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February 17, 2022

Mr. Gabe Albornoz, President,
And Montgomery County Councilmembers
100 Maryland Avenue, 4th Floor
Rockville, Maryland 20850

Re: Public Hearing Comments of Colesville Joint Venture, LLP, Owner of 8551 Fenton Street, on Planning Board Draft of Silver Spring Downtown and Adjacent Communities Plan

Dear Mr. Albornoz and County Councilmembers:

Our firm represents Colesville Joint Venture, LLP, owner (“Owner”) of property located at 8551 Fenton Street in the northeast quadrant of Colesville Road and Fenton Street (“Property”). We appreciate the diligent efforts of the Planning Board and Staff on the Silver Spring Downtown and Adjacent Communities Plan (“Plan”) and the opportunity to present our support for several aspects of the Plan as well as our requests for further considerations by the Council.

The Property, currently zoned CR-5.0 C-4.0 R-4.75 H-145 T, consists of a gross tract area of approximately 27,100 square feet and net tract area of approximately 19,000 square feet. The Property is improved with an approximately 38,000 square-foot, two-story commercial building built in 1952. The Owner has owned the Property since 1982.

Since the initiation of the Plan, the Owner has evaluated what recommendations if incorporated in the Plan would incentivize viable redevelopment of the Property. To assist, the Owner engaged VIKA and other consultants and shared their findings with Staff as the planning process unfolded. During this process, Staff provided important input to the ownership team for its consideration.

In this regard, VIKA accomplished the following:

- Conceptualized a mixed-use building form, containing ground-floor commercial (or other opportunities for activating space), below-grade parking, and a residential high-rise tower to take advantage of the Property’s prominent location in the Ellsworth District;

Mr. Gabe Albornoz, President
And Montgomery County Councilmembers
February 17, 2022
Page 2

- Created access for service and parking on Roeder Road, keeping access off Fenton and Colesville; and
- Created a 3D model to study views, massing, and compatibility of the proposed building in its locational context.

A PowerPoint presentation prepared by VIKA demonstrating the existing conditions, conceptual layout and massing of the proposed building is attached to this letter and submitted for the Council's review. As illustrated, a 250-foot building containing ground floor retail or activating space, a 21-story residential tower, below-grade parking, and yielding approximately 250 units would not only further the implementation of the Plan's stated visions and goals, but realistically encourage redevelopment of the Property to achieve these visions and goals. More specifically addressing how the proposed redevelopment achieves and implements the visions, goals, and recommendations of the Plan, we offer the following:

- The Property is located in the Ellsworth District, which the Plan acknowledges to be the "heart" and "primary activity center of Silver Spring." (p. 21) This location places the Property within convenient walking distance of a wide variety of uses, including major employers such as United Therapeutics, arts and entertainment uses (such as the Fillmore and AFI), grocery stores, retail, and restaurants. This confluence of commercial uses surrounding the Property makes it an ideal location for significant residential density, as residents would be able to complete most necessary trips on foot or by bicycle, including possibly their commute to work.
- For destinations not reachable on foot or by bike, the Property is also within easy walking distance of many transit options, including the Route 29 BRT, future Purple Line Stations at the Silver Spring Library and Silver Spring Transit Center, the Metro Red Line, and numerous Metro and Ride-On Bus Routes.
- Significant height is justified for the Property based on the surroundings. While the existing building on the Property is a low-scale retail building built many years ago, building heights step up dramatically to the north and moving away from the center of downtown Silver Spring from the Property. Specifically, moving north on Colesville Road from the Property, there are several buildings with significantly greater heights, including two hotels, United Therapeutics' "Unisphere" building, as well as the office and multi-family residential buildings that flank the intersection of Spring Street and Colesville Road. In this manner, heights now step up away from the center of downtown Silver Spring. In recognition of the urban character of Silver Spring, including the location of the Property in the "primary activity center of Silver Spring," the Plan should also allow heights to step up closer to the downtown center – away from the lower-scale residential neighborhoods to the north.

