






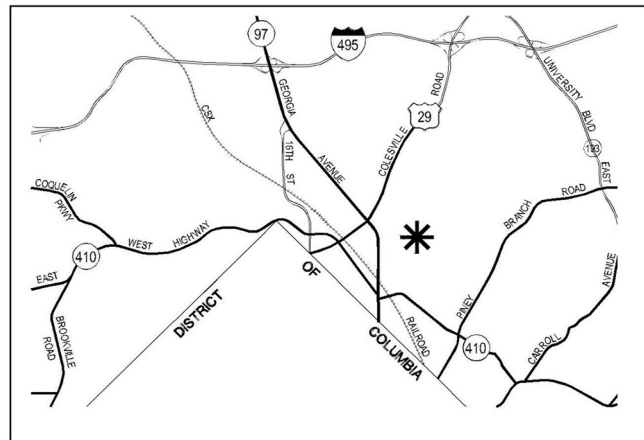
Fenton Street, Limited Site Plan Amendment 82013005B

 Matthew Folden, Planner Coordinator, Area 1, Matthew.Folden@montgomeryplanning.org, 301.495.4539
 Elza Hisel-McCoy, Supervisor, Area 1, Elza.Hisel-McCoy@montgomeryplanning.org, 301.495.2115
 Robert Kronenberg, Chief, Area 1, Robert.Kronenberg@montgomeryplanning.org, 301.495.2187

Description

Staff Report Date: 1.19.18

- Site Plan Amendment to modify multifamily and church building architecture, site design & landscaping, public art, and phase church construction;
- Located in the southeast quadrant of the Wayne Avenue and Fenton Street intersection;
- 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
- Application accepted October 6, 2017;
- Applicant: Grosvenor;
- Review Basis: Chapters 50 and 59, Montgomery County Code



Summary

- Staff recommendation: Approval of the Limited Site Plan Amendment with conditions.
- The Applications are being reviewed under the CBD Zone development standards in effect on October 29, 2014, as permitted under Section 59.7.7.1.B.3 of the Zoning Ordinance.
- Site Plan Amendment 82013005A was withdrawn prior to the Subject Application because the Applicant failed to respond to agency comments within the 120-day review period set forth in 59.7.3.4.D.1.b.
- Staff has received correspondence regarding this amendment.

SECTION 1: RECOMMENDATION AND CONDITIONS

Site Plan Amendment No. 82013005B

Staff recommends approval of Site Plan Amendment 82013005B, for changes to the approved multifamily and church building architecture, site design & landscaping, public art, and a new phased approach to the church construction. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions. Except as amended by the conditions below, the conditions approved under Site Plan 820130050, remain valid and in full effect.

11. Public Art and Amenities

- a. Provide and install the public art concept as recommended by the Art Review Panel in its letter, dated July 27, 2016, and illustrated on the Certified Site Plan.
- b. Any significant changes to the concept presented on [date] must be presented to the Art Review Panel and approved by staff before Certified Site Plan.
- c. Significant changes to the concept, as determined by staff, proposed after the Certified Site Plan will require a Site Plan Amendment.
- d. The Applicant must provide a public elevator in the public use space between Wayne Avenue and Bonifant Street to ensure a continuous accessible route.

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:

- g. Add architectural articulation and embellishment for both the water meter shed and interim Church façade on Bonifant Street
- h. Request approval from MCDOT for an additional truck restriction sign on eastbound Bonifant Street to discourage truck traffic from entering the neighborhood.
- i. Add native landscape plantings within the Bonifant Street Chicane
- j. Update the development program to reflect the phased approach.
- k. Revise the development program to address the timing of the remaining forest conservation requirements.

15. Consistent with the Planning Board's findings in approving Site Plan 820130050, the Applicant must underground all overhead utilities on the Wayne Avenue, Fenton Street, and Bonifant Street frontages prior to issuance of the final use and occupancy certificate.
16. Prior to any further land disturbing activity, such as utility connection work, the fee-in-lieu payment addressing the additional 0.01 acre afforestation requirement must be submitted.

SECTION 2: SITE DESCRIPTION

Site Vicinity

The Subject Property is located in the southeast quadrant of the Fenton Street and Wayne Avenue intersection, with a third frontage on Bonifant Street. Adjacent and confronting uses include single family homes, the Silver Spring Library, and assorted commercial uses. The site is within one ½ mile of the Silver Spring Metro Station on the edge of Downtown Silver Spring and East Silver Spring and is across the street from the proposed Silver Spring Library Purple Line station.

The subject site is split-zoned CBD-1, CBD 0.5, and R-60¹, with the Fenton Village Overlay Zone over the CBD-1 portion. It is currently under construction to implement the multifamily and church buildings approved through Site Plan 820130050. The Site has buildings that front directly onto Wayne Avenue, Fenton Street, and Bonifant Street with parking provided in a below-grade structured garage, accessed from Bonifant Street. There are no known rare, threatened, or endangered species on site.

Site Analysis

The Subject Property consists of two recorded lots, one for the multi-family building and one for the church. The Subject Property is currently under construction to build the Project approved through Site Plan 820130050, which includes a multi-family building and church. The Subject Property contains no forest, and there are no streams or wetlands onsite. The site is located within the Sligo Creek watershed.

¹ The CBD-1 and TS-M zones are being referenced here because Site Plans 820010130 and 820010210 were submitted prior to the adoption of the 2014 Zoning Ordinance that changed the zones.

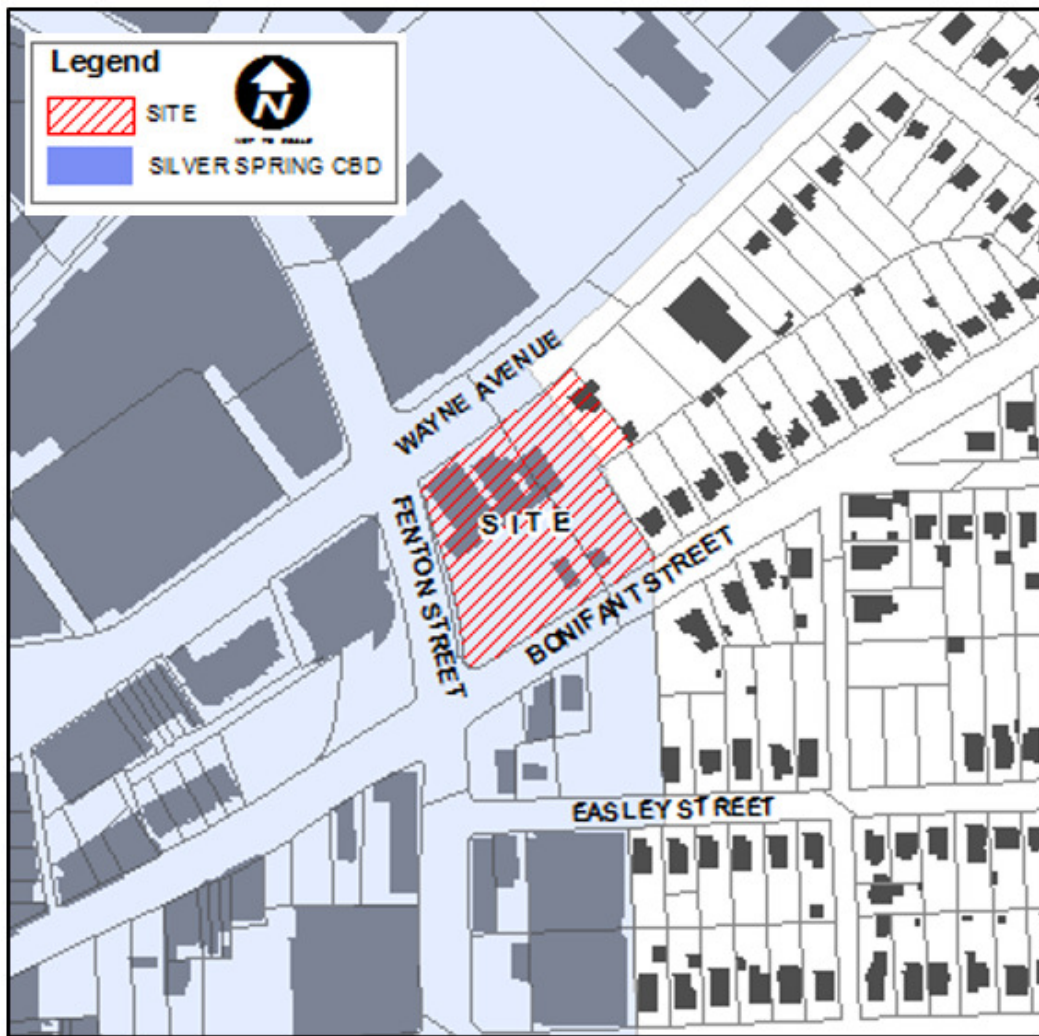


Figure 1 – Vicinity Map



Figure 2 – Site Photo
(Fenton Street, looking south)

