

## **Item 7 - Correspondence**

**From:** [Silber, Stacy P.](#)  
**To:** [Zyontz, Jeffrey](#); [MCP-Chair](#); [Branson, Cherri](#); [Hill, David](#); [Piñero, Roberto](#); [Presley, Amy](#)  
**Cc:** [Stern, Tanya](#); [Kronenberg, Robert](#); [Hisel-McCoy, Elza](#); [Margolies, Atara](#)  
**Subject:** Silver Spring Downtown and Adjacent Communities Plan Draft Design Guidelines: Planning Board Agenda for February 9th - Item Number 7  
**Date:** Monday, February 6, 2023 1:32:35 PM

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Dear Chair Zyontz and Members of the Montgomery County Planning Board:

We appreciate and commend Staff regarding their hard work in creating the Silver Spring Design Guidelines. There are certain changes that we previously recommended that were not implemented. In speaking with Staff, we understand why certain of these changes were not necessary. However, there are a few critical changes that we continue to believe are important to achieve clarity and accomplish Staff's intent. These changes are also essential to provide predictability for property owners as they move through the entitlement process. We appreciate the Board's consideration of these clarifying changes outlined below:

### **1. Section 1.2.2. - Design Guidelines and Flexibility**

We appreciate that Staff has updated Section 1.2.2. of the Design Guidelines to acknowledge the importance of taking "site constraints" into consideration when evaluating the more prescriptive methods outlined in the Design Guidelines (e.g. tower setbacks). The Design Guidelines provide "a range of recommended metrics" to provide flexibility. However, there may be instances in which this range cannot be achieved. As such, we believe additional clarity is needed to accomplish Staff's intent and to provide additional predictability to property owners, which the Design Guidelines appropriately recognize is important. As we previously indicated, while we believe adding the "menu of options", similar to what is included in Bethesda's Design Guidelines, would be the preferred way to provide this predictability, in the alternative we would recommend adding the following additional clarifying language to Section 1.2.2:

Section 1.2.2.

"The Planning Board may approve alternative design approaches that better meet the intent of the Design Guidelines for both buildings and open spaces. This review flexibility will allow room for truly exceptional and unexpected creative solutions to improve the downtown. Certain guidelines provide a range of recommended metrics (e.g. dimensions, number of floors) to appropriately meet the intent. These ranges are not rigid requirements but instead provide predictability for applicants as to what will be expected during development review and provide staff and the Planning Board with a framework to guide the review process. Design proposals will be evaluated during the development review process based on the surrounding context, site conditions, site constraints, and how the project meets the Sector Plan goals and Design Guidelines intent. **It is understood, within these Design Guidelines, that sites with these unique constraints/conditions may not be able to achieve the prescriptive methods/metrics and that alternative strategies for these sites may be employed to achieve the overall intent of the Design Guidelines.**"

### **2. Section 2.1.2 - Street Type Guidelines**

We appreciate that Staff has included a note to explain that street sections provided in

the Sector Plan override street sections and dimensions provided in the Design Guidelines. However, given that the Sector Plan overrides the Design Guidelines, we would recommend removing the qualifier of “generally” in the note below, to avoid unnecessary confusion.

“Note: ~~Generally,~~ Street sections provided in Section 3.6.9 of the Sector Plan override street sections and dimensions provided in this section.”

### 3. Section 2.3.4. - Parking

As noted in our previous testimony, the Draft Design Guidelines recognize that surface parking may be necessary in the Adjacent Communities and list a few locations. We believe that listing particular blocks on which surface parking may be necessary could be read to preclude surface parking on other streets. We understand that this is not Staff’s intent. As such, we continue to recommend the modification below to more closely match Staff’s intent.

- Modify Section 2.3.4 as follows:
  - “Surface parking is not recommended in any of the downtown districts of the SSDAC. All existing surface parking lots are considered redevelopment opportunities. In some unique cases, limited ADA parking may be allowable on site and not in a structured parking facility. Surface parking is permitted in a limited capacity in the Adjacent Communities district; ~~particularly to serve small multi-family units that may develop on the blocks between Fenton Street and Grove Street (Section 2.3.3).~~”

Thank you for your consideration of our comments.

