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JUN 23 2016

MCP-Chair

**From:** Kominers, William <wkominers@lercheary.com>  
**Sent:** Wednesday, June 22, 2016 4:55 PM  
**To:** MCP-Chair  
**Cc:** Zachary Marks (zachary.marks@hocmc.org); Kronenberg, Robert; Howerton, Leslye  
**Subject:** Bethesda Downtown Plan -- Priority Sending Sites

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Char Anderson and Members of the Board,

This message is sent on behalf of the Housing Opportunities Commission with regard to the Priority Sending Sites identified in the Staff Report for the June 23 worksession on the Bethesda Downtown Plan.

In the slide presentation that is now online, there is a map that identifies the various types and locations of Priority Sending Sites ("PSS"). I believe that the color purple identifies the housing-related sites. The slide presentation generally identifies the HOC properties as PSS. However, there is one omission that should be corrected through the worksession. This omission relates to lots 14, 15 and 16 on the south side of Avondale Street that are owned by HOC. I have raised this question with Robert Kronenberg, who indicated that he would check into the matter.

At the Board's October 5, 2015, worksession on the Bethesda Plan, the Board considered the properties on Avondale Street and determined that certain properties on the south side of the street, including the HOC properties, should be recommended to be rezoned from the R-10 Zone of today to the CR-3.0, C-0.25, R-3.0, H-70 Zone. The HOC properties on Avondale adjoin HOC's Waverly House property, which is already appropriately recommended as a PSS.

As was described at the October 5, 2015, worksession, the intention of HOC is to have the Waverly House and Avondale Street properties developed together, so that additional housing units can be built on the Avondale lots and simultaneously provide common open space to serve both the new development and the existing Waverly House project. To facilitate the integrated development of these properties, all of them should be identified as PSS. While the designation has already been made as to Waverly House, it should be placed on the Avondale lots owned by HOC as well.

In order to make this kind of integrated development possible, it is important that the Avondale lots be rezoned to the zone and height that the Board decided at its October 5, 2015, worksession, namely, CR-3.0, C-0.25, R-3.0, H-70.

Thank you for your consideration of this matter.

Bill Kominers

--

**William Kominers - Attorney**

Lerch, Early & Brewer, Chtd. ideas that work

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Tel: (301) 841-3829 Fax: (301) 347-1783 - [wkominers@lercheary.com](mailto:wkominers@lercheary.com)

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**From:** Johnson, Pamela A.

**Sent:** Wednesday, June 22, 2016 3:11 PM

**To:** Kominers, William

**Subject:** EMAIL MESSAGE.DOCX

You can use this one email for the Board:

[MCP-Chair@mncppc-mc.org](mailto:MCP-Chair@mncppc-mc.org)

--

**Pamela A. Johnson**

*Legal Assistant to William Kominers, Cindi E. Cohen, Sharon N. Craig and Ann Marie Mehlert*

Lerch, Early & Brewer, Chtd. ideas that work

3 Bethesda Metro Center - Suite 460 - Bethesda, MD 20814

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## MCP-CTRACK

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**From:** Amanda Maiorana-Farber <amandafarber@hotmail.com>  
**Sent:** Wednesday, June 22, 2016 4:15 PM  
**To:** MCP-Chair  
**Subject:** Discrepancy Between BSP Boundaries Question  
**Attachments:** FullSizeRender 20.jpg; FullSizeRender 21.jpg

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0752  
JUN 22 2016

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

June 22, 2016

Planning Board:

Can you please explain the discrepancy between the Adopted and Approved 1994 Bethesda Sector Plan boundaries and what is used for the East Bethesda neighborhood in the current Plan being proposed?