SECTION 3: PROJECT DESCRIPTION

Previous Approvals

On July 16, 2012, the Planning Board approved Project Plan 920120020 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.

On February 28, 2013, the Planning Board approved Preliminary Plan 120120130 for two lots on 2.69 acres of land for up to 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.

On March 21, 2013, the Planning Board approved Site Plan 820130050 for 18,650 square feet of retail, a maximum of 259 dwelling units, including 12.5% MPDUs, and 29,228 square feet of institutional use for a religious institution.

The Applicant submitted Site Plan Amendment 82013005A, which the Planning Department withdrew prior to the Subject Application because the applicant failed to respond to agency comments within the 120-day review period set forth in 59.7.3.4.D.1.b.

Proposal

A summary of the modifications proposed in the Subject Amendment are listed below. All other elements of the previously approved Site Plans remain unchanged.

1. Modifications to the Public Art
2. Changes to the church building
 - a. Phase construction of the church (two phases)
 - b. Addition of an interim water meter shed (Phase I) along the Bonifant Street frontage
 - c. Slight rotation of the building footprint to meet fire department access requirements
3. Changes to the multifamily building
 - a. Addition of a rooftop terrace
 - b. Addition of a generator flue pipe adjacent to the transformers near the southeast corner of the building
4. Changes to public space/ rights-of-way
 - a. Paseo and Playground
 - i. Minor landscape and hardscape revisions
 - ii. Pole-mounted light redesign
 - b. Bonifant Street
 - i. Limited reduction in sidewalk width to accommodate a gas utility feature
 - ii. Elimination of storm drain inlet at the corner of Bonifant Street/ Fenton Street
 - c. Fenton Street
 - i. Paver redesign to extend Silver Spring streetscape to the bus stop.

Modifications to the Public Art

The Applicant proposes modifications to the public art, including a relocation within the Paseo (Figure 3) and a replacement of the approved art piece with a new sculpture. The original art piece, “Wingspire,” was located on the southern third of the Paseo and was envisioned as a vertical wing-shaped spire of glass. This art piece was ultimately not provided by the artist and a new artist and art piece were sought out as a replacement.

The revised art piece was presented to the Art Review Panel reviewed on January 18, 2017. Designed by Baltimore sculptor Rodney Carroll, the sculpture is a 30-foot tall abstract stainless-steel work that measures approximately 10-feet in diameter. The piece will maximize views from a distance and will not visually or physically block the plaza (Figure 4). The Art Panel recommended approval of the Applicant’s requested change to both the location and design of the art piece (Attachment A).