Sincerely,

Stacy Silber & Liz Rogers

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**Stacy P. Silber**, Attorney

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**From:** Wallace, Scott C.  
**To:** MCP-Chair  
**Cc:** Margolies, Atara; Sears, Barbara A.; Tallentico, Laura M.  
**Subject:** Silver Spring Downtown & Adjacent Communities Design Guidelines - Colesville Joint Venture, Owner of 8551 Fenton Street  
**Date:** Wednesday, February 8, 2023 11:38:00 AM  
**Attachments:** image001.png  
image002.png  
image003.png  
image004.png  
image005.png

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Dear Chair Zyontz and Members of the Montgomery County Planning Board,

On behalf of Colesville Joint Venture, LLP, the owner ("Owner") of the property located at 8551 Fenton Street ("Property"), we are writing to comment on the latest draft *Silver Spring Downtown and Adjacent Communities Plan Design Guidelines* ("Design Guidelines") (Item #7 on the Planning Board's 2/9/23 Agenda). The Owner actively participated throughout the approval process for the *Silver Spring Downtown and Adjacent Communities Plan* ("SSDAC") and has followed the development of the Design Guidelines. Unlike prior drafts, the most recent draft of the Design Guidelines, dated February 2023, ("Draft Design Guidelines") indicates that façade preservation is encouraged in the event the Property redevelops. (Draft Design Guidelines pg. 63 through 65) and recommends a specific 10-foot setback of a new building from the façade without any historic evaluation or considerations of the site conditions of the Property, including the impact on desired redevelopment of such a setback. Façade preservation may be an appropriate recommendation for buildings that have been designated as historic resources in the County's Master Plan for Historic Preservation depending on the specifics of the historic evaluation and impact on desired redevelopment. Recommending façade preservation for the existing building on the Property is premature in view of the Property's status as an unevaluated site within the Silver Spring CBD Locational Atlas Historic District. It further does not account for the Property's designation as an Opportunity Site in the recently approved and adopted SSDAC.

The SSDAC correctly outlines the Property's historic preservation status as follows:

The building is listed in the Locational Atlas and Index of Historic Sites as a resource within the Silver Spring CBD Locational Atlas District. The first anchor tenant of this building (constructed in 1951) was Morton's Department Store which several sources have noted had a non-discriminatory environment at its stores. The Historic Preservation Commission and the Planning Board will evaluate the significance of this building with a redevelopment proposal or as part of the larger analysis of resources listed in the Locational Atlas and Index of Historic Sites as outlined in Chapter 24A, Historic Resources Preservation, of the County Code. SSDAC pg. 184.

The Property has not been evaluated for individual historic significance nor has the existing building's architecture been noted to have potential historic significance. Nonetheless, the Draft Design Guidelines prematurely identify façade preservation as the "appropriate treatment" in the event the Property redevelops. (pg. 64–65). The appropriate historic evaluation of the building, including any consideration of the façade and any recommended treatment, should be determined during the historic process required by law as outlined in the SSDAC.

In addition to being premature, recommending façade preservation to include specific setbacks as outlined above is inconsistent with the SSDAC's designation of the Property as an "opportunity site," for which redevelopment is encouraged. As noted, the Draft Design Guidelines prescribe that, where façade preservation is recommended, "new building[s] should be setback at least 10 feet from the [existing building's] façade, but additional distance may be appropriate depending on the site conditions." The Property is limited in size and its shape is narrow. Setting new development back from the existing building's façade a minimum of 10 feet may render redevelopment impracticable, which is contrary to the intent of the SSDAC.

