

EASLEY'S SUBDIVISION

PRELIMINARY PLAN NO. 120210240 & SITE PLAN NO. 820210160



Description

Request to create one lot for the construction of a 10,000 square foot mixed-use building, including 6,820 square feet of residential uses, for up to 6 units, and 3,180 square feet of non-residential uses; 0.14 acres located at 904 Silver Spring Avenue, 125' west of Fenton Street; Within the 2000 Silver Spring Central Business District (CBD) Sector Plan and the CR-3.0 C-2.0 R-2.75 H-110T and Fenton Village Overlay Zones.

No. 120210240 and
No. 820210160
Completed: 7-11-2022

MCPB
Item No. 5
7-21-2022

Montgomery County
Planning Board
2425 Reedie Drive, Floor 14
Wheaton, MD 20902

Planning Staff



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LOCATION/ADDRESS

904 Silver Spring Avenue, 125' west of Fenton Street.

MASTER PLAN

2000 *Silver Spring CBD Sector Plan*

ZONE

CR-3.0 C-2.0 R-2.75 H-110T

and Fenton Village Overlay Zone

PROPERTY SIZE

0.14 Acres

APPLICANT

Bobby Athanasakis

ACCEPTANCE DATE

January 26, 2022

REVIEW BASIS

Chapter 50 & 59



Summary:

- The Project proposes one lot for the construction of a 10,000 square foot mixed use building within the Fenton Village Overlay Zone in the Silver Spring Central Business District (CBD).
- A Site Plan is required for any development within the Fenton Village Overlay Zone per Section 59.4.9.8.D.
- The Project will construct a 4-story mixed use building with ground floor retail/restaurant and 6 apartment units.
- The Application received one extension to allow the review period to extend from May 29, 2022 to July 29, 2022.
- No correspondence has been received.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN 120210240

Staff recommends approval with conditions of the Preliminary Plan to create one lot for the construction of a 10,000 square foot mixed-use building, including 6,820 square feet of residential uses, for up to 6 units, and 3,180 square feet of non-residential uses. 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.

GENERAL APPROVAL

1. This Preliminary Plan is limited to one lot for a multi-use building with a maximum total of 10,000 square feet including 6,820 square feet of residential uses for up to 6 units, and 3,180 square feet of non-residential uses.

ADEQUATE PUBLIC FACILITIES AND OUTSIDE AGENCIES

2. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

PLAN VALIDITY PERIOD

3. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and prior to the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

OUTSIDE AGENCIES

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated June 2, 2022, and 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 if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated January 5, 2022, and 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 if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated March 23, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

OTHER APPROVALS

8. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of any subsequent Site Plan(s) associated with this Preliminary Plan. The number and location of site elements including but not limited to buildings, dwelling units, site circulation, and sidewalks is determined through site plan review and approval.
9. If an approved site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan amendment.

FUTURE SITE PLAN APPROVAL REQUIRED

10. If an approved site plan or site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan or site plan amendment.

TRANSPORTATION

Existing Frontage Improvements

11. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary to accommodate 35 feet from the existing pavement centerline along the Subject Property frontage for Silver Spring Avenue.

RECORD PLATS

12. There shall be no clearing or grading of the site prior to certification of Site Plan No. 820210160.

Easements

13. The record plat must show necessary easements.

CERTIFIED PRELIMINARY PLAN

14. The certified Preliminary Plan must contain the following notes:

- a. *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.*

15. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a) Show resolutions and all appropriate agency approval letters on the certified set
- b) Include the approved Fire and Rescue Access plan in the certified set

SITE PLAN 820210160

Staff recommends approval of Site Plan No. 820210160, for the construction of a 10,000 square foot mixed-use building, including 6,820 square feet of residential uses, for up to 6 units, and 3,180 square feet of non-residential uses. The development must comply with the Preliminary Plan No. 120210240. All site development elements shown on the latest electronic version of the Site Plan as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.¹

DENSITY, HEIGHT & HOUSING

1. Density

The Site Plan is limited to a maximum of 10,000 square feet of total development on the Subject Property, including 6,820 square feet of residential uses, for up to 6 units, and 3,180 square feet of non-residential uses.

2. Height

The development is limited to a maximum height of 60 feet, as measured from the building height measuring point in compliance with Section 59.4.1.7.C.2 of the Zoning Ordinance, as illustrated on the Certified Site Plan.

OPEN SPACE, FACILITIES AND AMENITIES

3. Streetscape

- c) Prior to final use and occupancy permit for the building, the Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the Property's frontage on Silver Spring Avenue, consistent with the Silver Spring Streetscape Standards.

¹ For the purposes 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.

The Certified Site Plan shall show streetscape in compliance with MCDPS approval, consisting of the following:

- a. a seven-foot wide sidewalk with a seven-foot wide minimum buffer along the property frontage Silver Spring Avenue
- d) The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to onsite sidewalk.

4. Visual Amenity

The Applicant must provide and maintain a mural, or comparable visual amenity, that breaks up the mass of the southern façade, in the area delineated on the Certified Site Plan. This visual amenity must be approved by Staff and installed prior to the final Use and Occupancy permit and may change over time without amending the Site Plan. If future development conceals the southern façade, Staff may determine that the Applicant is no longer required to comply with this condition.

ENVIRONMENT

5. Forest Conservation & Tree Save

- a) The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.

TRANSPORTATION & CIRCULATION

6. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated May 19, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) Prior to the issuance of any building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT).