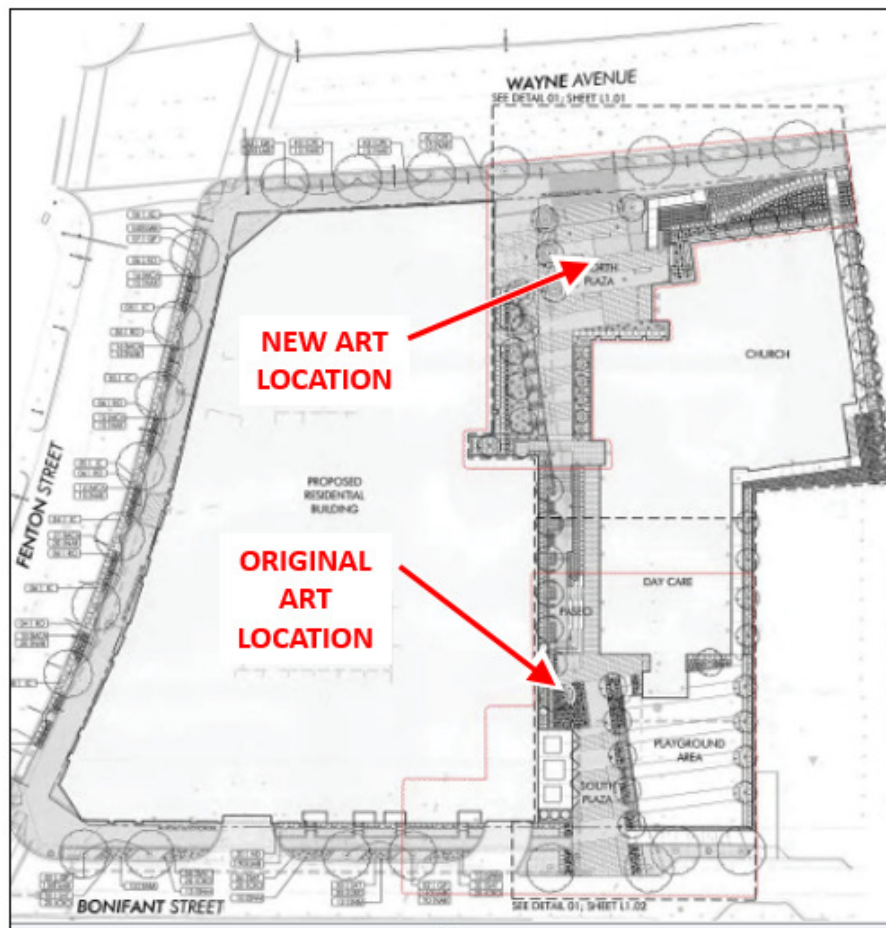


Figure 3 – Relocation of Public Art

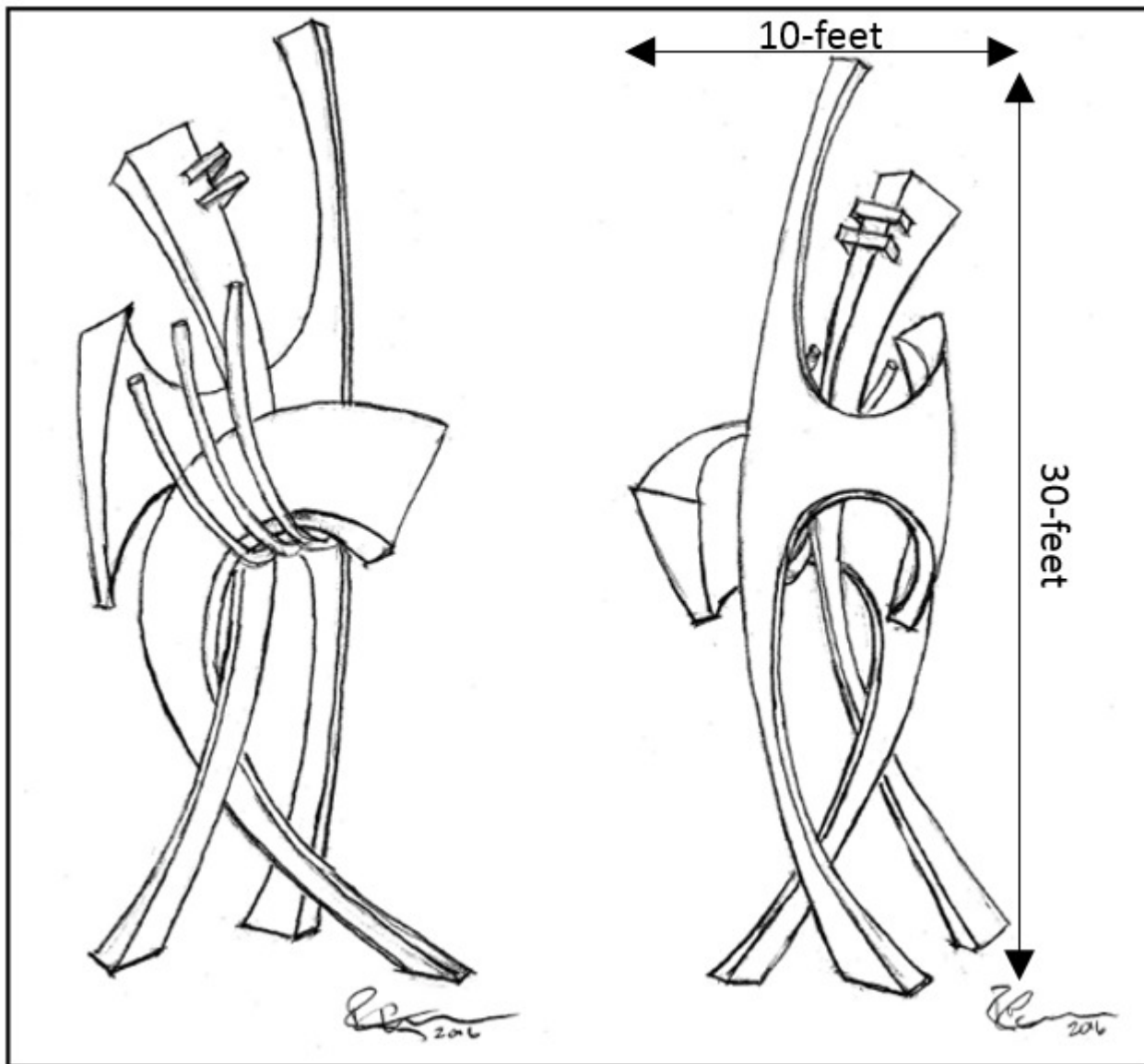
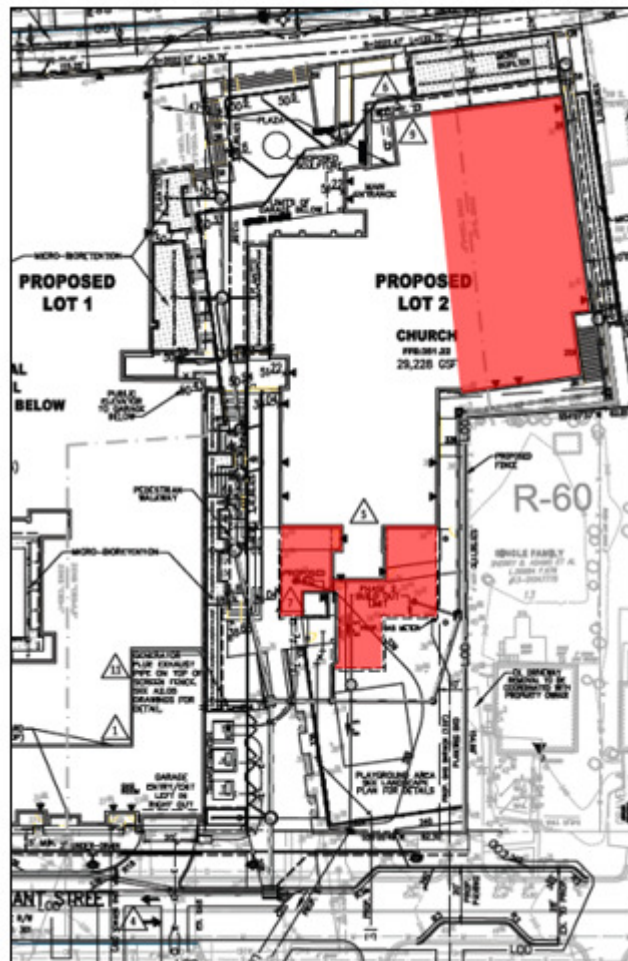


Figure 4 – Proposed Public Art

Changes to the church building

Due to funding constraints, the Church is deferring construction of its large sanctuary to an undetermined time in the future. In response to this change, the Applicant is requesting to construct the church in two phases, the first of which is currently under construction and comprises the Wayne Avenue façade, chapel, playground, and majority of the church footprint at the ground level. Phase II will build upon the Phase I footprint and will include a small expansion on the Bonifant Façade to construct the previously approved church building, including the sanctuary.



The current FFCP amendment was submitted through Eplans on January 5, 2018 (Attachment C). This latest version of the plan is similar to the previous approval, except for expansions of the limits of disturbance (LOD) for various utility work, which has increased the net tract area and affected additional variance trees. Additionally, the plans more accurately reflect the locations of two variance trees on the south side of Bonifant Street. As a result of the expanded LOD and corrected tree locations, the Project's afforestation requirement is now 0.41 acres.

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. Unless the variance is granted, the law requires no impact to trees that measure 30 inches diameter at breast height (DBH) or greater; are part of a historic site or designated with a historic structure; 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. The affected resources that have been identified on the current plan includes trees with a DBH of 30 inches or greater. The Applicant submitted the variance request package through Eplans on January 5, 2018, for the impacts of the subject trees (Attachment D). The Applicant's current request is to impact (but retain) four trees considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

Table 1: Variance Trees Proposed for Impact

Tree	Scientific / Common Name	D.B.H (inches)	Field Condition	Disposition	CRZ Impacts (%)	Justification
3	<i>Acer saccharinum/</i> <i>sugar maple</i>	56	Fair/Good	Impact/Save	29.3*	Minor adjustment to LOD in ROW/ correction of tree location.
4	<i>Quercus rubra/</i> <i>red oak</i>	48	Good	Impact/Save	32.9*	Minor adjustment to LOD in ROW/ correction of tree location.
12	<i>Quercus palustris/</i> <i>pin oak</i>	37	Good	Impact/Save	4.5	Utility connection in ROW
13	<i>Quercus palustris/</i> <i>pin oak</i>	37	Good	Impact/Save	1.6	Utility connection in ROW

* Most of the impacts to trees 3 & 4 (which are on the south side of Bonifant Street) were previously approved, but are fully included now to address the corrected tree locations and minor shifting of the LOD.

