

Fillmore May Get Tax Help

Critics Call Proposals 'Blank Check' to Developers

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Montgomery County Executive Isiah Leggett has proposed a series of measures that would provide an estimated \$800,000 in tax breaks over 10 years to the operators of a music venue in Silver Spring and give the property owner the green light to develop the surrounding site for up to 15 years, triple the usual period.

Leggett (D) reached agreement in January with music producer Live Nation to open one of its Fillmore venues at the site of the former J.C. Penney store on Colesville Road. The site is owned by the Lee Development Group, and the \$13.5 million music hall deal depends on Lee's donation of the land in exchange for a measure of protection for the company to build on its adjacent property.

For a typical project, there is a five-year expiration date on preliminary plan approval and findings on how the project would affect local roads and schools. A developer in some cases can seek a five-year extension.

Under Leggett's proposal, the approval period would be lengthened to 10 years, with a likely five-year extension, for plans that provide land or building space for arts or entertainment uses. The clock would start ticking for the Lee company after it turned over the keys to the music hall.

The proposals, which will be introduced at the County Council today, also would change the county's zoning rules. Generally, the Planning Board has wide discretion to negotiate with developers for green space, fountains or plazas in exchange for the right to develop at a higher density in the county's business districts. If approved by the council, the measures would wipe out that discretion when the county executive accepts property for arts or entertainment, according to a memo from council attorney Jeffrey L. Zyontz.

Diane Schwartz Jones, Leggett's assistant chief administrative officer, said the proposed land-use measures are meant to encourage the creation of cultural amenities in the county's aging urban areas.

"We're saying, if you're willing to part with your property now to build this cultural use, we're willing to give you a longer approval period," she said. "To realize that benefit, we have to give something up."

Critics equated the proposals to a "blank check" that would circumvent part of the county's planning process and expressed concern about removing some of the Planning Board's discretion.

Separately, the council is scheduled to vote today on Leggett's proposal to extend a property tax credit to new buildings in arts and entertainment districts in Wheaton, Bethesda and Silver Spring, as allowed by a change in state law. The largest anticipated credit, according to the council's senior legislative attorney, would provide \$800,000 over a decade to the planned music hall in Silver Spring.

What is unprecedented for the county is that the music hall, which would count as the Lee company's public amenity and public-use space, would be built before the larger surrounding project. Bruce Lee, president of Lee Development Group, said he is asking only for protection in exchange for giving the county land worth an estimated \$3.5 million.

"They are all getting heartburn, saying the developers are asking for too much. We're not asking for more height; we're not asking for more density," he said.

Critics are concerned about the extended life span of the approval and the shifting of authority from county planners to the executive branch.

"I hate to think that we would completely cede control," said council member Marc Elrich (D-At Large), who has been an outspoken critic of using public money to pay for the project. "I worry that this becomes a blank check."

Jones said that the administration had tried to "bridge the gap" with planning officials before submitting the measures and that intense development near Metro in an urban area is consistent with council and planning policy.