7. Pedestrian & Bicycle Circulation

- a) The Applicant must provide one long-term and one short-term bicycle parking space.
- b) The long-term spaces must be in a secured, well-lit, secure parking area within the building, and the short-term spaces must be inverted-U racks (or approved equal) installed in a location convenient to the main entrance (weather protected preferred). The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.

8. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated March 23, 2022, and hereby incorporates them as conditions of

approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

SITE PLAN

9. Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A200, A201, and A202 of the submitted architectural drawings, as determined by M-NCPPC Staff.

10. Lighting

- a) Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by street lights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

11. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, whichever occurs first, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, mural, on-site lighting, retaining walls, railings, including sidewalks, storm drainage facilities, bike racks, street trees and street lights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector

recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

12. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

13. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Provide and label ADA compliant public sidewalk along the site frontage and where connections are made to the existing sidewalks.
- b) Include all appropriate agency approval letters, development program, and Site Plan resolution and other applicable resolutions on the approval or cover sheet(s).
- c) Coordination with DPS needed on the building height measuring point to be reflected on the Site Plan.
- d) Add the following notes:
 - i. "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
 - ii. "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
 - iii. "The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur prior to any site development work commencement and prior to any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times."
- e) Fire and Rescue Access plan should be included in the Certified Site Plan.
- f) Modify data table to reflect development standards approved by the Planning Board.
- g) Ensure consistency of all details and layout between Site and Landscape plans.
- h) Revise rear elevation to indicate a minimum of 8-foot wall height adjacent to trash area and fully enclose the rear trash and recycling area with walls and roof, final design may be modified by DPS at building permit.
- i) Add note stating site furniture is allowed without further site plan amendment.
- j) Add street lighting to streetscape improvements unless otherwise determined by MCDPS.

SECTION 2: SITE DESCRIPTION

VICINITY

The Subject Property is located within a block bordered by Georgia Avenue to the west and Fenton Avenue to the east. This vicinity is a transitional block from the commercial development and high density residential closer Georgia Avenue to lower scale multi-use buildings found in the Fenton Village. Directly to the west and south of the Subject Property are surface parking lots and a public parking garage. Directly to the east, at the corner of Silver Spring Avenue and Fenton Avenue, is a three-story medical building with ground floor neighborhood serving uses. The entire block is zoned Commercial/Residential within the Fenton Village Overlay Zone.

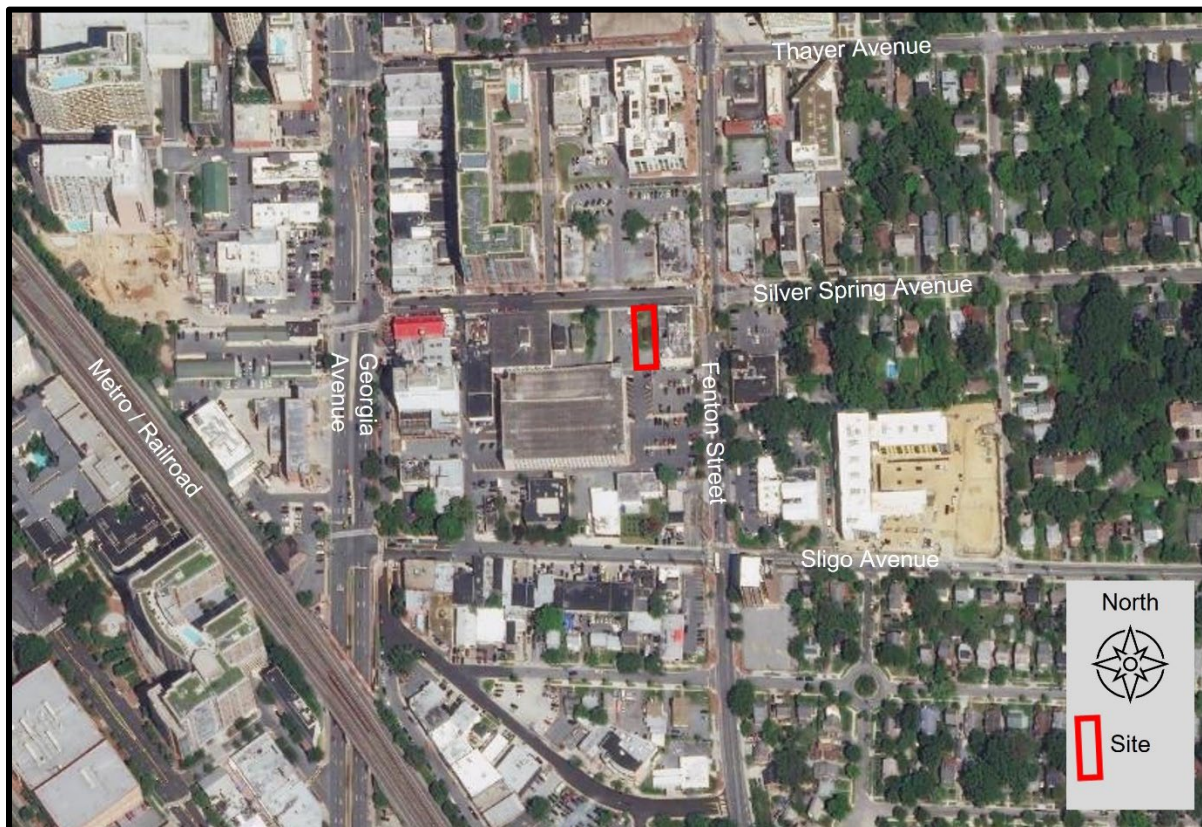


Figure 1 – Vicinity Map

PROPERTY DESCRIPTION

The Subject Site (Subject Property or Property) is located at 904 Silver Spring Avenue and is currently vacant. The Property was previously developed with a single family detached house that was used for commercial office and associated parking, and was recently demolished. The Property is comprised of a portion of Lot 8, Block D of Plat 54 “R. Holt Easley’s Subdivision of Silver Spring”, totaling 6,000 sf (0.14 acres).