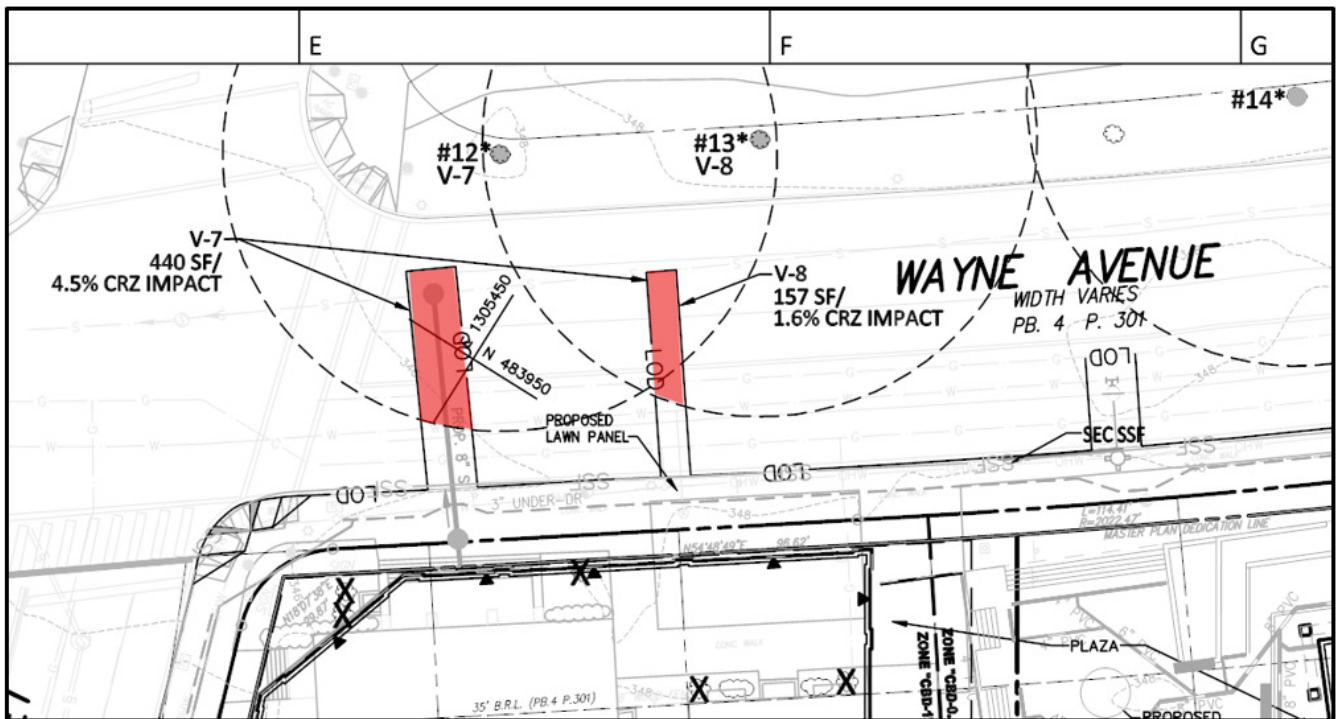


Figure 6 – Impacts to Trees 12 & 13 in Wayne Avenue ROW

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. In addition to the required findings outlined numerically below, Staff has determined that the Applicant has demonstrated that enforcement of the variance provision would result in an unwarranted hardship because the subject trees are all located in ROW on opposite sides of development. Although the trees' CRZs are technically affected by the LOD as shown in the plan view, few if any roots would actually be affected by the proposed work.

Variance Findings

Staff determined the following based on the required findings that granting of the requested variance:

1. *Will not confer on the Applicant a special privilege that would be denied to other Applicants.*

The impacts are avoided/minimized to the greatest extent possible (little or no impacts will occur) and are largely associated with utility work within the built ROW where such impacts are anticipated. Therefore, the variance request would be granted to any Applicant in a similar situation.

2. *Is not based on conditions or circumstances which are the result of actions by the Applicant;*
The requested variance is based on proposed development allowed under the existing zoning and the need to achieve appropriate utility connections. The variance can be granted under this condition if the impacts are avoided or minimized and that any necessary mitigation is provided. In this case, the impacts proposed are on the opposite side of the existing roadways where there would be few if any actual roots of the subject tree.
3. *Is not based on 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 utility modifications in the ROW that is included within the net tract area of this project and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality. The Department of Permitting Services (DPS) staff approved the stormwater management (SWM) concept for the project. Additionally, the subject area is not directly associated with any streams, wetlands or related buffers. Furthermore, there would be few if any actual roots of the subject tree growing on the opposite side of the existing roadway and the canopy of the trees will not be affected. Therefore, the minor changes/temporary impacts to the rights-of-ways relative to the subject trees will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance

Staff does not recommend mitigation plantings for variance trees that are retained and not overly impacted.

County Arborist Recommendation

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. The Applicant's request was forwarded to the County Arborist on January 18, 2018.

Staff expects that the County Arborist's response to the variance request will be available prior to the Planning Board hearing and will present the Arborist's response at that time, however, Staff notes the hearing date is scheduled prior to the close of the Arborist's 30-day review period. If the Arborist's response is not available at the time of the hearing, the Planning Board cannot act on the variance request (per Montgomery County Code Section 22A-21(c) and should defer the hearing until the Arborist issues a formal response to the Applicant's request.

Staff Recommendation on Variance

As a result of the above findings, Staff recommends the Board approve the Applicant's request for a variance from Forest Conservation Law associated with impacts to four subject trees.

Community Outreach

The Applicant has complied with all submittal and noticing requirements. Planning Staff met with representatives from the East Silver Spring Civic Association (ESSCA) to discuss the scope of the Subject Application and consistency of the elements proposed in the Amendment with the original approval. As a result of that meeting, the ESSCA representatives requested that the Bonifant Street façade be treated as a third "front" of the building and Bonifant Street look more residential to fit within the context of the surrounding neighborhood, including:

1. Church Building
 - a. Additional architectural detail on the interim church façade and water meter shed,
2. Residential Building
 - a. A mutually agreeable resolution to the cornice on the middle façade on Bonifant,
 - b. Additional architectural detail (e.g. ornamental railings and landscaping) on the residential entrances,
 - c. Enhancement of the garage door to better match the surrounding context,

- d. Additional truck restriction signage opposite the residential loading bay and Bonifant Street chicane (to discourage eastbound non-residential truck traffic from entering the neighborhood).

3. Bonifant Street

- a. Native species landscaping within the Bonifant Street chicane.

Staff has addressed some of the comments raised by ESSCA through the recommended conditions (i.e. architectural treatment of the interim Bonifant Street façade, provision of truck restriction signage, and native species planting within the Bonifant Street chicane), however, the community's concerns regarding the architectural treatment of the garage doors, residential entrances, and residential building cornice are beyond the scope of the subject Site Plan Amendment and cannot be addressed at this time.

SECTION 4: SITE PLAN AMENDMENT ANALYSIS AND FINDINGS

Section 7.7.1.B.3.a. of the Zoning Ordinance allows for an Applicant to amend any previously approved application under the development standards and procedures of the property's zoning on October 29, 2014, if the amendment: (i) does not increase the approved density or building height unless allowed under Section 7.7.1.C; and (ii) either: (a) retains at least the approved setback from property in a Residential Detached zone that is vacant or improved with a Single-Unit Living use; or (b) satisfies the setback required by its zoning on the date the Amendment or the permit is submitted. The Application complies with this section and accordingly, the Applicant seeks to amend the Site Plan approval under the standards of Section 59-C-2.42 of the Zoning Ordinance in effect on October 29, 2014. As amended, the Project remains consistent with the findings and conditions made with the approval of Site Plan 820130050, which remain valid and in full effect.

The Planning Board found that Site Plan 820130050 was consistent with Project Plan 920120020, met the requirements of the CBD-1, CBD 0.5, R-60, and Fenton Village Overlay zones; satisfied Forest Conservation and water quality requirements and complied with other applicable regulatory requirements. The Planning Board further determined that the Project was compatible with other uses and other site plans when considering existing and proposed adjacent development.

The project complies with the general requirements and development standards of the Zoning Ordinance, Subdivision Regulations and substantially conforms with the goals and recommendations of both the 2000 *Silver Spring Central Business District Sector Plan* and 2000 *North and West Silver Spring Master Plan*. The elements of the proposed Site Plan Amendment No. 82013005B, including all buildings, structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems, remain safe, adequate, and efficient.

CONCLUSION

Staff recommends approval of Site Plan Amendment No. 82013005B with the conditions specified at the beginning of this report.

ATTACHMENTS

Attachment A: Art Review Panel Memorandum

Attachment B: Site Plan Resolution 820130050

Attachment C: Final Forest Conservation Plan Amendment

Attachment D: Forest Conservation Variance Request



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

FROM: Molline Jackson,
Public Art Coordinator

PROJECT: 8415 Fenton Street (aka Central)
Site Plan No. 82013005A

DATE: February 21, 2017

The project was reviewed by the Art Review Panel on January 18, 2017. The following meeting minutes summarize the Applicant's presentation, our discussion, and recommendations regarding the public art for the public benefits package. The Panel's final recommendations should be incorporated into the Staff Report and strongly considered by Staff prior to the certification of the Site Plan and/or prior to the release of the first building permit. Should you have any additional questions and/or comments please feel to contact the Public Art Coordinator.