Mr. Gabe Alborno, President
And Montgomery County Councilmembers
February 17, 2022
Page 3

The Plan recommends the Property be placed in the CR-5.0, C-5.0, R-5.0, H-175 zone and that the additional height needed for the proposed redevelopment of the Property be achieved by use of the recommended Building Height Incentive Zone (“BHIZ”), an overlay zone that includes the Property. Use of this overlay zone to achieve greater height would require review of a Design Advisory Panel and the provision of a combination of greater than the minimum 15% MPDUs on-site, a contribution to the Montgomery County Housing Initiative Fund (“HIF”), and/or the provision of an activating ground-floor neighborhood services as more specifically addressed below. (pgs. 178-179) Please note that the current law requires 12.5% MPDUs and the Plan would increase this amount to 15% as a minimum.

As a CR Optional Project the additional density above the total mapped maximum density for the Property needed to achieve the increased height allowed under the BHIZ would be available through a payment to the yet to be established Connectivity and Infrastructure Fund (“CIF”). The Plan also identifies the Property as an Opportunity Site in the Ellsworth District. (pgs. 33-34) We support these recommendations, but have indicated below a minor request with regard to the language in the Plan regarding the Opportunity Site and economic concerns related to the potential requirements of the BHIZ and CIF when they are considered as zoning text amendments in the future.

As noted, the Owner supports the identification of the Property as an Opportunity Site. However, we request that the language discussing this identification found at the fourth bullet on page 33 of the Plan be slightly expanded to read as follows:

8551 [Fenton] Street: Opportunity site at the corner of Fenton Street and Colesville Road. *Redevelopment of this site would be appropriate for a tall building. (added text in italics)*

Such additional guidance appears for several other opportunity sites and would be helpful in guiding the future review and processing of development plans if redevelopment of the Property proceeds.

We are also concerned that the requirements of the BHIZ and payment obligations of the CIF may, when individually or collectively applied, render redevelopment of the Property economically infeasible. Specifically, to achieve the additional building height under the BHIZ, the Plan requires the provision of “a combination of greater than the minimum 15 percent MPDUs on-site, a contribution to the Montgomery County Housing Initiative Fund (HIF), and/or an activating ground-floor Neighborhood Service including, but not limited to, small business, art gallery/venue, community meeting space, educational or medical use, historic preservation, or non-ground floor area dedicated to Design for Life residences.” (pgs. 178-179) The Plan also requires a monetary

Mr. Gabe Albornoz, President
And Montgomery County Councilmembers
February 17, 2022
Page 4

contribution to the CIF for the additional density needed to reach the additional height approved under the BHIZ. (pgs. 178–179)

We understand that the details of the BHIZ requirements and the amount of the CIF payment will be determined by the Council with input from the Planning Board through separate zoning text amendments which have not yet been prepared. However, we respectfully request that these requirements and contributions be kept reasonable in view of the cost of new construction and the realities of the Silver Spring market so that the height increases and additional FAR over the base zone maximums needed do not act to render desirable redevelopment projects, such as that envisioned for the Property, economically infeasible.

We appreciate your time and attention to our comments.

Thank you.

Very truly yours,

MILES & STOCKBRIDGE P.C.

