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Wednesday, Oct. 8, 2008

Silver Spring music hall clears major hurdles

Council approves laws allowing for transfer of Lee Group land

by Janel Davis | Staff Writer

The County Council approved a pair of landmark land use bills on Tuesday, one of the final steps necessary in opening a Fillmore music venue on Colesville Road in downtown Silver Spring after almost six years of negotiations with two separate companies.

The council also signaled their intentions to recommend the county executive accept the donation of the former J.C. Penney site from the Lee Development Group for a public amenity and public use space for a future project.

For the first time, the county is on tap to subsidize a for-profit music venue, broadening the scope of economic development in the county.

The zoning provisions, the first of their kind in Montgomery County, would give the County Council the authority to deal with public amenity requirements in certain business districts.

The donated space would have to be located in an arts and entertainment district.

Council members approved the provision 7-2, with Councilmen Marc Elrich (D-At large) of Takoma Park and Roger Berliner (D-Dist. 1) of Potomac casting dissenting votes.

A second piece of legislation also provides developers donating land — in this case the Lee Group — protections from changes in project and site plan approvals. The provision passed unanimously.

"As a council member I am more sensitive that this is the place where land use decisions rest," said Councilwoman Nancy M. Floreen (D-At large) of Garrett Park, who proposed the amended land use rules on Tuesday. "The buck stops here. We're the ones that set the policy."

The originally proposed legislation, submitted by County Executive Isiah Leggett (D) would have given the authority to the county executive.

"These measures make the opening of the Fillmore music, live entertainment and community use venue a reality by 2011," Leggett (D) said in a statement.

The net public benefit of the project would be \$1.6 million annually from the very start, Leggett continued. The venue is expected to generate 30 county jobs with an average annual salary of \$45,000, county officials have said.

The new land use rules take effect immediately and could also apply to other arts and entertainment districts, in Wheaton and Bethesda.

Currently the Planning Board has discretion in accepting the space as an amenity, which is usually accepted after a developer finishes its project. Lee Development would provide the J.C. Penney land before nearby land owned by the company would be developed.

"This is a huge step in the process," said Bruce Lee, president of Lee Development Group. "This is a good deal for Silver Spring. Hopefully Fillmore will do for [that side of Colesville Road] what the AFI Theater did on the other side in attracting other businesses like Discovery Communication."

The Lee Group has not yet moved forward on developing its adjacent property, a project that is not feasible in the current sluggish economy, Lee said.

Planning Board Chairman Royce Hanson has been the most vocal opponent of the land use changes, saying the changes would take away their discretion in dealing with planning matters in some situations and would offer unfair advantages to some projects. Hanson and other board members have supported the project overall, but not the zoning changes involved with it. He had no comment following Tuesday's vote.

Leggett maintained that the changes in land use law were necessary to spur development along that portion of Colesville Road across from the AFI Silver Theater.

Under the deal, the county and state have each contributed \$4 billion toward the music venue. Live Nation will pay another \$2 million toward the project. The land donated by the Lee Group is valued at \$3.5 million. The county will retain ownership of the land and lease the space to the Fillmore, for a total of \$3.26 million in rent over the term of the lease.

The Fillmore is required to host a minimum of 70 events each year with an objective of hosting 150 events. The venue must also a number of public uses, and hold no event after 1 a.m., to satisfy community concerns about late events, loud music and drunken concert goers.

With most of the council members congratulating county officials and the Lees, Berliner and Elrich maintained their opposition.

"I think this was a bad deal with the Fillmore folks. ... I think this was a poor use of taxpayer's dollars," said Berliner.

Elrich agreed.

"I'm concerned that what's being touted as a new economic development tool is actually an old economic development tool," Elrich said. "This is not about the Fillmore. This is about zoning issues. We've been told to give the Lees what they want or else they will go elsewhere. Anybody that's been involved in the conversations knows that this is pretty much spot zoning."

The councilmen intend to cast dissenting final votes on the land acceptance resolution to the county executive next week.