Based on the issues outlined above, we request that the recommendations for adaptive reuse via façade preservation with respect to the Property be removed entirely. If that is not supported, then in the alternative, the adaptive reuse recommendations should be tempered to allow the appropriate preservation strategy to be determined through the historic preservation process required by law and taking account of any redevelopment proposed. We would specifically recommend the following revisions:

1. For the second full paragraph at page 63 under "2.3.5 Adaptive Reuse of Buildings" (Words in ~~red~~ and stricken indicate deletions. Words in blue and underlined indicate additions):

Silver Spring's historic buildings are critical to the community's character and collective memory; offer tangible connections to the past, opportunities for education and interpretation; and create a diversity of building types within the Plan area. These Design Guidelines encourage preservation and adaptive reuse of select ~~historic~~ buildings, as listed in Table 7, by means of frontage, or façade preservation if such buildings are deemed historic through an evaluation by the Historic Preservation Commission and the Planning Board as outlined in Chapter 24A, Historic Resources Preservation, of the County Code ("Historic Evaluation") and frontage or façade preservation is recommended. The level of preservation suggested as part of any adaptive reuse may vary depending on the current protections provided to a building and its overall historic significance.

2. For the fourth full paragraph at page 63 under "2.3.5 Adaptive Reuse of Buildings":

Façade Preservation: Permits new development setback from the historic façade, if deemed appropriate, similar to frontage preservation. Any new building setback should be considered at the time new development is proposed and Historic Evaluation occurs. ~~at least 10 feet from the façade, but additional distance may be appropriate depending on the site conditions~~. As with frontage preservation, additions and alterations to these buildings should be considered as a matter of course.

3. For the first full paragraph at page 64 under "Adaptive Reuse for Buildings in the Silver Spring Locational Atlas District":

The Silver Spring Locational Atlas Historic District consists of: 1) buildings individually designated in the Master Plan for Historic Preservation; 2) buildings recognized as significant to the development of the downtown, but only partially protected; 3) and non-historic buildings. The Historic Resources Preservation Ordinance protects properties listed solely in the atlas from substantial alteration. Any modifications deemed a substantial alteration require a Historic Area Work Permit (HAWP) from the Historic Preservation Commission (HPC). Table 7 lists resources in the Locational Atlas District and recommends the appropriate treatment in the event that buildings are deemed historic through an evaluation by the Historic Preservation Commission and the Planning Board as outlined in Chapter 24A, Historic Resources Preservation, of the County Code. Refer to Maps 30 and 31 in the SSDAC Plan for locations of these properties.

We appreciate your time and attention to our comments, as well as the diligent efforts of the Planning Board and Staff on the Design Guidelines.

Scott C. Wallace

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**From:** [Deborah Chalfie](#)  
**To:** [MCP-Chair](#)  
**Cc:** [Steve Knight](#); [Margolies, Atara](#); [Ballo, Rebecca](#); [Liebertz, John](#)  
**Subject:** Art Deco Society of Washington Comment Letter on REVISED SSDAC Design Guidelines  
**Date:** Wednesday, February 8, 2023 10:32:54 AM  
**Attachments:** [ADSW statement to PB re SSDAC design guidelines 2-8-23.pdf](#)

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Dear Chairman Zyontz,  
Please find attached a comment letter from the Art Deco Society of Washington for tomorrow's worksession (Feb. 9, 2023) on the **Revised** Silver Spring Downtown and Adjacent Communities Plan Design Guidelines.

As an additional note, those of us who have taken the time to submit our views in writing but cannot always appear in person appreciate it when the Board -- as you did on January 26th -- requires any suggested revisions to be drafted, incorporated, and resubmitted to the Board for a final decision. Had the Board acted upon the revisions then suggested by one witness on the spot, only the in-person witness(es) would have been afforded the opportunity to comment during the worksession before a final decision, which would have been unfair to others wishing to review and comment on any revisions. So, thank you for erring on the side of procedural fairness.

Thank you for your consideration of our views, and please feel free to contact me if you have any questions.