 *Barbara A. Sears* / KDM

Barbara A. Sears

 *Laura Tallerico* / KDM

Laura A. Tallerico

Attachment

cc: Casey Anderson
Gwen Wright
Atara Margolies
Livhu Ndou
Peter Berman

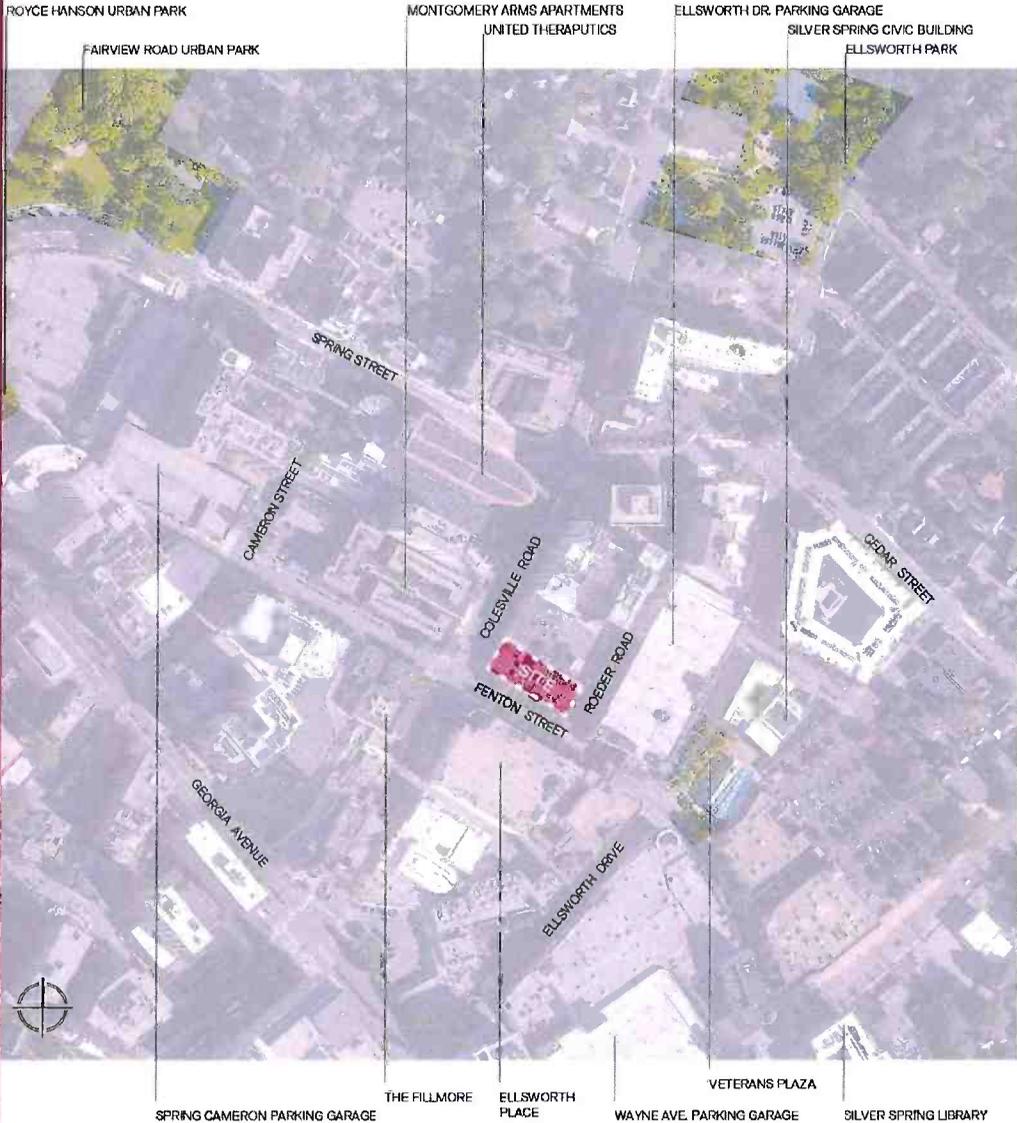
12.02.2021