Attendance:

Molline Jackson (Public Art Coordinator)
Judy Sutton-Moore (Panelist)
Mark Kramer (Panelist)
Ralph Bennett (Panelist)
Germano Gomez (Panelist)
Suzan Jenkins (Arts & Humanities Council CEO)

Applicant's Development Team

Bill Landfair (Engineer)
Rodney Carroll (Artist)
Cory Greans (Applicant)

Meeting Notes:

1. The Central project is located at 8415 Fenton Street in Silver Spring, MD. The development is proposing to construct 214,799 sf. (243 residential units) and 16,950 sf. of retail space with 11% of the net tract area designated as public use space.
2. The subject property is zoned CBD-1 (1.43 acres), CBD-0.5 (1.02 acres), and R-60 (0.215 acres); the gross tract area is 2.69 acres.
3. The public amenities include a public paseo and a playground facility.
4. The public artwork was originally presented to the Art Review on January 30, 2013. Based on their initial proposal, the public artwork has been relocated. The new location of the artwork is located at the entrance of the public paseo along Wayne Avenue in the northeast corner of the property.

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molline.jackson@MontgomeryPlanning.org
www.montgomeryplanning.org

5. Regardless of the relocation, the artwork is still intended to be a landmark feature that draws attention to the public use space.
6. The southern plaza is activated by the child care facility and the playground.
7. The artwork is a stainless-steel sculpture; 27-feet tall and approximately 8-feet wide.
8. The artwork in combination with the design of the public use space will create a destination for the local community.

Panel Recommendations/ Conditions of Approval:

1. The new location and configuration still achieve the initial goals and objectives established in the original proposal. This sculpture is a landmark in the community and will attract pedestrians from the adjacent neighborhoods and the streetscape. The Panel recommends approval of the modification to the public artwork.
2. The Applicant will incorporate adequate lighting and signage near the base of the structure.
3. The Certified Site Plan will include specific site details associated with the installation of the sculpture, lighting and appropriate signage. The site details will include the overall dimensions, prescribed materials, necessary lighting fixtures, footers, and fasteners to ensure adequate safety and proper inspection of the artworks by the Arts and Humanities Council of Montgomery County ("AHCMC") and Montgomery County Department of Permitting Services ("DPS"). The Panel recommends that the site details of the artwork be drawn by a certified professional.
4. Signage of the newly installed artworks should be clearly visible, specifically identifying the title of the piece, artist name, materials, completion date, and overall dimensions.
5. Prior to final inspection of the public artwork(s), the Applicant must submit to the Public Art Coordinator with the Maryland – National Capital Park and Planning Commission at least three images of the artwork(s) on-site and information regarding the 1) associated project number, 2) title of the piece, 3) date of completion, 4) description of materials used, and 5) address. This information will be added to the existing inventory of the public artworks throughout the County (<http://www.mcatlas.org/art/>).



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

Agenda Date: April 25, 2013

Agenda Item No.: 1

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Rose Krasnow, Acting Planning Director

VIA: Robert Kronenberg, Acting Chief, Area One
Neil Braunstein, Planner Coordinator, Area One

Re: Resolution for Site Plan No. 820130050,
MCPB No. 3, 8415 Fenton Street

Attached, please find a redlined version of the Resolution for Site Plan No. 820130050, 8415 Fenton Street. The Resolution was adopted by the Planning Board at the March 21, 2013, Planning Board Hearing. Because this resolution has not been mailed it will not be titled as a corrected resolution. This redlined version of the Resolution addresses errors on pages 2 and 5 of the original Resolution.

The correction addresses 1. Project Plan Conformance a., b., and c., under *Conformance with Previous Approvals* on page 2 of the Resolution. This condition incorrectly refers to certain requirements as stemming from the project plan approval. The revised resolution either deletes those statements entirely as duplicative, or restates them elsewhere in the conditions. A reference to the Silver Spring Streetscape Standards was added to the condition regarding installation of sidewalks, street lights and street furnishings. This standard reference was inadvertently left out of the original Resolution.

cc: Carol Rubin, Associate General Counsel



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

MAY 17 2013

MCPB No. 13-26
Site Plan No. 820130050
8415 Fenton Street
Date of Hearing: February 28, 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on October 23, 2012 Fenton Development, LLC ("Applicant")¹ filed an application for approval of a site plan for a mixed-use development consisting of 259 dwelling units with 12.5% MPDUs, 18,650 square feet of retail, and 29,228 square feet of institutional use (church) on 117,416 gross square feet (2.7 acres) of CDB-1, CBD-0.5, R-60, and Fenton Village Overlay zoned land in the 2000 Silver Spring CBD Sector Plan area and the 2000 North and West Silver Spring Master Plan area, located at the intersection of Wayne Avenue and Fenton Street; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820130050, 8415 Fenton Street; and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board dated February 15, 2013 setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on February 28, 2013 the Planning Board held a public hearing on the Application, where it heard testimony and received evidence about the Application; and

WHEREAS, at the Hearing, the Planning Board voted to approve the Application subject to certain conditions, by motion of Commissioner Anderson and seconded by Commissioner Presley, by a vote of 5-0;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820130050 for a mixed-use development composed of 259 dwelling units with

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

Approved as to
Legal Sufficiency

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

12.5% MPDUs, 18,650 square feet of retail and 29,228 square feet of institutional use (church) on 117,416 gross square feet (2.7 acres), subject to the following conditions:²

Conformance with Previous Approvals

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for Project Plan No. 920120020 as listed in the Planning Board resolution dated August 15, 2012.

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 specimen trees 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.

² 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.

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, 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 of the total number of units on-site as MPDUs 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, street furniture and sidewalks must be installed per the Silver Spring Streetscape standards for Wayne Avenue, Fenton Street and Bonifant Street within six months after street construction is completed. Street tree planting may wait until the next growing season.
- b. On-site amenities including, but not limited to, sidewalks, benches, trash receptacles, and bicycle facilities must be installed prior to release of a use and occupancy permit.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. 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.
- f. Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
- g. 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.
- f. Provide final details and specifications of the recreation facilities in accordance with the Recreation Guidelines.

BE IT FURTHER RESOLVED, that all site development elements as shown on 8415 Fenton Street drawings stamped by the M-NCPPC on January 28, 2013, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Site Plan conforms to all non-illustrative elements and is consistent with an approved project plan for the optional method of development:*

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 zones in which it is located:*

The residential, retail and institutional uses are allowed in the CBD-1 and CBD-0.5 Zones, the Fenton Village Overlay Zone and the R-60 Zone, as demonstrated in the data table on page 22. 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 site plan fulfills the purposes of the Fenton Village Overlay Zone by providing residential development compatible with adjacent residential and commercial uses in the Silver Spring Central Business District.

Requirements of the CBD-0.5, CBD-1.0 R-60 and Fenton Village Overlay Zones

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the CBD-0.5, CBD-1.0 R-60 and Fenton Village Overlay Zones.

Data Table

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	3088
Gross Tract Area	18,000	117,412
Density		
CBD-1: Floor Area Ratio	3.0	3.06
Allowable S.F.	189,885	192,915
CBD-0.5: Floor Area Ratio	1.5	0.87
Allowable S.F.	67,117	50,636
Total CBD Density:	257,002	254,069
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	2.375
Public Use Space (% of net lot)		
On-Site Public Use Space	20	22.51

Development Standard	Permitted/ Required	Proposed for Approval and Binding on the Applicant
Off-Site Public Facility and Amenity Space	n/a	17.10
Total Public Use, Facility & Amenity Space	20	39.64
Parking		
MPDU'S		
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 29,228 sf @ XX	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 the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a. **Buildings and Structures**

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 passageway, between Wayne Avenue and Bonifant Street. 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 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.

b. Open Spaces

The development will provide an 18,375 square foot open space, not including the 1,200 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 an 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. Benches and bicycle facilities are provided. 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.

c. Landscaping and Lighting

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.

d. Vehicular and Pedestrian Circulation

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 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 and, Chapter 19 regarding water resource protection.

