior to Site Plan Review:

- a. Coordinate with the Silver Spring Regional Service Center on the placement of the proposed way finding signs;
- b. Present the public art components to the Silver Spring CBD Art Review Panel for review and comment to be available to the Planning Board;
- c. Coordinate with the M-NCPPC staff and the Montgomery Department of Public Works and Transportation (MCDPWT) staff regarding the final design and extent of the non-standard elements as part of the proposed streetscape improvements;
- d. The applicant shall request a waiver for all non-standard elements and non-standard streetscape improvements as well as a maintenance and liability agreement with the MCDPWT;
- e. Enter into a maintenance agreement with the Silver Spring Urban District for maintenance of the streetscape improvements.

SUMMARY

By way of background, the applicant, Fidler Lane, LLC, submitted a proposal in October of 2003 for a six-story wood-frame building including 68 condo units, including 9 MPDUs. Subsequent to meetings with the community and a change in design plans by the applicant, the building design was revised to incorporate additional height and units. The original plan for the six-story building was withdrawn and considered a "closed" file and not part of the current review.

The current plan, which is the basis of this review, requests the use of the Optional Method of Development and Project Plan approval for approximately 170,000 gross floor area (gsf), including 158 condominium condo units, of which 24 (15%) will be Moderately Priced Dwelling Units (MPDUs). The Fidler Lane, LLC development proposes to construct a rectangular-shaped building centered on the unimproved site. The new building will be 139 feet in height, in accordance with the CBD-R2 Zone.

The majority of the building will be set back approximately 17 feet from the proposed curb-line on Fidler Lane and approximately 10 feet from the rear property line abutting Cameron Hill Court. The lobby and main entrance will be located in the center of the site directly on Fidler Lane with condo units primarily on the second through thirteen floors. Two of the residential units are located on the ground floor. The project is proposed as completely residential. A business center, fitness room, social room and office will also be located on the first floor. Recreation will consist of private work out areas in the fitness room and private seating areas within the pocket park and plaza.

The proposal will improve full streetscape frontage along the west side of Fidler Lane with brick sidewalks, street trees and streetlights in conformance with the Silver Spring streetscape standards. Additional streetscape improvements will continue from the subject property to the intersection with Ramsey Avenue within the Fidler Lane right-of-way. The streetscape will continue to the west along Ramsey Avenue along the frontage of Lot 5 (presently Cubanos restaurant) within the Ramsey Avenue right-of-way. Public amenity space will include expansion of the streetscape improvements from the southern terminus of Fidler Lane to the intersection with Ramsey Avenue, which lead into the covered outdoor plaza area at the front of the building and into a public plaza containing the public art. The art, specialty landscaping and special paving treatment are designed to accentuate the street and building. The plan also includes 89 underground parking spaces, of which 20 are proposed as vault spaces and require approval and acceptance from Montgomery County, via an entrance from the south end of Fidler Lane. The site is located within the boundaries of the Parking Lot District and is not required to provide the number of spaces typically required for developments outside the CBD and parking lot district. The proposed building does not provide any vehicular access from Cameron Hill Court, a private alley that serves the residents of the Cameron Hill Community.

The project plan meets all of the requirements of the zoning and findings of the project plan application. Staff recommends approval of the project and project plan.

Development Issues

1. Community Outreach

The applicant has presented the proposed development to various civic groups including the Silver Spring Chamber of Commerce, the Silver Spring Citizens Advisory Board and the Silver Spring Urban District, as requested by staff. The associations and civic groups are supportive of the proposed development, especially with respect to market-rate units, although there is concern over the amount of parking provided with the proposal and traffic generation in the surrounding area.

The applicant met with the Cameron Hill Community on numerous occasions to discuss the project plan and issues related to the building design, safety, access and parking. (See letters from the applicant and attorney to the community in Appendix B and responses from the home owner's association in Appendix C)

2. Building compatibility to adjacent properties

In context, there is a mix of architecture, height and massing within the Cameron Street, Georgia Avenue and Colesville Road corridor. The Cameron Hill Community is essentially an anomaly amid a mix of building heights that range from 3-stories to 17-stories. The adjacent office building to the east across Fidler Lane is 14-stories while the Silver Spring Metro Plaza across Second Avenue is 17-stories. Parking Garage No. 7 is a 6-level parking facility across Cameron Street. The intersection of Second Avenue and Cameron is comprised of the 5-story District Court House and the 15-story Alexander House, a high-rise residential complex. Directly across Ramsey Avenue consists of 1-story restaurants with the 15-story Twin Towers residential complex as a backdrop.