8551 FENTON STREET



CONTEXT

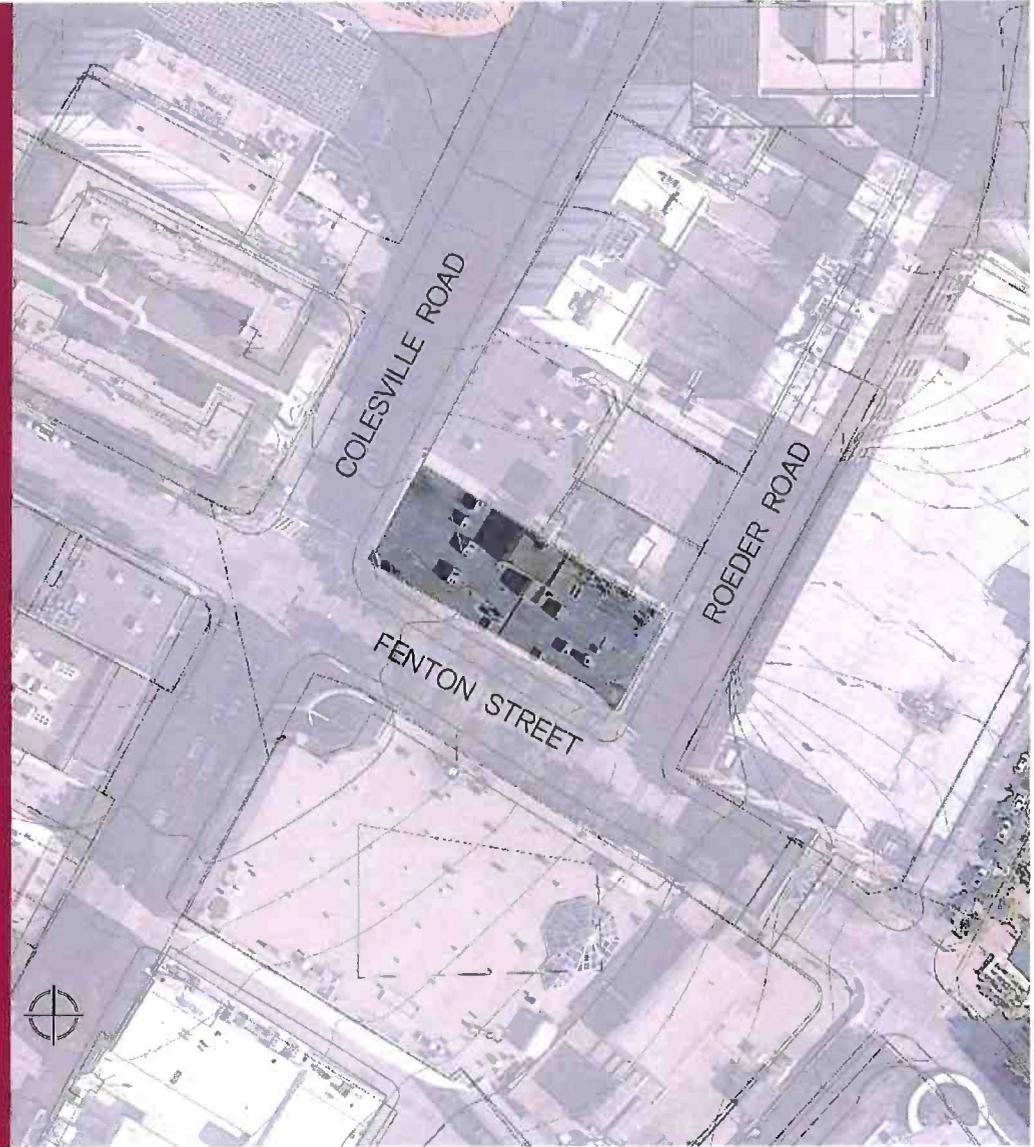
Context Aerial



SITE

Existing Conditions

- 38,000 sf Existing Commercial Bldg
Constructed in 1952
- 27,100 sf Gross Tract Area
- Net Tract Area approx. 19,000 sf

