



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

MCPB No. 19-119  
Preliminary Plan No. 12019009A  
850 Sligo Avenue  
Date of Hearing: October 10, 2019

OCT 16 2019

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on May 15, 2019, the Planning Board, by Resolution MCPB No. 19-038, approved Preliminary Plan No. 120190090, creating one 0.45 acre lot on a tract measuring 0.63 acres of land in the CR 3.0 C 2.0 R 2.75 H 60T zone, located in the southeast quadrant of the intersection of Fenton Street and Sligo Avenue ("Subject Property"), in the Silver Spring CBD Policy Area and within the Silver Spring Central Business District ("*Sector Plan*") area; and

WHEREAS, on August 1, 2019, Moonlight, Inc. ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan(s) to remove the age-restricted use from the multifamily component of the project on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12019009A, 850 Sligo Avenue ("Preliminary Plan," "Amendment," or "Application"); 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 September 26, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 10, 2019, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 12019009A to remove the age-restricted use from the multifamily component of the project by modifying condition number 1, as follows, and deleting condition number 2:<sup>1</sup>

1. This Preliminary Plan is limited to 1 lot for up to 85 multifamily residential dwelling units and up to 6,912 square feet of non-residential uses.
2. Condition 2 is deleted in its entirety.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter, dated March 15, 2019, except conditions 5, 6, and 7.a.2, as they pertain to the undergrounding of utilities on Sligo Avenue, and hereby incorporates them as conditions of the Preliminary Plan approval. 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.
4. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
5. The Applicant must dedicate right-of-way, as shown on the Certified Preliminary Plan, necessary to accommodate the Sector Plan recommended 40-foot wide right-of-way between the Subject Property line and Sligo Avenue right-of-way, except where 40 feet of right-of-way cannot be achieved due to the location of the existing office tower.
6. The record plat must show necessary easements.
7. Prior to recordation of any plat, Site Plan No. 82019005A must be certified by Staff.
8. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated February 11, 2019, and hereby incorporates them as conditions of the Preliminary Plan approval. 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.
9. The Certified Preliminary Plan must contain the following note:

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<sup>1</sup> 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.

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.

10. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty (60) months from the date of mailing of Resolution MCPB No. 19-038.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

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:

*Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.*

2. *The Preliminary Plan substantially conforms to the Master Plan or Urban Renewal Plan.*

The Subject Property is within the Fenton Village Overlay Zone (FVO) portion of the Silver Spring CBD. While there is flexibility in the type of development permitted in this area, the FVO is in place to ensure that new development is compatible with nearby uses. More specifically, the FVO encourages a mix of housing and commercial uses but limits building heights to ensure compatibility with adjacent residential neighborhoods. Open space can be transferred off-site in the same district.

Although the Sector Plan calls to retain the CBD-1 Zone, the Subject Property was rezoned through the Zoning Ordinance rewrite to CR 3.0 C 2.0 R 2.75 H 60T, effective October 31, 2014. The intent of the CBD-1 zoning was to encourage redevelopment within the CBD by allowing more commercial density in response to the current market (in 2000), but also provide the flexibility for both commercial or residential high-rises, or mixed-use projects. The Application will be a mixed-use, mid-rise residential development with ground-floor non-residential uses under the optional method of development, which satisfies the intent of the CBD-1 Zone and the current CR Zone.

### Urban Design Recommendations

The Sector Plan provides general urban design recommendations for redevelopment projects in the Fenton Village Overlay Zone as well as the following specific recommendations:

- *Examine the potential for housing in Fenton Village Overlay zone, particularly in the transition area between the commercial and residential areas.*

This project satisfies the recommendation of adding housing within the FVO and provides a transition between the higher heights and densities of the Silver Spring CBD and adjacent residential neighborhood.

- *Upgrade the physical appearance of Fenton Street through streetscaping, landscaped parking lots, infill development that helps define the street.*

The Application will revitalize an existing vacant office building and surface parking lot into a vibrant mixed-use, predominantly residential, project. The new building will be located directly along the street edge at Fenton Street, Gist Avenue, and Sligo Avenue and will improve the sidewalk and streetscape improvements, including undergrounding utilities along the site's Gist Avenue frontage, including the utility pole on the corner of Gist Avenue and Fenton Street, in accordance with the Sector Plan recommendations.