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. The forest conservation plan calls for removing three (3) specimen trees. In addition, one (1) 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 (2) 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 roofs and biofiltration systems.

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

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 7 2013 (which is the date that this resolution is mailed to all parties of record); and

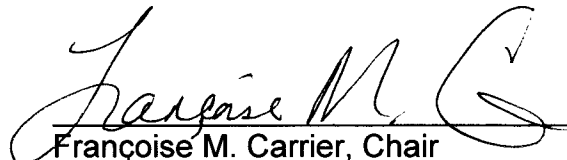
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, April 25, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board

E-FILE STAMP

GENERAL NOTES:

1. THE SUBJECT PROPERTY IS 2.05 ACRES AND IS ZONED 'CBD-1' (1.01 AC), 'CBD-0.5' (0.86 AC) AND 'R-60' (0.18 AC) AS SHOWN HEREON. THE TOTAL TRACT AREA INCLUDES 0.65 ACRES OF OFF-SITE DISTURBANCE FOR A TOTAL OF 2.7 ACRES.
2. THE SUBJECT PROPERTY IS LOCATED ON TAX ASSESSMENT MAP NO. JN33 AND IS COMPRISED OF THE FOLLOWING LOTS AND CORRESPONDING TAX ACCOUNT NO.'S:

13-01041095

PART OF LOT 14

13-01041084

PART OF LOT 14 AND ALL OF LOT 15

13-01041118

LOT 16

13-01041107

LOT 17, 18 AND PART OF LOT 19

13-01046281

PART OF LOT 20 AND ALL OF LOTS 21 & 22

13-01046292

LOT 23

13-01041073

LOT 24

13-01044863

LOT 25
- THE PROPOSED DEVELOPMENT WILL COMBINE & SUBDIVIDE THE PROPERTIES LISTED ABOVE INTO TWO LOTS. SEE PRELIMINARY PLAN FOR PROPOSED LOTTING DIAGRAM.
- THE PROPOSED LAND USE CATEGORY FOR THE SUBJECT PROPERTY IS MPD (MIXED-USE DEVELOPMENT AREA).
3. THE SUBJECT PROPERTY IS LOCATED ON TAX ASSESSMENT MAP JN33 AND WSSC MAP 210NW01.
4. THE SUBJECT PROPERTY WAS FIELD SURVEYED BY VIKI, INC., JUNE, 2007.
- THE HORIZONTAL DATUM IS MARYLAND STATE GRID NORTH (NAD83/91) AND THE VERTICAL DATUM IS NGVD29 AS BASED ON THE FOLLOWING NGS CONTROL STATIONS:

5. NGS CONTROL POINT GAITHERSBURG CORS (PID) AA3495 WSSC CONTROL STATION 20662 - BRASS DISK AT CORNER OF RTE 29 AND GEORGIA AVE. NORTH 484,143.674 EAST 1,304,251.723 ELEVATION 336.046

6. WSSC CONTROL STATION 19804 - USCG&S DISK IN TOP OF RETAINING WALL ON WEST SIDE OF GEORGIA AVE. NORTH 481,893.708 EAST 1,304,695.767 ELEVATION 342.043
7. THE SUBJECT PROPERTY IS LOCATED IN ZONE "X" (AREA OF MINIMAL FLOODING) AS SHOWN ON FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 240031C0460D FOR MONTGOMERY COUNTY, MARYLAND DATED SEPTEMBER 29, 2006.
8. THIS PLAN IS SUBJECT TO NRI/FSD # 420120030, APPROVED SEPTEMBER 15, 2011.
9. THE SUBJECT PROPERTY IS NOT IDENTIFIED IN THE MONTGOMERY COUNTY LOCAL ATLAS AND LIST OF HISTORIC SITES.
10. THERE ARE NO WATERS OF THE UNITED STATES, 100 YEAR FLOOD PLAINS, WETLANDS OR THEIR ASSOCIATED BUFFERS LOCATED ON THE SUBJECT PROPERTY. THIS SITE IS NOT WITHIN AN SPA OR PMA.
11. THE SUBJECT PROPERTY IS LOCATED IN THE SLIGO CREEK WATERSHED, A CLASS I STREAM.
12. THERE IS ONE SOIL TYPE ON THE PROPERTY - 400 URBAN LAND.
13. THERE ARE NO FORESTED AREAS LOCATED ON THE SUBJECT PROPERTY AS DEFINED BY MONTGOMERY COUNTY FOREST LEGISLATION.
14. THERE ARE NO CHAMPION TREES OR ANY TREES 75% OF THE STATE CHAMPION ON OR WITHIN 100' OF THE SUBJECT PROPERTY.
15. THE WILDLIFE AND HERITAGE DIVISION OF THE MD DNR HAS DETERMINED THAT THERE ARE NO STATE OR FEDERAL RECORDS FOR RARE, THREATENED OR ENDANGERED SPECIES WITHIN THE BOUNDARIES OF THE PROJECT SITE PER LETTER DATED JULY 27, 2011.
16. THERE ARE NO STEEP SLOPES WITHIN THE SUBJECT PROPERTY.
17. ALL TREES 6" OR GREATER DBH WITHIN 25' OF EITHER SIDE OF THE PROPOSED LOD HAVE BEEN SURVEYED.

SURVEY LEGEND:

PROPERTY LINES

EXISTING ZONING LINES

CABLE TELEVISION CONDUIT

ELECTRICAL CONDUIT

EDGE OF PAVEMENT

FENCE LINE

NATURAL GAS CONDUIT

OVERHEAD WIRES

TELEPHONE/COMMUNICATIONS CONDUIT

PUBLIC UTILITIES EASEMENTS

SANITARY SEWER CONDUIT

STORM DRAIN CONDUIT

WATER CONDUIT

UTILITY POLE

SANITARY MANHOLE

TRAFFIC CONTROL BOX

TRAFFIC SIGNAL POLE

TREE

CABLE TELEVISION PEDESTAL

UNKNOWN UTILITY MANHOLE

WATER METER

WATER MANHOLE

WATER VALVE

BOLLARD

SIGN POST

15"RCP

LOD

TP-RP

400

10' CONTOUR

2' CONTOUR

WATER LINE

SANITARY SEWER W/STRUCTURE

STORM DRAIN PIPE W/ MANHOLE & INLET

PROPOSED RIGHT OF WAY

DOOR LOCATION

CONCRETE CURB & GUTTER

RETAINING WALL

PEDESTRIAN LIGHTS

LIMITS OF DISTURBANCE

ROOT PRUNING TRENCH AT TREE PROTECTION FENCE

TREE PROTECTION SIGNAGE

SOILS

EXISTING TREE LESS THAN 24" DBH TO BE REMOVED

CRITICAL ROOT ZONE OF TREE ≥24" DBH

15"RCP

LOD

TP-RP

400

10' CONTOUR

2' CONTOUR

WATER LINE

SANITARY SEWER W/STRUCTURE

STORM DRAIN PIPE W/ MANHOLE & INLET

PROPOSED RIGHT OF WAY

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10' CONTOUR

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TREE PROTECTION SIGNAGE

SOILS

EXISTING TREE LESS THAN 24" DBH TO BE REMOVED

CRITICAL ROOT ZONE OF TREE ≥24" DBH

PROPOSED LEGEND:

15"RCP

LOD

TP-RP

400

10' CONTOUR

2' CONTOUR

WATER LINE

SANITARY SEWER W/STRUCTURE

STORM DRAIN PIPE W/ MANHOLE & INLET

PROPOSED RIGHT OF WAY

DOOR LOCATION

CONCRETE CURB & GUTTER

RETAINING WALL

PEDESTRIAN LIGHTS

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LOD

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10' CONTOUR

2' CONTOUR

WATER LINE

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10' CONTOUR

2' CONTOUR

WATER LINE

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10' CONTOUR

2' CONTOUR

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STORM DRAIN PIPE W/ MANHOLE & INLET

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TREE PROTECTION SIGNAGE

SOILS

EXISTING TREE LESS THAN 24" DBH TO BE REMOVED

CRITICAL ROOT ZONE OF TREE ≥24" DBH

SOILS LEGEND

SYMBOL	SOIL	PRIME AGRICULTURE	ERODIBLE	SERPENTINITE	HYDRIC	K FACTOR
400	URBAN LAND	--	--	--	--	--

DEVELOPER'S CERTIFICATE

THE UNDERSIGNED AGREES TO EXECUTE ALL THE FEATURES OF THE APPROVED FINAL FOREST CONSERVATION PLAN NO. 82013005B INCLUDING FINANCIAL BONDING, FOREST PLANTING, MAINTENANCE, AND ALL OTHER APPLICABLE AGREEMENTS.