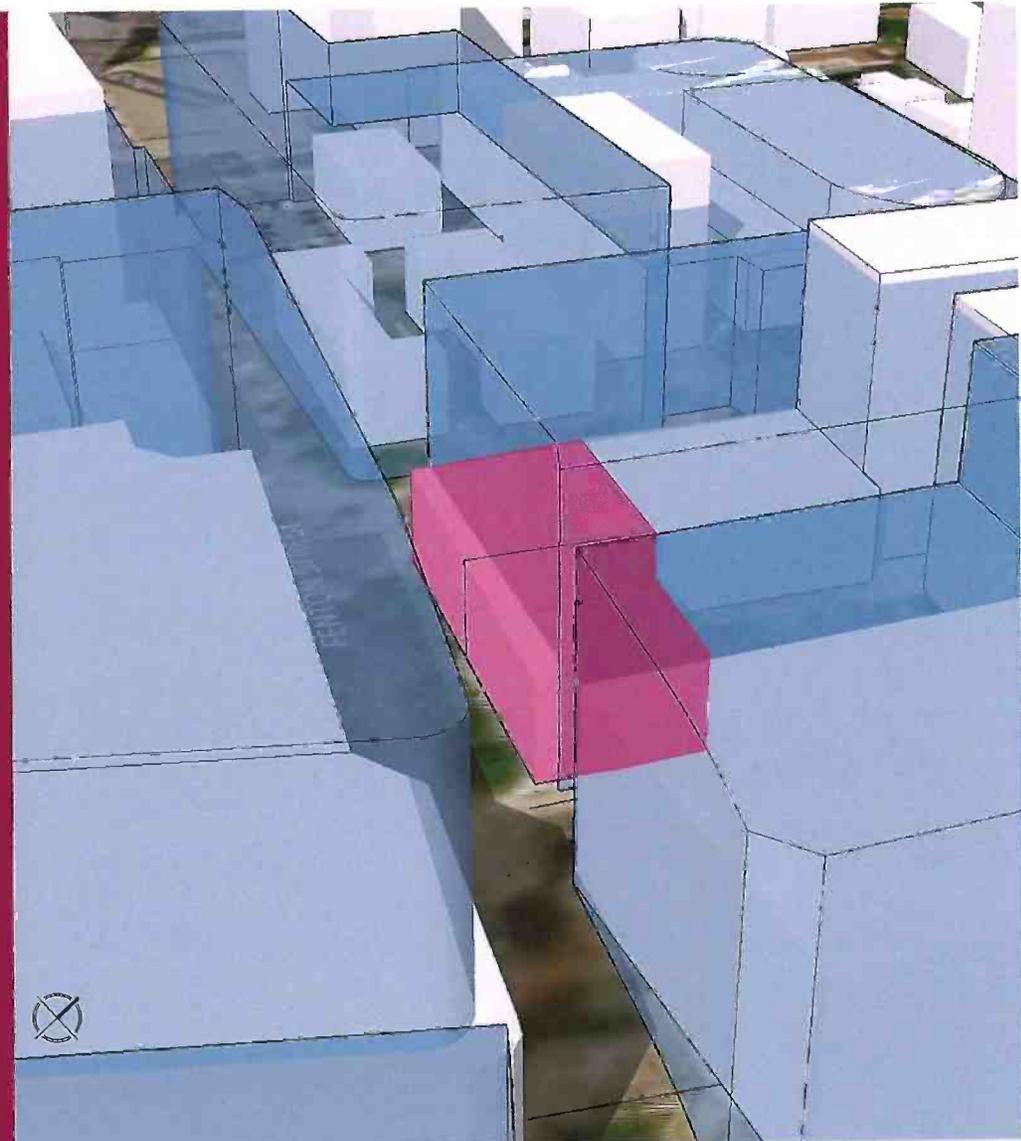


SITE

Existing Conditions

Facing Northwest

- Blue indicates maximum building envelope under existing zoning
- White portrays existing built condition
- Magenta is the subject property's ex. bldg