Best regards,  
Deborah Chalfie, ADSW Preservation Chair  
[dchalfie@adsw.org](mailto:dchalfie@adsw.org)  
202-375-1856  
P.O. Box 42722  
Washington, DC. 20015



February 8, 2023

Montgomery County Planning Board  
2425 Reedie Dr., 14th floor  
Wheaton, MD 20902

**Re: Revised Draft of Silver Spring Downtown and Adjacent Communities Design Guidelines**

Dear Chairman Zyontz and Members of the Planning Board:

In our letter of January 25, 2023, the Art Deco Society of Washington (ADSW) was generally supportive of the draft Silver Spring Downtown and Adjacent Communities Plan Design Guidelines for dealing with preservation and adaptive reuse of historic buildings proposed in Sec. 2.3.5. ADSW now writes to oppose certain proposed revisions to that section of the draft.

During your January 26, 2023 meeting on the draft Design Guidelines, an attorney from a firm that represents developers asked for a revision to the draft, claiming it wasn't clear. In particular, she stated that the scope of subsection 2.3.5A was not clear and should be revised to state that it only applies to buildings in the Silver Spring Historic District, which are listed in Table 7. The new draft now melds what was subsection 2.3.5A into the general introduction on p. 63 of the revised draft, and adds "as listed in Table 7" at the end of line 7 in the second paragraph on that page.

ADSW opposes this revision as an unwarranted narrowing of the applicability of preservation-respectful design guidelines, a narrowing that creates new ambiguities and loopholes in the Guidelines. We urge rejection of this particular revision, and a restoration of the language in the first draft in Section 2.3.5 and subsection 2.3.5A.

First, former subsection 2.3.5A was not at all ambiguous or unclear in its applicability. Its subheading stated that it is applicable to all "historically significant buildings" in the plan area. "Historic significance" is a term of art in this context, and only applies to buildings that are on the Locational Atlas or in the Master Plan. This is in contrast to the "older" buildings in former subsection 2.3.5B, which may retain "craftsmanship and architectural style" worth preserving, but are not yet on the Locational Atlas or in the Master Plan. These subsections were further distinguished in the first draft from the subset of historically significant buildings within the Silver Spring Historic District, which is on the Locational Atlas. That group of buildings in the core of the plan area, which share an Art Deco/Streamline Moderne design, are appropriately addressed more specifically with regard to design guidelines. In other words, the previous draft was perfectly clear as to which guidelines should apply to which types of buildings.

Second, revising the draft to state that the guidelines in former subsection 2.3.5A only apply to the Historic District buildings would not only unduly and inappropriately narrow the applicability of those setbacks and conditions, it would also create new ambiguities. What setbacks and conditions would then apply to other historically significant buildings that are *in* the plan area but *not* in the Historic District (e.g., Spring Gardens Apartments, the North Washington Shopping Center, etc.)? What about buildings that might be added to the Locational Atlas or Master Plan in the future – what setbacks and conditions would apply to them? The conditions and setbacks in former subsection 2.3.5A were clearly intended to be broader in scope, to apply to all historically significant buildings in the plan area; otherwise, they would have been part of former subsection 2.3.5D (Historic District) to begin with.

Please reject the proposed revision discussed above, and restore the language and structure in former subsection 2.3.5A and the introduction to Section 2.3.5. On behalf of the Art Deco Society of Washington, thank you for the opportunity to share our views. If you have any questions, please contact me or Steve Knight, ADSW President, at [president@adsw.org](mailto:president@adsw.org).

Sincerely,

A handwritten signature in blue ink, appearing to read "Deborah Chalfie".

Deborah Chalfie, ADSW Preservation Chair  
[dchalfie@adsw.org](mailto:dchalfie@adsw.org)

**From:** [Patricia Ilgenfritz](#)  
**To:** [MCP-Chair](#)  
**Cc:** [Hisel-McCoy, Elza](#); [Margolies, Atara](#); [hbmaisel@maiseldevelopment.com](mailto:hbmaisel@maiseldevelopment.com); [kholins@canalgroup.us](mailto:kholins@canalgroup.us); [C. Robert \(Bob\) Dalrymple](#); [Matthew Gordon](#)  
**Subject:** Item No. 7 - Requested Revisions to the SS Downtown & Adjacent Communities Plan Design Guidelines  
**Date:** Wednesday, February 8, 2023 3:00:32 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
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[Letter to Planning Board \(PDF Format\) \(00502574xD8665\).pdf](#)

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From C. Robert Dalrymple & Matthew M. Gordon.