- *Limit building height on the east side of Fenton Street to 60 feet for buildings with residential uses. Projects proposed along the east side of Fenton Street should make a transition between the commercial district and the adjacent single-family homes, creating compatibility through height changes, siting, and green, landscaped buffers.*

The new building will step down the maximum height, from Fenton Street toward the existing single-family homes, and will add a landscaped buffer along the eastern side of the Subject Property to further improve the transition to the single-family neighborhood. The existing building to be reused is grandfathered at its current height.

### General Recommendations

The Sector Plan envisions Silver Spring as a place that invites revitalization. The Sector Plan outlines six themes under which that vision can be achieved: transit-oriented downtown, commercial downtown, residential downtown, green downtown, civic downtown and pedestrian-friendly downtown. Each of these themes is intended to

guide new development within the Silver Spring CBD and is discussed specifically below:

*Transit-Oriented Downtown*

The Subject Property is located on the east side of Fenton Street between Sligo Avenue and Gist Avenue and is a gateway into the CBD from points south and east. The Sector Plan's transit-oriented downtown theme strives to balance the needs of both commuter and local traffic and of walkers and drivers to maximize the investment in Silver Spring's transit infrastructure through both transportation improvements and land use efforts. The Plan further states that transportation options should link transit and non-motorized forms of transportation. The Subject Property is ½ mile from the Silver Spring Transit Center and the future Purple Line station at the Silver Spring Library and is currently served by Metrobus, RideOn, the VanGo Circulator, and Capital Bikeshare.

*Commercial Downtown*

Commercial activity, a mutually supportive mix of office, stores, and other business enterprises, is the defining feature of a successful downtown. The Preliminary plan may include a ground floor commercial component, of up to 6,912 square feet, if market conditions are favorable.

*Residential Downtown*

The Sector Plan's residential downtown theme seeks to create a mix of housing choices supported by parks, shopping, cultural, civic and employment uses with transit. "A green and pedestrian-friendly downtown will create parks, plazas, and streets of a desirable residential community." The Application will provide up to 85 multifamily dwelling units with 12.5% MPDUs.

*Green Downtown*

The green downtown theme of the Sector Plan envisions shaded, tree-lined streets and well-placed green parks and plazas, creating a comprehensive system of open spaces that provide economic, environmental and aesthetic benefits throughout downtown. The Sector Plan states "Landscaped plazas are incorporated into building and site design to create visual and physical respite, to create formal and informal gathering places, and to complement street and building design." Pursuant to the Application and associated site plan, the streetscape along Fenton Street, Sligo Avenue, and Gist Avenue will be upgraded with street trees, paving, and lighting to improve the pedestrian experience and overall appearance of the public realm.

*Civic Downtown*

The civic downtown theme envisions formal or informal, large or small, public or private civic spaces, where people meet, cross paths and gather. The Preliminary Plan will accommodate a public open space immediately adjacent to the project in the Gist Avenue right-of-way, in the form of a small yet effective gathering space, providing a unique civic space that will add to the variety of open spaces in Silver Spring.

*Pedestrian-Friendly Downtown*

The pedestrian-friendly downtown theme of the Sector Plan encourages the development of active streets and sidewalks, busy with people walking to shop, commute, or for pleasure. The Sector Plan states “An urban area’s greatest economic asset, and strongest physical definition comes from its pedestrian environment.”

The Preliminary Plan will provide multifamily housing within walking distance to retail, restaurant, and office uses. This proximity to existing and civic and commercial uses will promote pedestrian activity and street activation. The proposed building placement also enhances the pedestrian environment by locating the buildings directly along the street edge to create a continuous building line and define the pedestrian environment.

As conditioned, the Application is consistent with the six themes identified in the 2000 *Silver Spring CBD Sector Plan*.

Circulation Systems Recommendations

The Sector Plan recommends creating a system of trails and bike routes, implementing streetscape improvements to create a safe and pleasant pedestrian environment, and where appropriate, reuse public parking facilities, and to make circulation improvements to local roads. This vision was recently updated through the 2018 Bicycle Master Plan, which recommends a separated bike network within the Silver Spring CBD. The project respects the master plan recommended bicycle lanes on Fenton Street by providing adequate right-of-way for their future implementation. As of the date of this staff report, MCDOT anticipates the Fenton Street bicycle lanes to be implemented on the west (opposite) side of the street and directed the applicant not to construct the bike lanes at this time.

The Application will provide streetscape improvements along Fenton Street Sligo Avenue, and Gist Avenue, which will create an inviting pedestrian environment that will activate the street and support the ground-floor

retail included as part of the Project. As conditioned, the Application conforms to the Sector Plan recommendations for Circulation Systems.