Figure 2 – Subject Property

The Property is located within an urban setting and does not contain environmentally sensitive features. The site is located within the Sligo Creek watershed which is classified as a Use Class I by the State of Maryland. The Subject Property contains no forest, streams, wetlands or other environmental features, or significant trees (trees with a diameter at breast height or “DBH” of 24 inches or more). No historic resources or cemeteries are known to exist on the Property.

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

CONCEPT PLAN 520200100

In November of 2019, the Applicant submitted a concept plan for the Property that proposed a low-rise (4-story) multifamily building with ground floor retail and three residential units above. At that time Staff made several design related comments regarding the proposed massing in relation to the surrounding urban context, orientation of the units, and request to use a shared party wall with the building to the east.



Figure 3 – Concept Plan Rendering

PROPOSAL

The Applicant proposes to create one lot to allow the construction of a 10,000 square foot mixed use, 4-story building. The proposal will include 3,180 square feet of street-level restaurant/retail use (envisioned as space for two separate restaurant operations) (“Ground Floor Restaurant/Retail”) and 900 square feet of ground level residential lobby/circulation; and 6 residential units above (5,920 square feet).

While the Applicant proposes standard method development, a Site Plan is required for any development within the Fenton Village Overlay Zone per Section 59.4.9.8.D, at the time this application was submitted for review.

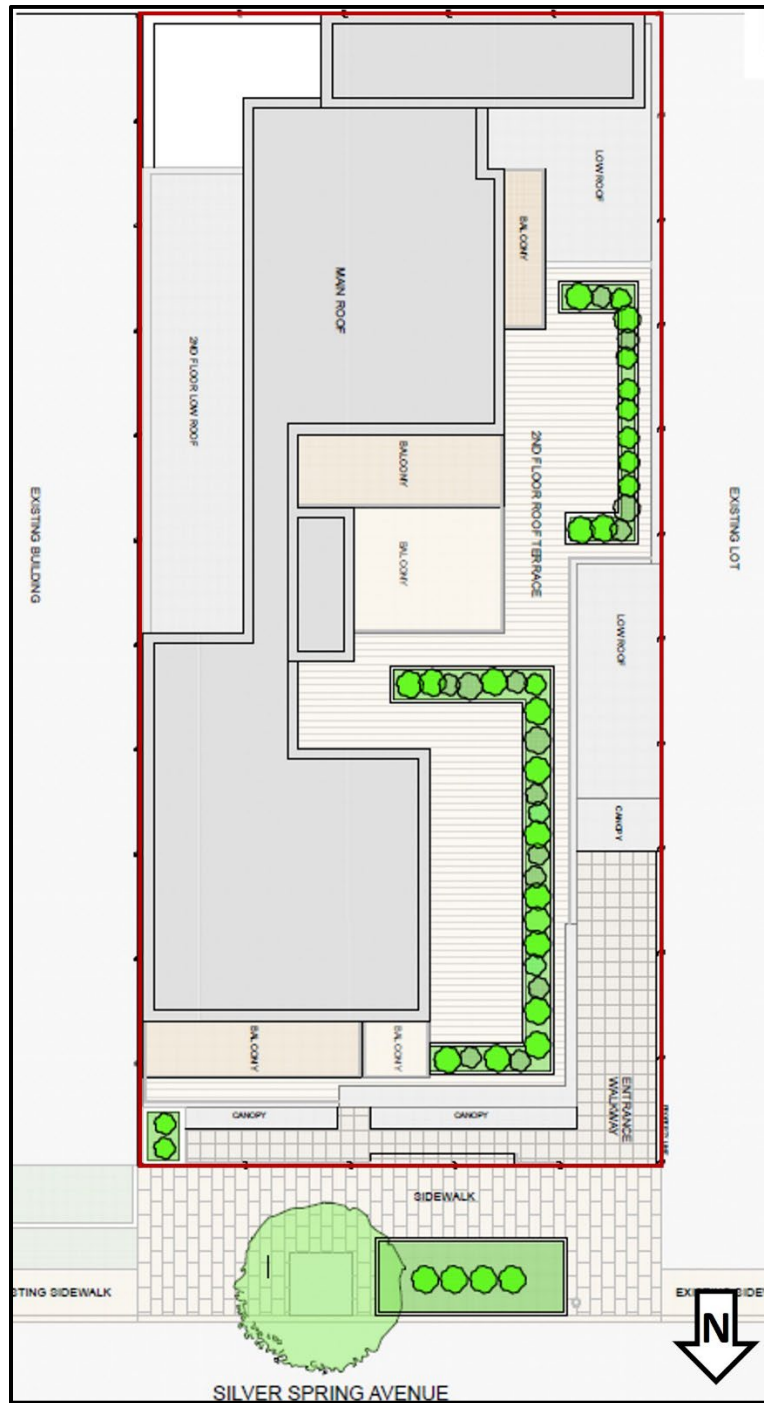


Figure 4 –Illustrative Site Plan No. 820210160

BUILDING/ARCHITECTURE

The ground floor of the building will feature metal panels with a wood finish, with metal canopies over the retail/restaurant entries, and titanium brick at the residential entry. The upper residential facades will be fiber cement board with grey and light blue coloring, with insulated glass windows and railings around outdoor patios.