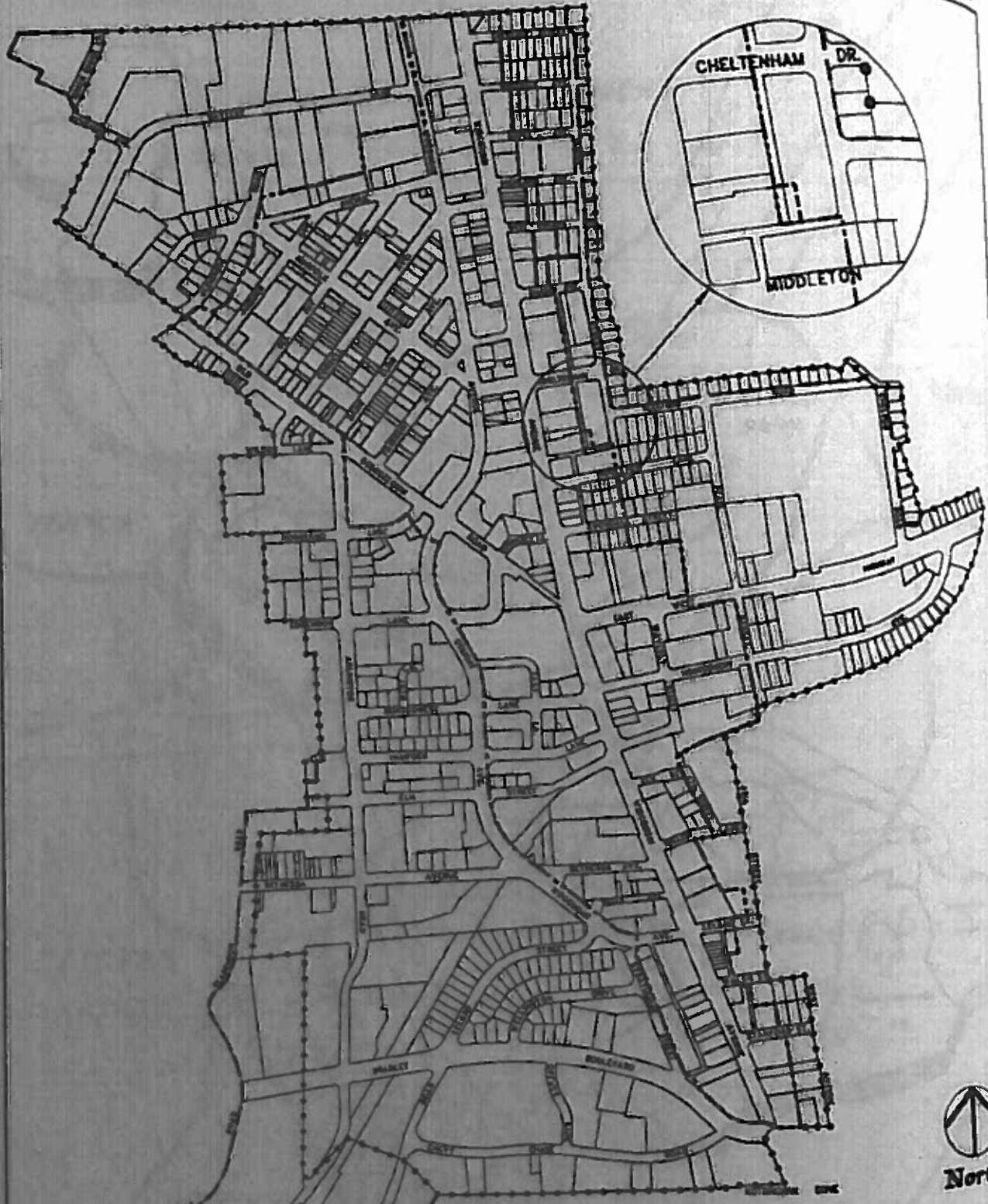
The new Plan has maintained the sector boundary east of the single family residences on Tilbury, north of them on Seaford, and west of them on Chelton; while the 1994 Plan recommended those boundary lines be changed.

### 1994 Plan East Bethesda Sector Plan Area:

"The Plan recommends that a new Sector Plan boundary be established that EXCLUDES the single family detached properties east of Tilbury Street, north of Sleaford Road, and East of Chelton Road from the Sector Plan. The new boundary would extend along the east side of Tilbury Street right of way from Chestnut Street to Sleaford Road, then along the north side of Sleaford Road right of way to Chelton Road, proceeding along the east side of Chelton Road to within one lot width of East West Hwy." (p.108, p.18p. 110-111)

I have found many MAJOR discrepancies between statements in the 1994 Plan about how the East Bethesda neighborhood was to be treated and what is appearing in the current Plan - but I just wanted to find out about this particular one at this point. I know times change and plans can change rather drastically, but some of the statements from the old and new Plan are in such direct contradiction to each other and will greatly effect our neighborhood.