Cameron Hills Community's Concerns

The adjacent Cameron Hills Community have expressed their concerns over the height of the proposed 13-story building as it relates to their 3-story townhouses that wrap the corner of Ramsey Avenue, Cameron Street and Second Avenue. Their concerns related to proposed shadow studies they believed would impact the adjacent properties and the mass of a proposed building to the adjacent townhouses.

Applicant's Study

The applicant presented shadow studies to staff and the community, which show there is no detrimental impact on the adjacent community as a direct result of the height of the proposed building. The building is sited in a southwest to northeast orientation that corresponds to the alignment of Fidler Lane. The greatest impact of shadows from the proposed 13-story building will be in the latter parts of June and July with the greatest impact on Cameron Hill Court and two of the townhouses that have side yards to Cameron Hill Court.

3. **Parking within the Silver Spring Parking District**

The applicant is providing 89 parking spaces within the 2-level, subsurface garage for the proposed 158 residents of the project with approval from the County for vault spaces under the right-of-way. The project would only yield 69 spaces if the vault parking spaces were not approved by the Montgomery County Department of Public Works and Transportation staff and County Attorney's office. The adjacent Cameron Hills community has expressed their concern over the ratio of parking to new residents for the project and the anticipated loss of parking in garage number 7 on Cameron Street due to this development, the opening of the District Courthouse and other projects in the pipeline. The site is within the Silver Spring parking district and within 500 feet from the Silver Spring metro station. The project is not required to provide a specific amount of parking spaces due to its location within the Silver Spring Parking Lot District ("District"), allowing the County to assess fees based on the type of development and encouraging residents and patrons of the surrounding institutions to use the county parking facilities.

Community Position

The adjacent community of Cameron Hills believes that the applicant can and should provide additional parking on the site so as not to overburden public facilities and create less demand for the on-street parking on Cameron Street, Second Avenue and Ramsey Avenue currently used by the community and local restaurants on a daily basis. The community contends that with all of the current development, including the new District Courthouse, the Discovery Building and the adjacent restaurants, the parking facilities are at their full capacity.

The position of the Cameron Hill community is that the applicant should provide at least a one-to-one parking situation for the residents of the site.

Applicants Position

The applicant believes they have complied with all of the requirements and regulations for the Central Business District and the Silver Spring Parking Lot District ("District"), which does not require a specific amount of parking spaces located on the subject property. The District does assess a fee for the required spaces depending on the type of development, whether commercial or residential, that would ultimately park in the county facilities.

The proposed building is proposing 89 spaces in a two and a quarter-level underground parking structure. Given the physical dimensions of the site and the nature of the below-grade excavation, the developer, in conjunction with his consultants, believe this is the maximum parking that can be built on this site.

The location of the site, approximately 500 feet from the Silver Spring metro station, promotes smart growth for infill urban projects and provides future residents the opportunity to walk to the metro and transit station, lessening the need for the typical number of vehicle spaces per unit required outside the CBD. The applicant knows that in

order to market the site for future owners, a certain amount of parking spaces is needed, however, the location of the site to transit and adjacent county parking garages meets the demand for resident parking.

Staff Position

Staff understands the position of both the applicant and the community, but also believes that by constraining the public and private parking spaces in the CBD, promotes the County's policy under the Annual Growth Policy and promotes use of mass transit and the reduction of vehicles. This is not to say that each resident wont have two cars, but most people who choose to live in a CBD, purposely elect to live closer to transit and eliminate vehicles for cost, space and convenience.

Staff has spoken with the District facility representative at DPW&T and discussed the positions of the applicant and community. A list of the public garages within the District is attached in Appendix D, which demonstrates the capacity of the facilities during peak hours and off-peak hours of operation. The counts, which were taken from January to June of 2004 show that the facilities, specifically Garage No. 7 across Cameron Street, operate at capacity for the short term parking during peak hours. Approximately 100 spaces are open in the long-term spaces during peak hours. It should be noted that short-term parking is located on the first level and long-term parking is the remainder of the parking facility. Parking counts are not taken at night or weekends because it its irrelevant if the peak hours are below capacity. The District noted that the parking counts did not account for the opening of the new District Court House or the Portico building, but explained that when the two sites come on line and operational, the short-term and long-term parking demand for Garage No. 7 would be re-evaluated, and if necessary, adjusted to accommodate the new parking demands.

Given the information from the Parking Lot District and the proposed spaces for the subject site, staff believes the applicant is meeting their obligation of parking within the CBD and promoting smart growth within the urban environment.