Figure 5 –Perspective of building from Silver Spring Avenue

The rear of the building, where the emergency access and elevator tower will be located, is also proposed as fiber cement board with grey and light blue coloring. As conditioned, Staff recommends to further break down the massing of the rear wall with a visual amenity, such as a mural or variation of other architectural feature that may change over time. A portion of the rear of the building is proposed to be open to above, which has been designed to be the trash area for the ground floor retail/restaurant uses. Through coordination with DPS staff and Planning Staff recommendations, the Application has been conditioned to fully enclose the walls and roof in this area to ensure it is secure and restrict exterior elements from entering the building.



Figure 6 –Perspective of rear building from surface parking lot

OPEN SPACE

Given the Subject Property's size and singular frontage, the Project is not required to provide public open space per Section 59.4.5.3.C of the Zoning Ordinance.

TRANSPORTATION

All access to the Site will be from Silver Spring Avenue. Pedestrian access will be improved along the Site frontage with an upgraded streetscape including a seven-foot-wide minimum landscaped street buffer and a seven-foot-wide minimum sidewalk, which transitions to the existing sidewalks on both side of the Site. The design of the sidewalk and the landscape street buffer complies with the 2019 *Silver Spring Streetscape Standards*.



Figure 7 - Site Access and Circulation

The existing condition of the Site does not include a curb cut along the Site frontage and the Project does not propose a new a curb cut or driveway along the Site frontage. No vehicular parking or loading is provided on-site. The project is exempt from loading spaces per Section 59.6.2.8 of the Zoning Ordinance. The Site is located within the boundary of the Silver Spring Parking Lot District, and therefore is not required to provide any parking spaces on-site (Section 59-6.2.3.H.1.a). Residents, employees and visitors to the Site will have access to long-term parking within Public Parking Garage 4 (less than 100 ft feet west of the Site) and short-term metered parking on either side of Silver Spring Avenue (17 total spaces, 2-hour limit).

The Zoning Code requires two bicycle parking spaces on-site for the proposed retail uses; one long-term and one short-term. Projects with fewer than 10 multi-family units on-site are not required to provide bicycle parking. The short-term bicycle parking space will be located along the site frontage,

and the long-term bicycle parking will be provided within the building, in compliance with the Bicycle Parking Design Standards (Section 59-6.2.6.).

ENVIRONMENT

The Subject Property contains no significant trees or other environmental sensitive features. On June 15, 2021, the Applicant received a Forest Conservation Exemption (42021130E) based on Section 22A-5(s)(1) as the project is occurring on a tract of land less than 1.5 acres with no existing forest or specimen trees, and afforestation requirements would not exceed 10,000 square feet.

SECTION 4: PRELIMINARY PLAN 120210240 FINDINGS AND ANALYSIS

The Preliminary Plan would create one lot, measuring approximately 5,500 square feet or 0.13 acres of Site area, for a maximum density of up to 10,000 square feet of mixed use (restaurant and residential). This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. As conditioned, the Application has been reviewed by other applicable State, County and City agencies. The Application meets all applicable sections. The shape and orientation of the proposed lot is appropriate for the location of the subdivision taking into account the type of development and use contemplated.

- 1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.***

- a) *The block design is appropriate for the development or use contemplated***

The proposed subdivision is located within an existing block that is appropriate for the proposed multi-use development.

- b) *The lot design is appropriate for the development or use contemplated***

The proposed lot is appropriate for the development proposed. The 0.13 acre (5,500 square foot) rectangular lot will also provide frontage improvements for bicycle and pedestrians. The proposed subdivision has been reviewed and approved for stormwater and fire access adequacy by the Montgomery County Department of Permitting Services.

- c) *The Preliminary Plan provides for required public sites and adequate open areas***

- i. *Master Planned Sites***

There are no Master Planned open areas or sites recommended for this particular Property. As discussed in Finding 2 (c) below, the proposed subdivision will dedicate additional public right-of-way and will implement master planned transportation improvements .

ii. ***Transportation and Utilities***

The Applicant will be dedicating 10 feet along the Silver Spring Avenue frontage to contribute to the Master Planned right-of-way of 70 feet. The Applicant will construct Master Planned frontage improvements including a seven-foot-wide minimum landscaped street buffer and a seven-foot-wide minimum sidewalk, which transitions to the existing sidewalks on both side of the Site. The design of the sidewalk and the landscape street buffer complies with the 2019 *Silver Spring Streetscape Standards*.

d) The Lot(s) and Use comply with the basic requirements of Chapter 59

As shown in Site Plan Finding 2.d, Table 3, the proposed lot will comply with the development standards for the CR zone standard method development and related development standards.

2. The Preliminary Plan substantially conforms to the Master Plan.

a) Land Use

The Property is located within the 2000 *Silver Spring CBD Sector Plan*, which contains themes that articulate the shared goals and vision for the CBD and demonstrate how successful development incorporates multiple themes to “create varied land uses, development patterns, environments, and transportation choice ... to create variety, the hallmark of an active downtown.”(p. 15) The development meets these goals and vision by creating a mixed-use commercial building that is scaled to the surrounding neighborhood and enhances the pedestrian experience in its vicinity.

