

Item 6 - Correspondence

From: [Patricia Ilgenfritz](#)
To: [MCP-Chair](#)
Cc: [Stern, Tanya](#); [Kronenberg, Robert](#); [Hisel-McCoy, Elza](#); [Dickel, Stephanie](#); [C. Robert \(Bob\) Dalrymple](#); [Matthew Gordon](#)
Subject: Agenda Item 6 – October 12, 2023 - BOZ Briefing Follow-up; Selzer Gurvitch’s Written Testimony in Support of M-NCPPC Staff’s Recommendations
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[BOZ Briefing Follow-up Letter to Planning Board \(00573934xD8665\).pdf](#)

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Good morning. Regarding the above-referenced agenda item, please see the attached letter from Selzer Gurvitch’s Land Use/Zoning Practice Group. Please feel free to contact us with any questions. Thank you.



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October 10, 2023

Via Email – MCP-chair@mncppc-mc.org

Mr. Artie Harris, Chair

And Members of the Planning Board
Montgomery County Planning Board
2425 Reedie Drive, 14th Floor
Wheaton, Maryland 20902

Re: ***(Item 6)*** BOZ Briefing Follow-up; Selzer Gurvitch’s Written Testimony in Support of M-NCPPC Staff’s Recommendations

Dear Chair Harris and Board Members:

On behalf of the Land Use/Zoning practice group at Selzer Gurvitch, we wanted to provide our thoughts in response to Staff analyses and recommendations relative to the triggering of soft and hard caps on density in Downtown Bethesda provided for under the Bethesda Overlay Zone (the “BOZ”), which caps will impact the build-out of Downtown Bethesda as recommended pursuant to the Bethesda Downtown Sector Plan (the “Sector Plan”).

We participated extensively and collaboratively with M-NCPPC staff, our developer clients, and the residential community surrounding the Downtown area through the several years of work and processes that ultimately led to the approval of the 2017 Sector Plan, Sectional Map Amendment and BOZ. We think that most involved in this, if not all, believe that the implementation that has occurred over the last several years, which has also happened with collaboration amongst all of the stakeholders, has been tremendously successful! As described in greater detail below, we support M-NCPPC staff’s multi-prong recommendations now that the soft cap has been surpassed and the hard cap is within sight, recognizing that the purposes behind establishing the caps are being satisfactorily addressed and will continue to be addressed through these Staff recommendations. More specifically, in place of the density caps is now the need to provide greater certainty that Downtown Bethesda will not go into moratorium but rather can continue to be built out pursuant to the Sector Plan allowing Downtown Bethesda to remain the economic engine of Montgomery County and the region.

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The Sector Plan established four (4) overarching goals: (1) parks and open spaces; (2) affordable housing; (3) environmental innovation; and (4) economic competitiveness. It is evident by the many development projects underway and delivered since 2017 that these overarching goals are being advanced. With respect to the soft cap, the Sector Plan (p. 151) calls for an evaluation of “infrastructure and/or achieving of certain NADMS goals as outlined in 2.3.5 Transportation Demand Management and progress toward the acquisition of half of the recommended new urban parks.” While additional development is critical to making further progress toward these goals, it is clear that substantial progress has been made through build-out of the Sector Plan to date.

With respect to parks and as illustrated in the 2023 annual monitoring report, 18 development projects have been approved with PIP requirements totaling \$21.7 million and M-NCPPC has collected over \$14.5 million dollars in PIP payments. M-NCPPC has successfully acquired several key properties recommended in the Sector Plan as urban parks, including the Capital Crescent Civic Green. M-NCPPC has also coordinated with Montgomery County Department of Transportation (MCDOT) and private developers to allow for the future development of the Farm Women’s Market Civic Green and several urban parks on County Parking Lots 25 and 44 that will be integrated into the Eastern Greenway. With respect to transportation infrastructure, significant pedestrian, bicycle, and transit infrastructure has been constructed or is in the process of being constructed in Downtown Bethesda. MCDOT and M-NCPPC’s emphasis on reduced parking and implementation of pedestrian and bicycle facilities has advanced the Sector Plan’s goal to reduce reliance on single-occupancy vehicles.

In order to ensure that critical development can proceed as envisioned by the Sector Plan, it is important that the Planning Board quickly adopt and transmit Staff’s recommendations to the County Council. While establishing a hard cap relating to the build-out of the overall density recommended in the Sector Plan may have initially made sense in 2017, and there are other ways and means for addressing the checks and balances intended by the soft and hard caps as your Staff has identified, market conditions and economic considerations are much different today and do not support continued use of a cap on development in Downtown Bethesda. Given the unique economic conditions that will exist for the foreseeable future, including, among many others, volatile capital markets, high interest rates, inflationary concerns and heightened construction costs, Staff’s recommendations will allow property owners greater certainty and flexibility to underwrite redevelopment opportunities in Downtown Bethesda and deliver public infrastructure, amenities and benefits. The very existence of the hard cap is an immediate stop sign on the continued implementation of the Sector Plan, a result which would be disastrous for the County and its residents.

We thank you for your time and consideration reviewing these written comments and are encouraged by Staff’s recommendations as they represent positive policy that will better support redevelopment opportunities in Bethesda in the short-term and long-term. As well, we relish the opportunity to continue to work with the residents in and surrounding Downtown Bethesda and the many other stakeholders in the successful implementation of the Sector Plan.

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Very truly yours,

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

C. Robert Dalrymple

By: _____

C. Robert Dalrymple

Matthew M. Gordon

By: _____

Matthew M. Gordon

cc: Ms. Tanya Stern
Mr. Robert Kronenberg
Mr. Elza Hisel-McCoy
Ms. Stephanie Dickel