#### Housing Recommendations

The housing objective of the Sector Plan is to develop new residential projects to provide housing and encourage maintenance of existing housing, creating Silver Spring as an even more desirable residential market. The recommendations include:

- provide housing choice and market-feasible development options, including apartments and townhouses;
- rezone CBD properties to encourage residential development; and
- convert selected public-sector surface parking lots to housing.

Although the Subject Property is not identified in the Sector Plan as a potential housing site, the Application promotes the housing choice goal by providing multifamily housing. The additional housing provided by the Application will facilitate the availability of new housing in a range of types and rents within walking distance of transit.

In conformance with the objectives of the Sector Plan, the additional residential development will activate the urban environment and contribute to the creation of a "thriving downtown residential community." Additionally, as discussed above, the building has been designed to promote compatibility with the surrounding single-family residential homes and will create an approachable residential urban scale.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

Pedestrian and bicycle access to the Subject Property is proposed directly from sidewalks along Fenton Street, Sligo Avenue, and Gist Avenue. Bicycle access will be enhanced on Fenton Street upon completion of the MCDOT separated bicycle lanes project, discussed below. The Subject Project does not preclude installation of the Fenton Street bicycle lanes, which are anticipated to be constructed by MCDOT on the opposite (southbound) side of Fenton Street.

Vehicular access to the Subject Property is proposed via Gist Avenue and Sligo Avenue, which will operate in the following configuration: loading and service access will occur via the Sligo Avenue access point and residential garage access will be provided via a driveway on Gist Avenue. As conditioned, the Gist Avenue access point will be constructed to direct outbound site traffic toward Fenton Street.

#### *Master Plan Roadways and Pedestrian / Bikeway Facilities*

The 2000 *Silver Spring CBD Sector Plan*, the 2013 *Countywide Transit Corridors Functional Master Plan*, the 2018 *Bicycle Master Plan* and 2018 *Master Plan of Highways and Transitways* recommend the following master plan facilities along property frontage:

1. Sligo Avenue, along the northern frontage, as a business district roadway with a minimum right-of-way width of 80' (40' from the center line).
2. Fenton Street, along the western frontage, as an arterial with a minimum right-of-way width of 80' (40' from centerline); a separated bikeway.
3. Gist Avenue, along the southern frontage, as a shared roadway.

#### *Sector-Planned Transportation Demand Management*

As a project within the Silver Spring Transportation Management District (TMD), the development is required to enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Silver Spring TMD. The specific criterion requiring a TMAg is 25 or more employees or more than 100 dwelling units.

#### *Adequate Public Facilities*

A transportation exemption statement, dated July 1, 2019, satisfied the Local Area Transportation Review for the Subject Application because the Project generates fewer than 50 net new peak hour person trips. When compared to the existing office use, the proposed development is estimated to generate a net reduction of 33 morning peak-hour person trips and 6 additional evening peak-hour person trips.

#### **School Adequacy**

The Subject Preliminary Plan proposes up to 85 multifamily units. Based on the 2016-2020 Subdivision Staging Policy, the moratorium currently affecting the Montgomery Blair High School Cluster does not apply to multifamily units on blighted/ condemned sites when the Project generates 10 or fewer students.

#### **Overview and Applicable School Test**

As an Application presented to the Planning Board in October 2019, the Project is subject to the FY20 Annual School Test, approved by the Planning Board on June 20, 2019 and effective July 1, 2019.

#### **Calculation of Student Generation**

To calculate the number of students generated by the proposed development, the number of dwelling units is multiplied by the applicable regional student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low- to mid-rise multifamily unit, or high-rise multifamily unit. The subject property is located in the east region of the County.



*Per Unit Student Generation Rates – East Region*

	<b>Elementary School</b>	<b>Middle School</b>	<b>High School</b>
<b>SF Detached</b>	0.203	0.103	0.144
<b>SF Attached</b>	0.219	0.115	0.160
<b>MF Low- to Mid-Rise</b>	0.253	0.112	0.148
<b>MF High-Rise</b>	0.088	0.036	0.047

With a net of 85 multifamily high-rise units, the proposed project is estimated to generate the following number of students:

Type of Unit	Net New Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
<b>MF High-Rise</b>	85	0.088	7.480	0.036	3.060	0.047	3.995
<b>TOTAL</b>	<b>85</b>		<b>7</b>		<b>3</b>		<b>3</b>

This project is estimated to generate 7 new elementary school students, 3 new middle school students, and 3 new high school students.