Transit-Oriented Downtown

The Property is located less than a half mile from the Silver Spring Metro/MARC train/Transit Center (and future Purple Line station). By locating within the walksheds of these transportation choices, the workers and visitors coming to the site increase transit demand and support transit-oriented development. The Site is also proximate to the many existing and planned bike lanes within the Silver Spring area.

Commercial Downtown

The project allows for a mix of retail/restaurant and residential uses. These uses will complement the existing commercial uses in Fenton Village in an up-to-date building.

Residential Downtown

The project includes residential uses and shares a block of Silver Spring Avenue that includes both single-family homes as well as approved 4-6-story multi-family development immediately across the street. At four stories the new multi-use building will be compatible with the other residential uses as the uses on the block intensify toward Fenton Street.

Civic Downtown

The new streetscape, planters, architectural treatments and mural, as conditioned, provide a number of elements adding to the fabric of the civic spaces of the Sector Plan area.

Green Downtown

The project includes recommended elements of the Green Downtown such as new public streetscape, with a street tree and other landscape plantings, and planter on the ground floor near the building entrance and also provides planters on the second-floor terrace/balconies which will be visible to other tenants and passersby.

Pedestrian-Friendly Downtown

As conditioned, the project provides new streetscape per the Silver Spring Design Guidelines including sidewalks, lighting and a street tree. The four-story building is scaled and designed in a manner sensitive to the pedestrian environment.

Per the Applicant's statement of justification, the Applicant owns and operates the iconic Manny and Olga's restaurant at 8107 Fenton Street, which it has done since the early 1990s. This family-owned business, with four restaurants in Silver Spring/Wheaton, one in Bethesda and four in business, with four restaurants in Silver Spring/Wheaton, one in Bethesda and four in the District of Columbia, has a well-established business base in Montgomery County and is a highly localized business presence. The family business, now in its second generation of operators, seeks to relocate the restaurant currently operating out of lease space on Fenton Street into a business-owned building. This is consistent with the Applicant's business model at each of its other locations, gives the business a long-term interest in remaining in Silver Spring, along with a potential opportunity to expand its operations. This furthers the overall Sector Plan and Fenton Village Overlay zone goals of fostering smaller, locally owned and family-owned businesses.

Fenton Village Overlay

The Sector Plan created the Fenton Village Overlay to revitalize the area, facilitate housing that will upgrade the physical environment and bring new residents, and provide a pedestrian-friendly environment that encourages people to stroll and stay. The Proposal will meet these objectives by redeveloping a currently vacant piece of land into a mixed-use building with ground floor activating

uses and residential units above, all within a low rise building that will improve the surrounding streetscape.

b) Environment

The 2000 *Silver Spring CBD Sector Plan* (“Sector Plan”) states “Stormwater management is the most important environmental issues to address in the Silver Spring CBD.” The Site Plan Application meets the stormwater management requirements of Chapter 19 of the County Code and the Applicant received a Combined Stormwater Management Concept/ Site Development Stormwater Management Plan approval from MCDPS Water Resources Section on January 5, 2022 (discussed in finding 5 below, in more detail).

The Sector Plan also recommends enhancement of the natural environment by creating green space. The Applicant is providing streetscape improvements which includes a tree and landscape bed. Furthermore, a planter box will be located onsite near the building entrance. The second-floor building layout includes private balconies/terraces featuring landscape planters which offer visual green relief from the highly urbanized setting.

The Sector Plan has recommendations on air quality which includes considerations for exhaust vents to be located away from residential balconies/terraces and other conflicting locations. The exhaust fans for the restaurants are located on the upper roof. Per applicable code requirements, this equipment is will be vertically discharged above the roof line and appropriately distanced from any apartment air intakes and apartment openings/ balconies.

The Sector Plan also recommends incorporating recycling and energy efficient programs and standards into new development. The Applicant is providing enclosed areas for trash and recycling bins at the southeast corner of the site on the Ground Floor level for the business and residential occupants of the building to recycle items. The Applicant will incorporate energy efficient programs, materials and final design details taking into consideration the International Green Construction Code (IGCC), which will be addressed at the time of building permit.

c) Transportation

Per the 2000 *Silver Spring CBD Sector Plan* and the 2018 *Master Plan of Highways and Transitways*, Silver Spring Avenue is classified as a Business District Street with a master-planned minimum right-of-way of 70 feet. As conditioned, the Applicant is dedicating an additional 10-feet to public right-of-way along the Site frontage to achieve 35-feet from the pavement centerline and the property line (half of the total 70-foot width).

The 2000 *Silver Spring CBD Sector Plan* and the 2018 *Bicycle Master Plan* do not recommend designated bikeways along Silver Spring Avenue.

The 2000 *Silver Spring CBD Sector Plan* encourage the use of alternatives to automobile transportation to reduce air pollution. The project has no on-site parking for the Ground Floor Retail/Restaurant Use,

or for the Residential Use (six residential apartments units), thereby disincentivizing automobile use to the Ground Floor Retail/Restaurant use by employees and customers; and disincentivizing automobile ownership by residents and automobile use by their guests and invitees.

Additionally, the Applicant is providing a Transportation Demand Management Plan (“TDM”) which will identify a site-specific “individual responsible for assisting and facilitation the Department of Transportation’s efforts to achieve County’s Non-Auto Driver Mode Share (NAMDS) goals and other traffic mitigation and community goals. As part of the TMD plan the applicant will provide space on-site for TMD-related information in a location visible to employees, residents, and other project users.