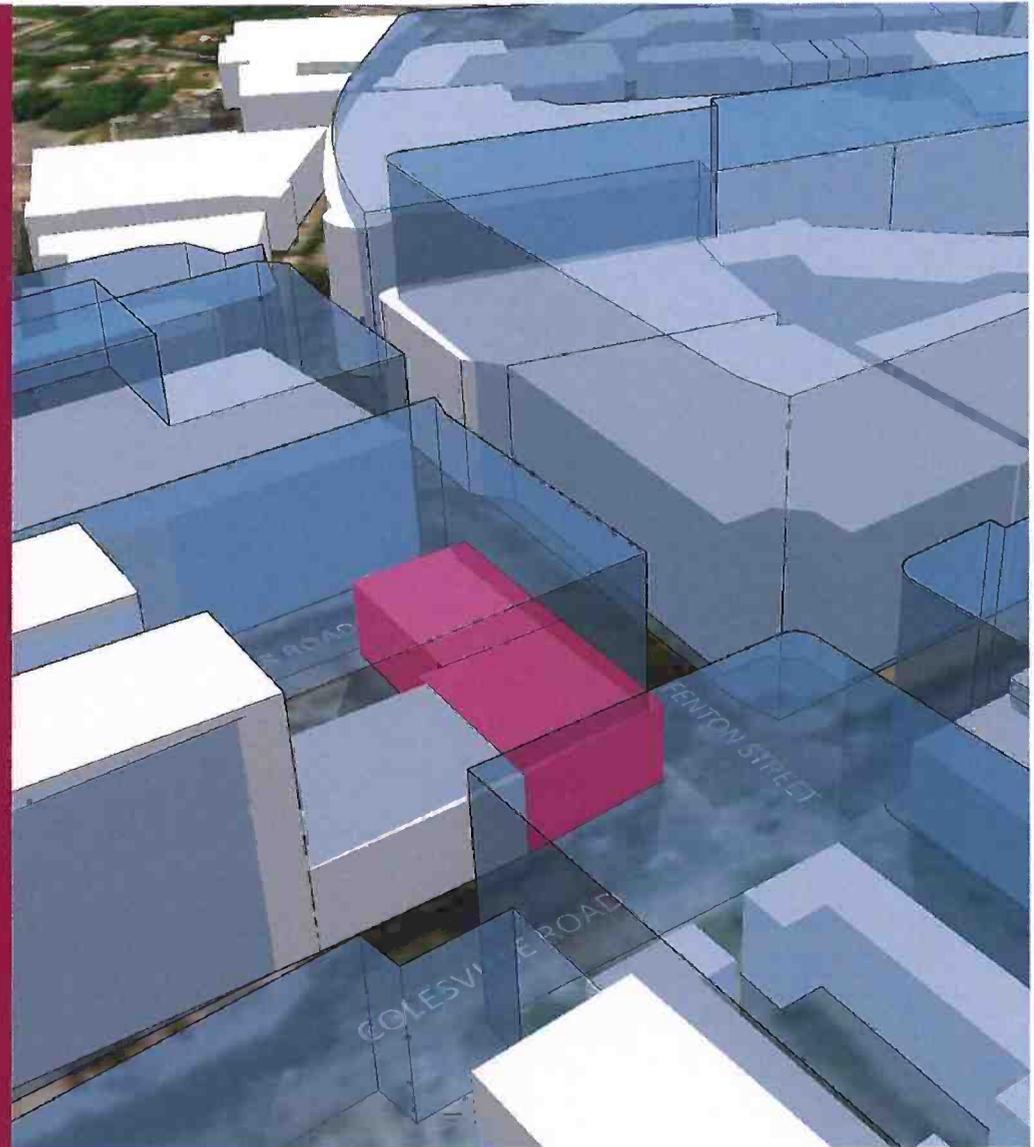


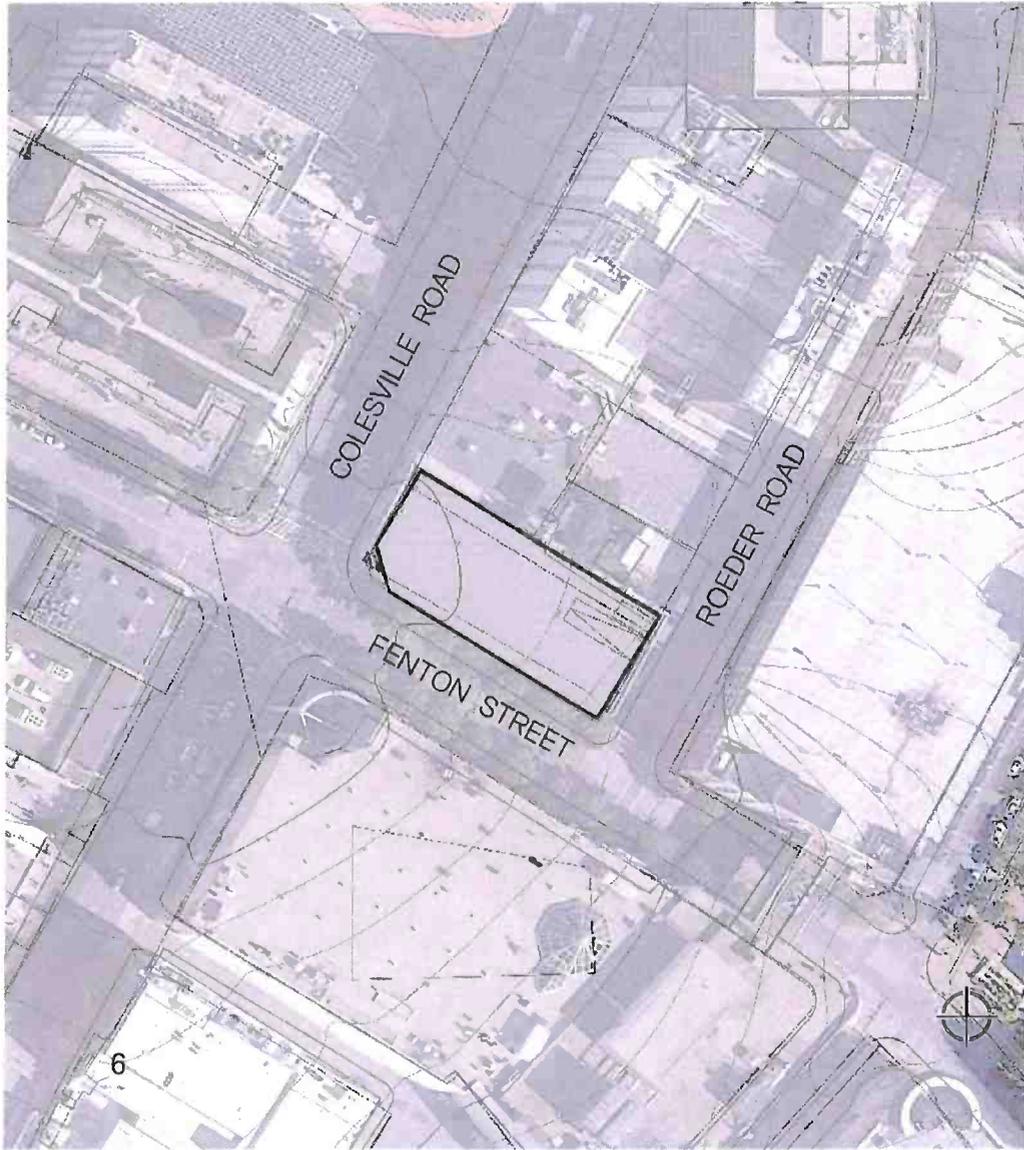
SITE

Existing Conditions

Facing Southeast

- Blue indicates maximum building envelope under existing zoning
- White portrays existing built condition
- Magenta is the subject property's ex. bldg