**Cluster Adequacy Test**

The project is located in the Blair High School Cluster. The student enrollment and capacity projections from the FY20 Annual School Test for the cluster are noted in the following table:

School Level	Projected Cluster Totals, September 2024			Moratorium Threshold	Estimated Application Impact
	Enrollment	Program Capacity	% Utilization		
Elementary	4,920	4,927	99.9%	993	7
Middle	2,687	2,772	96.9%	639	3
High	3,619	2,912	124.3%	0	3

The Moratorium Threshold identified in the table is the number of additional projected students that would cause the projected utilization to exceed the 120% utilization threshold and therefore trigger a cluster-wide residential development moratorium. Current projections for the cluster exceed the moratorium threshold at the high school level, therefore the Blair cluster service area is under a residential development moratorium for FY20.

**Individual School Adequacy Test**

The applicable elementary and middle schools for this project are East Silver Spring ES and Takoma Park MS, respectively. Based on the FY20 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

School	Projected School Totals, September 2024				Moratorium Threshold	Estimated Impact
	Enrollment	Program Capacity	% Utilization	Surplus /Deficit		
East Silver Spring ES	527	560	94.1%	+33	146	7
Takoma Park MS	1,289	1,306	98.7%	+17	279	3

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and the school seat deficit meets or exceeds 110 seats for an elementary school or 180 seats for a middle school. If a school's projected enrollment exceeds *both* thresholds, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds identified in the table above are the enrollments at which the 120% utilization threshold and the seat deficit threshold are exceeded. As indicated in the last column, the estimated enrollment impacts of this application fall below the moratorium thresholds for both East Silver Spring ES and Takoma Park MS. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of students generated by this project.

### **School Capacity**

The Montgomery Blair Cluster service area is currently under a residential development moratorium, however, there are several exceptions to moratoria. One of these exceptions allows the Planning Board to approve an application, such as this Amendment, that generates no more than 10 students at any one school if it meets one of the following criteria:

1. Replaces or remediates a condemned, or previously condemned and currently vacant structure located within, abutting or confronting a state-designated Opportunity Zone; or
2. Is a project having more than 50% affordable housing units for households earning 60% or less of area median income.

Based on the FY20 Annual Schools Test, effective July 1, 2019, the Application is estimated to generate 7 new elementary school students, 3 new middle school students, and 3 new high school students and therefore qualifies for an exception to the residential development moratorium.

### **Other Public Facilities**

Public facilities and services are available and will be adequate to serve the development. The Subject 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, which has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as electrical, telecommunications, gas, 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 Subject Property.

The Preliminary Plan substantially conforms to the 2000 *Silver Spring Sector Plan*. The Preliminary Plan complies with the specific density recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. The Site is not subject to an Urban Renewal Plan.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~OCT 16 2019~~ (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).

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**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Vice Chair Fani-González, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, October 10, 2019, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board

DEVELOPMENT APPLICATIONS AND REGULATORY COORDINATION  
ADOPTED RESOLUTION ROUTING SHEET

Plan No: 12019009A

Plan Name: 850 Sligo Ave

MCPB No: 19-119

DATE RECEIVED FROM CHAIRMAN'S OFFICE: 10/15/19

Reviewed/Routed By:

Date:

**1. ROUTED TO AREA TEAM**  
**LEAD REVIEWER:**

A) DARC Admin  
Name: Michelle

[Signature]

10/15

**2. REVIEWED BY AREA TEAM**  
**LEAD REVIEWER:** M.F.

- A) Resolution Reviewed for layout and typos; and found to be okay
- B) Resolution Routed back to DARC Admin identified above

[Signature]

10/15

**3. RESOLUTION MAILING:**

- A) **Resolution mailing list includes:**
  - a) all registered hearing speakers (from Technical Writers), b) all individuals who sent correspondence in response to the staff report, and
  - c) the applicant/attorney/engineer.
- B) Resolution date stamped (2 places)
- C) Resolution mailed

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**4. RESOLUTION CLOSEOUT:**

- A) Original and 1 copy of Resolution to Technical Writer
- B) Copy of Resolution to Legal
- C) Copy of Resolution to the Board Chair's Office
- D) Copy of the Resolution to File

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**5. HANSEN UPDATE:**

- A) Resolution Mailing Date and Validity Periods added to Hansen
- B) Resolution and mailing list scanned into DAIC

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