The physical absence of on-site parking combined with the operational provision of a TMD Plan substantially complies with this Sector Plan recommendation.

Therefore, as conditioned, the Project conforms with the applicable master plans.

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

a) *Roads and other Transportation Facilities*

i. *Existing Facilities*

In this location, Silver Spring Avenue currently has a 50 foot right-of-way with a 4-foot sidewalk, and 36- foot travel-way with on-street parking.

ii. *Proposed public transportation infrastructure*

As discussed in Finding 2.c, the Site will provide the master-planned frontage improvements to achieve the 70-foot right-of-way for Silver Spring Avenue.

b) *Local Area Transportation Review (LATR)*

The Project studied the impact of constructing six residential multi-family units and 3,600 square feet of retail uses on the Site. In accordance with the methodologies set forth in the 2022 Local Area Transportation Review Guidelines, the densities evaluated are estimated to generate 14 new morning peak hour person trips and 37 new peak hour evening trips. As the Project is not estimated to generate more than 50 peak hour person trips in either the morning or evening periods, no further transportation impact analysis was required. Furthermore, per the 2021-2024 Growth and Infrastructure Policy, a finding can be made for adequate public facilities for transportation infrastructure.

c) Other Public Facilities and Services

SCHOOLS

The project is served by Sligo Creek ES, Silver Spring International MS and DCC Blair HS. Based on the FY23 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 1 - Applicable FY2023 School Adequacy

School	Projected School Totals, 2026				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit		Tier 1	Tier 2	Tier 3
Sligo Creek ES	664	636	95.8%	+28	No UPP	113	161	261
Silver Spring Internatl. MS	1,170	1,113	95.1%	+57	No UPP	183	291	467
Montgomery Blair HS ²	2,867	2,619	91.3%	+248	No UPP	428	822	1,252

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school's adequacy status and ceilings, as determined in the Annual School Test. Under the FY23 Annual School Test, Sligo Creek ES, Silver Spring International MS and Montgomery Blair HS do not require any UPP as identified in Table 1. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

Calculation of Student Enrollment Impacts

To calculate the number of students generated by the proposed plan, the number of dwelling units is multiplied by the applicable School Impact Area student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit.

With a net of 6 multifamily low-rise units that are not age-restricted, the proposed project is estimated to generate the following number of students based on the subject property's location within an Infill Impact Area:

Table 2 - Estimated Student Enrollment Impacts

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.195	0.000	0.096	0.000	0.139	0.000
SF Attached	0	0.166	0.000	0.091	0.000	0.116	0.000
MF Low-rise	6	0.059	0.354	0.023	0.138	0.032	0.192
MF High-rise	0	0.034	0.000	0.015	0.000	0.016	0.000
TOTALS	6		0		0		0

² Projected enrollment reflects the estimated impact of CIP P651908, which will reassign students between the Downcounty Consortium, Walter Johnson HS and Woodward HS in 2026.8

As shown in Table 2, on average, this project is estimated to generate 0 elementary school students, 0 middle school students and 0 high school students. The estimated number of students generated do not exceed the adequacy ceilings identified for each school in Table 1. Therefore, no additional UPPs are required and neither are partial payments across multiple UPP tiers.

Analysis Conclusion

No UPP condition required. Montgomery County may modify the per unit UPP rates prior to payment of any required UPPs. The Applicant must pay the above UPPs to the Montgomery County Department of Finance based on the rates in effect at the time of payment.

OTHER

Public facilities and services are available and will be adequate to serve the proposed 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 *Growth and Infrastructure Policy* resolution currently in effect and will be adequate to serve the Property.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied.

A Forest Conservation Exemption (42021103E) was confirmed for the project on June 15, 2021. The application qualifies for the exemption under 22A-5(s)(1) because the activity is occurring on a tract of land less than 1.5 acres with no existing forest or existing specimen or champion tree, and the afforestation requirements would not exceed 10,000 square feet.

5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a Combined Stormwater Management Concept/ Site Development Stormwater Management Plan approval from MCDPS Water Resources Section on January 5, 2022 (Attachment B). Due to the small lot size, a negligible increase in runoff and constraints such as existing utilities and the existing shallow storm drain system, a stormwater management waiver was granted. However, a payment of stormwater management contribution is required. Additionally, the site is not in a special protection area and therefore not subject to a water quality plan requirement and is not located in a floodplain.

6. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.

Not applicable to this Property.

7. Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.

No other provisions apply to the Subdivision.

SECTION 5: SITE PLAN 820210160 FINDINGS AND ANALYSIS

Per the Fenton Village Overlay Zone in effect at this time (Section 59.4.9.7.D.1.a.), site plan review is required if Retail/service Establishment uses are proposed in a Multi -Unit zone.

1. When reviewing an application, the approval findings apply only to the site covered by the application.

The findings herein apply only to the Subject Property.

2. To approve a Site Plan, the Planning Board must find that the proposed development:

a) satisfies any previous approval that applies to the site;

Site Plan 820210160 has been reviewed for conformance with the associated Preliminary Plan 120210240 previously discussed above.

b) satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

c) satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment;

This section is not applicable as the Subject Property's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

d) satisfies applicable use standards, development standards, and general requirements under this Chapter;

i. Division 4.5.3 CR Zone Standard Method

Table 3: Easley's Preliminary Plan & Site Plan Data Table for CR Zone, Standard Method, Section 59.4.5.3.