DEVELOPER'S NAME: FENTON DEVELOPMENT, LLC c/o GROSVENOR AMERICAS

CONTACT PERSON: JON CARR

ADDRESS: 1701 PENNSYLVANIA AVENUE, NW SUITE 1050 WASHINGTON, DC 20006

PHONE: (202) 777-1265

SIGNATURE: JON CARR DATE

PROFESSIONAL CERTIFICATION:

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED REGISTERED LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MARYLAND.

SIGNATURE: JOSHUA SLOAN, RLA, ASLA DATE: MAY 13, 2018
PRINTED NAME: ASSOCIATE EXPIRATION DATE
LICENSE No. 3776

FINAL FOREST CONSERVATION PLAN
FENTON STREET
M-NCPPC FCP # 82013005B
APPLICANT: FENTON DEVELOPMENT, LLC
C/O JOSH ADLER

ENVIRONMENTAL SUMMARY

ACREAGE OF TRACT (2.05 + 0.65 OFF-SITE IMPACTS)	2.70
ACREAGE OF TRACT REMAINING IN AGRICULTURAL USE	0.00
ACREAGE OF ROAD & UTILITY ROW'S WHICH WILL NOT BE IMPROVED AS PART OF DEVELOPMENT APPLICATION	0.00
ACREAGE OF STREAM VALLEY BUFFER	0.00
ACREAGE OF TOTAL EXISTING FOREST	0.00
ACREAGE OF TOTAL FOREST RETENTION	0.00
ACREAGE OF TOTAL FOREST CLEARED	0.00
LAND USE CATEGORY & CONSERVATION & AFFORESTATION THRESHOLDS SEC. 22A-12(a) FOREST CONS. LAW	CIA: 15% / 15% HDR: 15% / 20% MPD: 15% / 20%
ACREAGE OF FOREST RETAINED, CLEARED, & PLANTED WITHIN WETLANDS	Retained: 0.00 Cleared: 0.00 Planted: 0.00
ACREAGE OF FOREST RETAINED, CLEARED, & PLANTED W/IN 100-YR FLOODPLAINS	Retained: 0.00 Cleared: 0.00 Planted: 0.00
ACREAGE OF FOREST RETAINED, CLEARED, & PLANTED WITHIN STREAM BUFFERS	Retained: 0.00 Cleared: 0.00 Planted: 0.00
ACREAGE OF FOREST RETAINED, CLEARED, & PLANTED WITHIN PRIORITY AREAS	Retained: 0.00 Cleared: 0.00 Planted: 0.00
LINEAR FEET AND AVERAGE WIDTH STREAM BUFFER PROVIDED	Linear Feet: 0.00' Average Width: 0.00'

AFFORESTATION/REFORESTATION CREDIT:

AFFORESTATION/REFORESTATION REQUIRED	AC
PROPOSED FOR FEE-IN-LIEU	0.41
REMAINING REQUIREMENT	0.00

SEE FOREST CONSERVATION WORKSHEETS SHEET FCP-2

FENTON STREET

Silver Spring, Maryland

Applicant/Owner:
Fenton Street Apartments, LLC
1701 Pennsylvania Avenue, NW Suite 1050
Washington, DC 20006
Phone: 202.777.1265
Contact: Don Capobres & Scott Brody

Attorney:
Linowes & Blocher
7200 Wisconsin Avenue, Suite 800
Bethesda, MD 20814
Phone: 301.961.5124
Contact: Scott Wallace

Civil Engineer:
VIKA
20251 Century Boulevard, Suite 400
Germantown, MD 20874
Phone: 301.916.4100
Contact: William Landfair

Architects:
SK&I Architectural Design Group, LLC
7735 Old Georgetown Road, Suite 1000
Bethesda, MD 20814
301.654.9300
Contact: Federico Olivera Sala

Dimensional Dynamics
455 Old Baltimore Pike
Chadds Ford, PA 19317
610.388.0755
Contact: John Rosecrans

Landscape Architects:
Parker Rodriguez
101 N. Union Street, Suite 320
Alexandria, VA 22314
703.548.5010
Contact: Trini Rodriguez

Traffic Engineer:
The Traffic Group
9900 Franklin Square Dr., Suite 260
Baltimore, MD 21236
410.931.6600
Contact: Glenn Cook

Dry Utility Engineering:
Richter & Associates
15865 Crabbs Branch Way
Rockville, MD 20855
301.548.7475
Contact: Steve Richter

DRAWN BY:	CHECKED:	DATE
6	AMENDMENT 'B' RESPONSE TO COMMENTS	1/5/18
5	AMENDMENT 'B' RESPONSE TO COMMENTS	11/22/17
4	AMENDMENT 'B' INITIAL SUBMISSION	9/12/17
3	CSP FORMAL SUBMISSION	12.6.2013
2	CSP INITIAL SUBMISSION	10.4.2013
1	FINAL SUBMISSION	10.19.2012
NO.	DESCRIPTION	DATE
SUBMISSIONS & REVISIONS		
SHEET TITLE		

FINAL FOREST CONSERVATION PLAN

SCALE	DATE	PROJ.#
1" = 30"	5.10.2012	VM1468F

SITE PLAN

DRAWING #

FCP-1

82013005B

January 9, 2013

July 19, 2017

January 5, 2018

Marco Fuster
 Area 1
 Montgomery County Planning Department
 8787 Georgia Avenue, 2nd Floor
 Silver Spring, MD 20910

**Re: Forest Conservation Variance Request
 Fenton Street Final FCP #82013005B
 NRI #420120030
 VIKA #VM1468F**

Dear Mr. Fuster:

On behalf of the applicant, Grosvenor Americas, c/o Don Capobres, we are submitting this Tree Variance Request to comply with the Natural Resources, Title 5, Section 5-1607 of the Maryland Code that requires the Applicant to file for a variance to remove or impact any tree greater than 30" in diameter-at-breast-height (dbh), any tree with a dbh equal to or greater than 75% of the current state champion, trees that are part of an historic site or associated with an historic structure, any tree designated as the county champion tree, any tree, shrub or plant identified on the rare, threatened or endangered list of the U.S. Fish and Wildlife Service of the Maryland Department of Natural Resources, if a project did not receive Preliminary Forest Conservation Plan Approval prior to October 1, 2009.

The Fenton Street project is classified in zones CBD-1, CBD-0.5, and R-60 and NRI 420120030 was approved July 27, 2011. This request is submitted with the Final Forest Conservation Plan filed with Site Plan Amendment 82013005B. A variance was approved with Site Plan 820130050 on May 7, 2013 (MCPB No. 13-26) allowing removal of 4 specimen trees and impacts to two others. Under this revised variance request, a total of eight (8) specimen trees with 30" DBH or greater are impacted by the development, four of which are designated to be saved, while the remaining four were previously removed under the original Site Plan approval 820130050.