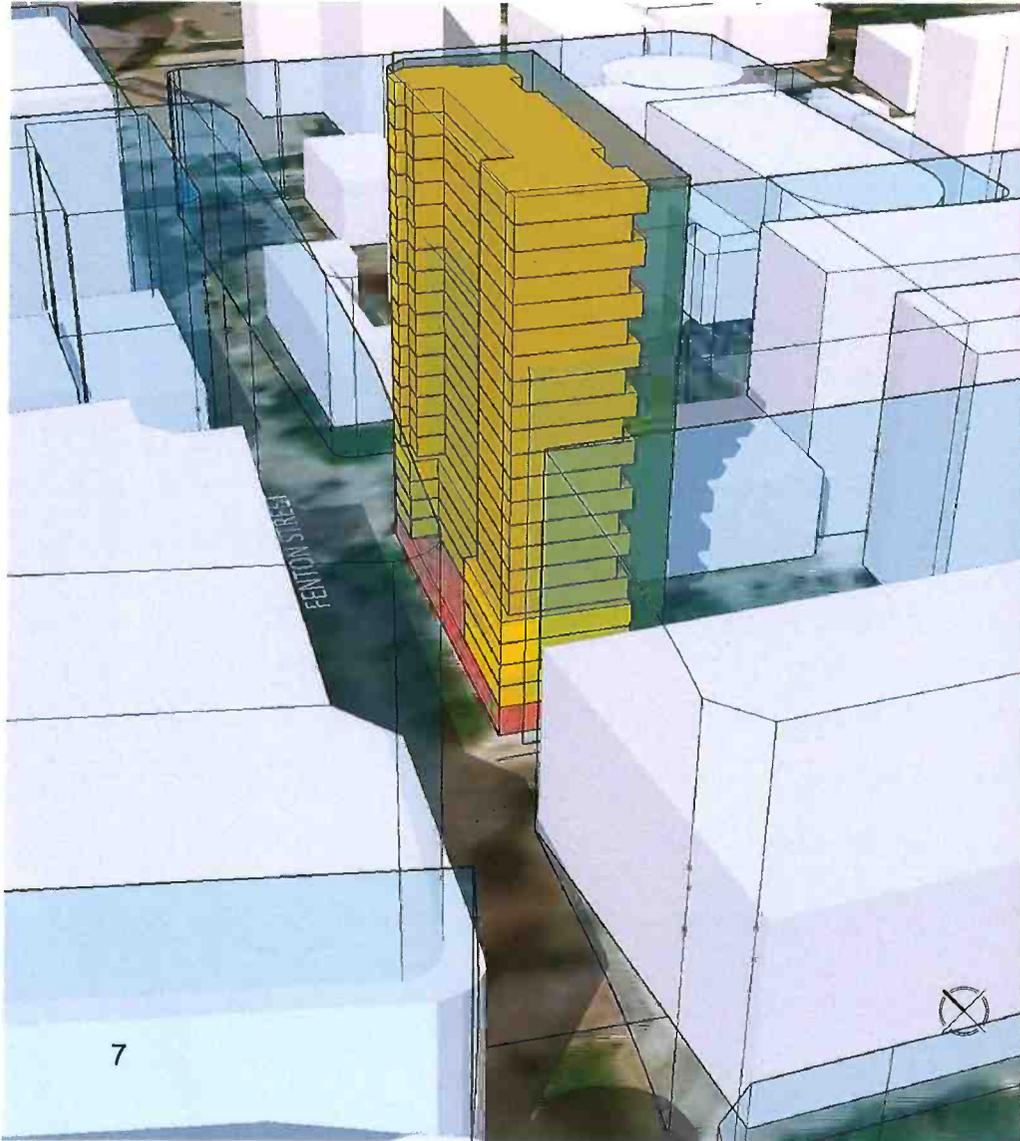


SITE

Concept Layout

- Proposed Building Footprint indicated
- Garage entry and service located on Roeder Road





SITE

Concept Layout

Facing Northwest

- Light Blue indicates maximum building envelope under recommended base zoning (height may be increased by 150% using BHIZ)
- Gold and gray box portrays proposed building height at 250 feet.
- Gold is the subject property's residential tower.
- Salmon is the subject property's commercial first floor
- White portrays existing built condition





SITE

Concept Layout

Facing Southeast

- Light Blue indicates maximum building envelope under recommended base zoning (height may be increased by 150% using BHIZ)
- Gold and salmon in gray box portray proposed building height at 250 feet.
- Gold is the subject property's residential tower
- Salmon is the subject property's commercial first floor
- White portrays existing built condition





MASSING MODEL

Facing Northwest

- Gold is the subject property's proposed residential tower
- Salmon is the subject property's commercial first floor

MASSING
MODEL

Facing Southeast

- Gold is the subject property's proposed residential tower
- Salmon is the subject property's commercial first floor