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	7,250 sq ft (0.16 acres)
Prior Dedication	n/a	1,250 sq ft (0.02 acres)
Proposed Dedication	n/a	500 sq ft (0.01 acres)
Site Area	n/a	5,500 sq ft (0.13 acres)
Mapped Density CR 3.0 C 2.0 R 2.75 H 110' & Fenton Village Overlay	2.0 FAR ¹	
Residential (GFA/ FAR)		5,920 sq ft
Commercial (GFA/FAR)		4,080 sq ft
Total Mapped Density (GFA/FAR)	14,500 sq ft (2.0 FAR)	10,000 sq ft (1.37 FAR)
Building Height	60' ²	60'
Public Open Space (min s.f.)	0	0
Minimum Setbacks (ft)		
Front	0'	0'
Side (east)	0'	0'
Side (west)	0'	0'
Rear	0'	0'

¹ Section 59.4.9.8.C.4 states that in the CR zone, under the standard method of development the maximum FAR is 2.0 if approved by site plan under Section 59.7.3.4

² While the Subject Property zoning has a mapped height of 110', Section 59.4.9.8.1 restricts building height for blocks within the Fenton Village Overlay Zone that confront a detached residential zone

Form Standards, Section 59.4.5.3.C.5

The Project conforms to the form standards for walls facing a street or open space for CR standard method development. The front of the building will provide a minimum ground story transparency of 60%, and entrance spacing for the ground floor uses will be below the maximum distance of 75 feet. The side and rear of the building do not face an existing street or open space, and therefore the form standards for transparency do not apply to the side and rear.

ii. **Section 59.4.9.8 Fenton Village Overlay Zone standards**

(1) Facilitate the implementation of an organized and cohesive development pattern that is appropriate for an urban environment.

The proposed building will contribute to a cohesive development pattern for the surrounding urban context. The building footprint will be located adjacent to the public right-of-way with ground floor activating uses such as retail and restaurant space. The upper stories, while slightly stepped back above the first floor, will be of a similar alignment to the building to the east and has been designed with architectural features such as outdoor terraces, railings, and balconies for the residential units. Further, as conditioned, the southern façade, which faces a large public parking lot which is

envisioned to potentially become new public open space, will feature a mural or similar visual amenity to tie together the building facades and the public spaces they define. As the edges of the large “superblocks” of Fenton Village redevelop, such visual connection and coherence is essential to forming an attractive, safe, and welcoming urban environment.

(2) Encourage attractive design and ensure compatibility with existing buildings and uses within and adjacent to the Overlay zone.

As conditioned, the design of the building will be of a compatible height and width to the existing buildings, and the mixed-use nature of the building will blend with the surrounding mixture of commercial, retail, and residential buildings. Directly to the east is a three-story medical office building with ground floor neighborhood serving uses. This building will be four-stories with similar ground floor activating uses.

Directly to the south and west are surface parking lots. As proposed, a blank wall up to 60 feet in height will be facing the south. While the façade proposes a mixture of colored fiber cement panels, as discussed above and as conditioned, the Applicant must provide a visual amenity on the rear to break up the blank wall to further provide an attractive design and ensure compatibility with potential public spaces to the south. Please see further discussion in Finding 2.g below.

A portion of the rear of the building is proposed to be open to above, which has been designed to be the trash area for the ground floor retail/restaurant uses. Through coordination with DPS staff and Planning Staff recommendations, the Application has been conditioned to fully enclose the walls and roof in this area to ensure it is secure and restrict exterior elements from entering the building.

(3) Provide flexibility of development standards to encourage innovative design solutions.

While the Application proposes standard method development, the project will provide innovative features to ensure architectural interest, including second floor terraces and roof planters.

(4) Allow for the transfer of the public open space requirement to other properties within the Overlay zone.

Given that the site is only 5,500 square feet, there is no public open space requirement.

(5) Allow new uses.

The Project will provide a new mixed-use building on a currently vacant site. The new uses will be compatible with and contribute to the Fenton Village environment.

iii. ***Division 59-6 General Development Standards***

(1) Division 6.1 Site Access

All access to the Site will be from Silver Spring Avenue. Pedestrian access will be improved along the Site frontage with a seven-foot-wide minimum landscaped street buffer and a seven-foot-wide minimum sidewalk, which transitions to the existing sidewalks on both side of the Site. The design of the sidewalk and the landscape street buffer complies with the 2019 *Silver Spring Streetscape Standards*. The Project does not include a curb cut for either a driveway or a loading area, as on-site parking and loading is not required given the proposed densities. By not providing a curb cut the pedestrian through zone is uninterrupted and the potential for conflicts between pedestrians and motorists is minimized.

(2) Division 6.2 Parking, Queuing and Loading

The Site is located within the bounds of the Silver Spring Parking Lot District, and therefore is not required to provide any off-street parking spaces on-site (Section 59-6.2.3.H.1.a). Residents, employees and visitors to the Site will have access to long-term parking within Parking Garage 4 (less than 100 ft feet west of the Site) and short-term metered parking on either side of Silver Spring Avenue (17 total spaces, 2-hour limit).

The Zoning Code requires one long-term and one short-term bicycle parking spaces on-site for the proposed retail uses. Projects with fewer than 10 multi-family units on-site are not required to provide bicycle parking. The short-term bicycle parking space will be located along the site frontage, and the long-term bicycle parking will be provided within the building, in compliance with the Bicycle Parking Design Standards (Section 59-6.2.6.).