Table 1 lists the trees as they are identified on the Forest Conservation Plan and provides their respective measurements and dispositions.

Table 1

Tree #	Species	Diameter (inches)	Condition	Disposition	CRZ Area (sf)	CRZ Impacts (sf)	CRZ Impacts (%)
V-1 (3)	Acer saccharinum	56" DBH	Fair/Good	Save	22,167	6,499	29.3%
V-2 (4)	Quercus rubra	48" DBH	Good	Save	16,286	5,355	32.9%
V-3 (8)	Robinia pseudoacacia	31" DBH	Fair	Removed	6,793	5,275	77.7%
V-4 (9)	Liriodendron tulipifera	30" DBH	Good	Removed	6,362	3,398	53.4%
V-5 (10)	Liriodendron tulipifera	35" DBH	Good	Removed	8,659	4,615	53.3%
V-6 (11)	Acer saccharinum	30" DBH	Good	Removed	6,362	2,467	38.8%
V-7 (12)	Quercus palustris	37" DBH	Good	Save	9,677	440	4.5%
V-8 (13)	Quercus palustris	37" DBH	Good	Save	9,677	157	1.6%


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Mr. Marco Fuster
 MNCPPC
 Re: Forest Conservation Variance Request
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Tree # V-1 (3)

56" Silver Maple (*Acer saccharinum*): This tree is located on the southern side of Bonifant Street across the street from the subject property. Condition-Fair/Good. Proposed CRZ Impact: moderate at 29.3%. **Disposition: Tree is to be saved.**

Tree # V-2 (4)

48" Red Oak (*Quercus rubra*): This tree is located on the southern side of Bonifant Street across the street from the subject property. With most of this trees root system being under pavement currently, the proposed development should not impact the health that severely. Condition-Good. Proposed CRZ Impact: moderate at 32.9%. **Disposition: Tree is to be saved.**

Tree # V-3 (8)

31" Black Locust (*Robinia pseudoacacia*): This tree is located in the hedgerow along the southeastern property line. Two main leaders have been severed. Condition-Fair. Proposed CRZ Impact: severe at 77.7%. **Disposition: Tree has been previously removed under plan approval 82130050.**

Tree # V-4 (9)

30" Tulip Poplar (*Liriodendron tulipifera*): This tree is located in the existing playground area along the southeastern property line. Condition-Good. Proposed CRZ Impact: severe at 53.4%. **Disposition: Tree has been previously removed under plan approval 82130050.**

Tree # V-5 (10)

35" Tulip Poplar (*Liriodendron tulipifera*): This tree is located in the existing playground area along the southeastern property line. Condition-Good. Proposed CRZ Impact: severe at 53.3%. **Disposition: Tree has been previously removed under plan approval 82130050.**

Tree # V-6 (11)

30" Silver Maple (*Acer saccharinum*): This tree is located on the property adjacent to the existing playground area along the southeastern property line. Condition-Good. Proposed CRZ Impact: moderate - severe at 38.8%. **Disposition: Tree has been previously removed under plan approval 82130050.**

Tree # V-7 (12)

37" Pin Oak (*Quercus palustris*): This tree is located on the northern side of Wayne Avenue across the street from the subject property. Condition-Good. Proposed CRZ Impact: minimal at 4.5%. **Disposition: Tree is to be saved.**

Tree # V-8 (13)

37" Pin Oak (*Quercus palustris*): This tree is located on the northern side of Wayne Avenue across the street from the subject property. Condition-Good. Proposed CRZ Impact: minimal at 1.6%. **Disposition: Tree is to be saved.**

To grant the requested variance, the Planning Board must find that the request:

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



Mr. Marco Fuster
MNCPPC

Re: *Forest Conservation Variance Request*
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We submit the following rationale in support of the request for a Forest Conservation variance:

1. The requested variance has been updated for the implementation of the proposed Fenton Street development under a Site Plan Amendment. This project has an approved NRI and is proceeding through the development approval process. This variance request is included in the Final Forest Conservation Plan as a part of the current Site Plan Amendment submission.

The proposed mixed-use development includes a new church building with day care facilities and a fenced playground; and a multi-family residential building with approximately 259 units, ground floor retail and underground parking. This redevelopment is compliant with downtown Silver Spring's revitalization efforts and reflects the Church's strong association with the community. The two new buildings are separated by a shared plaza on Wayne Avenue with pedestrian access continuing through the block creating an important connection between Wayne and Bonifant. After hours, the Church's daycare playground will also be accessible to the neighborhood.

Trees V-1 and V-2, which are to be saved, are south of the site, across Bonifant Street. While it is doubtful that significant roots from these trees extend under the road onto the north side of Bonifant Street, the trees are included in this variance request and their critical root zones are shown with the required calculations. The change in CRZ % impact is more a result of the shift in the tree position on the plan to more accurately reflect their locations rather than a significant change in the previously approved impacts.

Trees V-3, V-4, V-5, and V-6 were removed under the previous variance approval. Trees V-7 and V-8 are located on the north side of Wayne Avenue and have minimal impacts due to final engineering changes and LOD adjustment.

The proposed Church building has been sited to retain the Sanctuary's historic presence on Wayne Avenue but is relocated further down the block to the east placing it adjacent to the existing Catholic School. The new building will provide a larger facility to serve the community and will allow the Church to continue to provide daycare facilities, which will be located to the rear of the building. The new playground will continue to front on Bonifant Street rather than the previous long narrow footprint along the eastern edge of the property. Siting the playground in this location allows community access to the playground after hours. The Church building is slated to be developed in two phases based on the B amendment. The phase one footprint will be reduced slightly, and the phase two build out will utilize the originally approved footprint. Some of the landscaping will change with the build out, but the playground features will remain the same.

The subject property, along its eastern boundary, is lower than the adjacent property to the east and, therefore, a retaining wall is necessary along that edge. In addition, storm drain pipes are required to drain run-off along that side of the building. All of which impact the existing trees that are proposed for removal.

The conditions related to this request are neither unique nor special to this project and instead are unavoidable consequences of the development process.

2. The requested variance is based on plans being developed through the County planning process, and follows recommendations set forth in both the Silver Spring Sector Plan as well as adhere to zone requirements of the Zoning Ordinance. As the Preliminary Forest Conservation Plan showed, there is no



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MNCPPC

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existing forest on this urban site. Afforestation requirements for the site totaling 0.41 acres, for the three separate zones, are proposed to be met by fee-in-lieu.

3. There are no conditions relating to land or building use, either permitted or non-conforming, on a neighboring property that have played a role in the need for this variance. The subject property currently serves the neighborhood as the site of the Fenton Street First Baptist Church of Silver Spring. The proposed mixed-use development is allowed within the zones, and will house the Church along with its' daycare facilities and a multi-family residential building with ground floor retail and underground parking.
4. The concept storm water management plan, which has been approved by MCDPS, incorporates environmental site design (ESD) practices to the maximum extent practicable (MEP), according to the latest revision to Chapter 5 of the MDE Stormwater Management Design Manual. The existing site does not have any existing water quality or quantity treatment. The existing site also has 46% impervious area. Based on the existing site conditions being greater than 40% impervious, according to the MDE manual this site qualified as "redevelopment" for stormwater management. The proposed ESD facilities consist of multiple biofiltration facilities, consistent with ESD requirements. Therefore, the removal of the four specimen trees and impact to the critical root zones of the two specimen trees to remain will not adversely affect water quality in any measurable way.

Thank you for your consideration of this variance request. We believe that the supporting information provided with this letter justifies the variance for the revised impacts detailed herein. If you have any questions or need more information, please do not hesitate to contact us so that we may discuss this matter further.

Sincerely,
VIKA Maryland, LLC

Joshua Sloan - RLA, ASLA, AICP, LEED AP ND, SITES AP
Director of Planning and Landscape Architecture
Vice President

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