The attached letter is sent on behalf of Maisel-Hollins Development Company regarding the above-referenced matter. Please feel free to contact us with any questions. Thank you.



**Patricia Ilgenfritz** | Administrative

Assistant

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February 8, 2023

**VIA EMAIL DELIVERY**  
[MCP-Chair@mncppc-mc.org](mailto:MCP-Chair@mncppc-mc.org)

Mr. Jeff Zyontz, Chair  
And Members of the Planning Board  
Montgomery County Planning Board  
2425 Reedie Drive, 14<sup>th</sup> Floor  
Wheaton, Maryland 20902

Re: Maisel-Hollins Development Company's Requested Revisions to the Silver Spring Downtown and Adjacent Communities Plan (the "Sector Plan") Design Guidelines (the "Design Guidelines") – *Item No. 7*

Dear Chair Zyontz and Members of the Planning Board:

On behalf of Maisel-Hollins Development Company ("MHDC"), the owner and developer of several projects within the Sector Plan boundaries, we are submitting these written comments to the revised Design Guidelines. As a general concept, MHDC supports the intent of the Design Guidelines to "guide new building and open space development in downtown Silver Spring ... [that] will help achieve the goal of Design Excellence ...." (Design Guidelines, p. 3).

While MHDC supports the proposed revision to Section 1.2.2 of the Design Guidelines to recognize that site constraints should be considered when evaluating development applications, we respectfully request that the Design Guidelines be revised to recognize the need for greater flexibility where a site has limited size, depth, or width. More specifically, Section 3.4.3 (Heights Along Eastern Avenue) provides very little flexibility for building form and massing by proscribing step-backs for buildings that face single-family homes along Eastern Avenue. The proposed requirement that any portion of a building exceeding 70 feet in height step-back a minimum of 20 feet from Eastern Avenue, and any

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Selzer Gurvitch Rabin Wertheimer & Polott, P.C.

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portion of a building exceeding 120 feet of height step-back a minimum of 40 feet does not account for situations where a property has limited size, depth or width and redevelopment could achieve compatibility with the adjacent single-family neighborhood through alternative design treatments.<sup>1</sup>

***To account for scenarios where a development site is constrained with limited size, depth, or width, MHDC respectfully requests that Section 3.4.3 of the Design Guidelines be revised to include a third bullet point that acknowledges an opportunity for an applicant to provide alternative treatments to prescriptive step-backs.*** The addition of the following language to Section 3.4.3 of the Design Guidelines would create the necessary flexibility to allow for future redevelopment opportunities that are both market-responsive and consistent with the Sector Plan vision for infill, mixed-use projects:

- Though the step-backs referenced above are preferred, sites with limited size, width, or depth from the street may reduce the extent of the step-back and instead use alternative methods to reduce bulk. Such alternative methods may include the use of unique geometry, limiting the apparent face, modulating and articulating façades, and other design solutions.

We appreciate your consideration of these comments and look forward to the opportunity to work with planning staff to implement the Sector Plan and Design Guidelines

Very truly yours,

**Selzer Gurvitch Rabin Wertheimer & Polott, P.C.**

*C. Robert Dalrymple*

C. Robert Dalrymple

*Matthew M. Gordon*

Matthew Gordon

cc: Elza Hisel-McCoy  
Atara Margolies  
Harvey B. Maisel  
Kevin Hollins

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<sup>1</sup> By way of comparison, the Bethesda Downtown Plan Design Guidelines provide alternative methods to proscriptive tower step-backs so that urban mixed-use projects with limited size, width or depth can achieve the goal of compatibility with the surrounding community while remaining economically viable. See Bethesda Design Guidelines Section 2.4.6 – 2.4.8.