The Project is proposing fewer than 50 multi-family units and less than 15,000 square feet of retail; therefore, an off-street loading facility is not required. No curb cuts, driveways or loading spaces are proposed as part of the Project.

(3) Division 6.3 Open Space and Recreation

Given the Subject Property's size and singular frontage, the Project is not required to provide public open space per Section 59.4.5.3.C of the Zoning Ordinance. The Project is not required to provide recreation facilities per Section 59.6.3.9 of the Zoning Ordinance given that the proposal will result in less than 19 units.

(4) Division 6.4 General Landscaping and Outdoor lighting

The Project will be landscaped at the ground floor including a planter to the left of the retail/restaurant entrances and streetscaping. On the second floor, the Applicant proposes a series of planters on the terraces adjacent to the residential units. As conditioned, the lighting will conform to the latest Illuminating Engineering Society of North America (IESNA) recommendations.

e) Satisfies the applicable requirements of:

i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and

The Site Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a Combined Stormwater Management Concept/ Site Development Stormwater Management Plan approval from MCDPS Water Resources Section on January 5, 2022 (Attachment B). Due to the small lot size, a negligible increase in runoff and constraints such as existing utilities and the existing shallow storm drain system, a stormwater management waiver was granted. However, a payment of stormwater management contribution is required. Additionally, the site is not in a special protection area and therefore not subject to a water quality plan requirement and is not located in a floodplain.

ii. Chapter 22A, Forest Conservation.

Please refer to the environmental section above in the Preliminary Plan findings.

f) Provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;

Pedestrian access and circulation will be improved with the streetscape improvements proposed by the Project. The existing five-foot sidewalk will be enhanced with a seven-foot sidewalk, buffered by a seven-foot-wide minimum landscape street buffer. The streetscape is further activated with two proposed retail bays along the Site frontage. No curb cuts or driveways are proposed for the Site, which limits the number of potential conflicts between pedestrians and motorists.

g) Substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;

As previously discussed in Preliminary Plan No. 120210240 Finding 2, the Project substantially conforms to the 2000 *Silver Spring CBD Sector Plan*.

The recently adopted (but not in effect for this Application) 2022 *Silver Spring Downtown and Adjacent Communities Plan* recommends that the surface parking lot to the south become open space in the future. Given the proposed elevator tower/emergency fire stair facing the rear is currently designed as a blank wall, Condition No. 4 will require the Applicant to provide a visual amenity on the rear to break up the blank wall, this visual amenity can be a mural or a variety of other architectural features that can be changed from time to time without a Site Plan amendment.

i) Noise Guidelines

A Traffic Noise Impact Analysis was prepared by Cerami Associates for the Property due to its location within 600 feet of an arterial road (Georgia Avenue), and the results were provided in a report dated April 5, 2022 (Attachment D). A noise analysis is necessary to demonstrate conformance with the 1983 Staff Guidelines For the Consideration of Transportation Noise Impacts In Land Use Planning and

Development (“Noise Guidelines”) by determining the projected interior and exterior noise levels and whether or not mitigation for residential units and outdoor recreational areas is required. The Montgomery County “Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development” stipulate a 65 dBA Ldn maximum noise level for outdoor recreation areas and 45 dBA Ldn for indoor areas.

The results of the analysis for this Property indicate that future unmitigated traffic noise levels above 65 dBA Ldn will not impact the site. Therefore, the interior residential spaces can readily be mitigated to suitable levels (not exceeding 45 dBA Ldn) through standard construction and no further mitigation is required.

h) will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;

As discussed in finding 3.b. of the Preliminary Plan, the Project is estimated to generate fewer than 50 new person trips in the morning and evening peak hours. Therefore, no further transportation impact analysis is required and a finding for adequate public facilities for transportation infrastructure can be made.

i) on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and

Not applicable, the Subject Property is not located within a Rural Residential or Residential Zone.

j) on a property in all other zones, is compatible with existing, approved or pending adjacent development.

As discussed in Finding 2.d.ii(2) above, the Project will be compatible with existing, approved, and pending adjacent development.

3. To approve a Site Plan for a Restaurant with a Drive-Thru, the Planning Board must also find that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood.

Not applicable, this Site Plan does not include a restaurant with a drive-thru.

- 4. For a property zoned C-1 or C-2 on October 29, 2014 that has not been rezoned by Sectional Map Amendment or Local Map Amendment after October 30, 2014, if the proposed development includes less gross floor area for Retail/Service Establishment uses than the existing development, the Planning Board must consider if the decrease in gross floor area will have an adverse impact on the surrounding area.**

Not applicable, the Subject Property was not zoned C-1 or C-2 on October 29, 2014.

SECTION 6: COMMUNITY OUTREACH

The Applicant has met all proper site signage and written noticing requirements for the submitted Applications. As of date of this Staff Report, no correspondence has been received.

SECTION 7: CONCLUSION

As conditioned, the Preliminary Plan and Site Plan applications each satisfy the findings under Sections 59.7.3.3 & 7.3.4 and the applicable standards of the Zoning Ordinance, substantially conform to the recommendations of the 2000 *Silver Spring CBD Sector Plan* and satisfy the findings of the Subdivision Regulations. Therefore, Staff recommends approval of Preliminary Plan and Site Plan with the conditions specified at the beginning of this report.

ATTACHMENTS

Attachment A: Preliminary Plan

Attachment B: Site Plan

Attachment C: Agency Letters

Attachment D: Noise Study