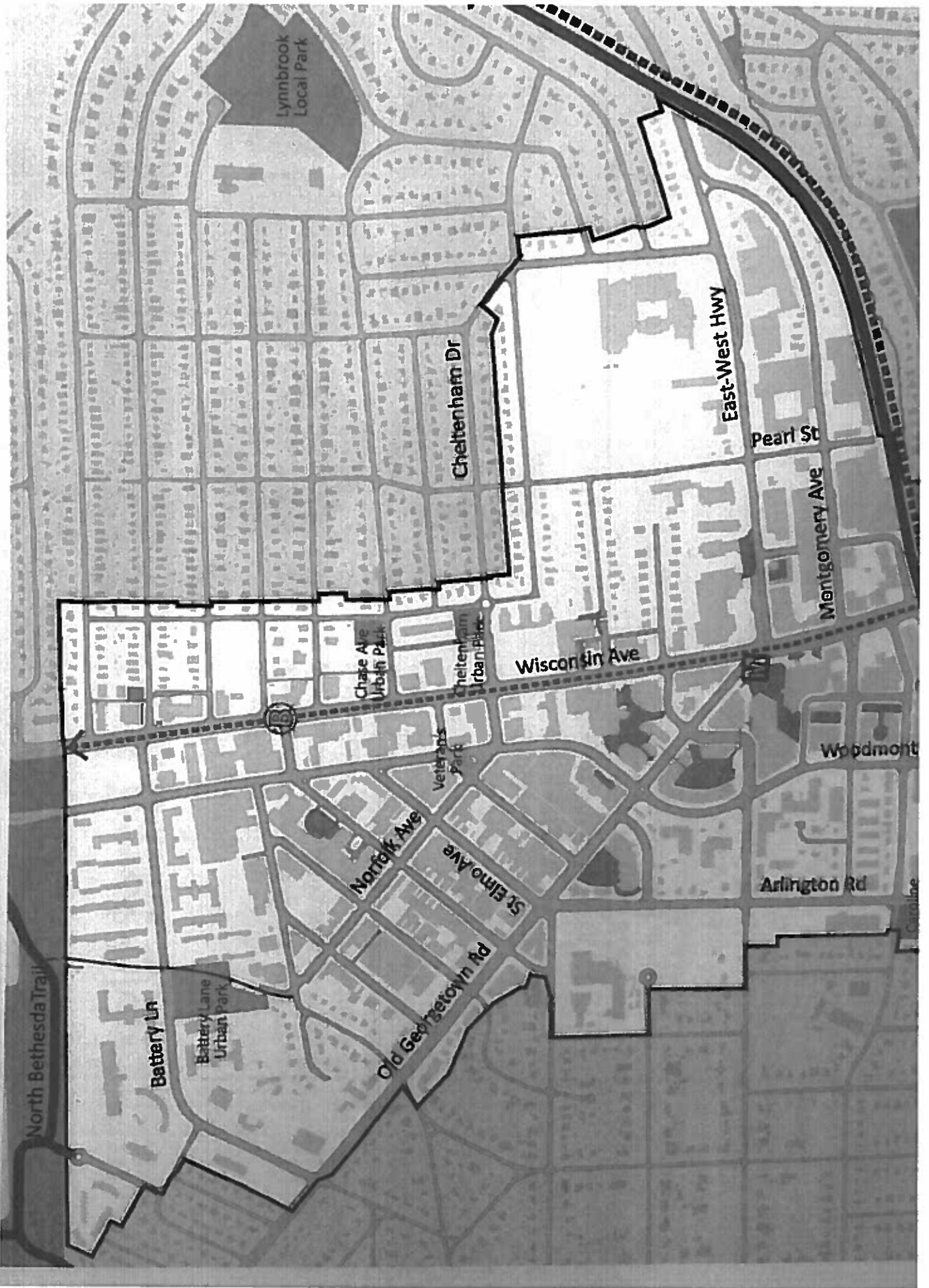
Thanks,  
Amanda Farber



- ..... Existing Sector Plan Boundary
- Proposed Changes to Sector Plan Boundary
- C B D Boundary
- Proposed Changes to C B D Boundary

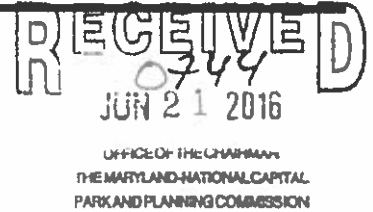


**Figure 2.01: Sector Plan Area**



MCP-Chair

**From:** holdlem@aol.com  
**Sent:** Monday, June 20, 2016 9:30 PM  
**To:** MCP-Chair  
**Subject:** No Road through Battery Lane Park  
**Attachments:** Battery Lane Park No Road CA2.docx



June 20, 2016

Montgomery County Planning Board

Casey Anderson, Chair

8787 Georgia Avenue

Silver Spring, MD 20810

[mcp-chair@mncppc-mc.org](mailto:mcp-chair@mncppc-mc.org)

From: Holly and Jim Clemans

4977 Battery Lane Apt 420

Bethesda MD 20814

holdlem@aol.com

Dear Chair Casey Anderson and Board Members

We are writing to you to make sure that when you prepare and vote on the Bethesda Downtown Sector Plan, that you make sure, for us, that the road, initially proposed to run through our green Battery Lane park, is NOT in the final plan.

We thank you for working on the plan and including us, and listening to us on various topics related to the proposed Bethesda plan.

We gave you our sign showing the tire tread mark going over children in our playground. We think that says it all.

The Planning Board did take the road out of the plan in February, but we are counting on you to make sure there is no road penciled into the plan going through our green park at the time of the final vote.

Thank you for your work for us.

Sincerely,

Holly and Jim Clemans

Holly and Jim Clemans

June 20, 2016

Montgomery County Planning Board  
Casey Anderson, Chair  
8787 Georgia Avenue  
Silver Spring, MD 20810  
[mcp-chair@mncppc-mc.org](mailto:mcp-chair@mncppc-mc.org)

From: Holly and Jim Clemans  
4977 Battery Lane Apt 420  
Bethesda MD 20814  
[holclem@aol.com](mailto:holclem@aol.com)

Dear Chair Casey Anderson and Board Members

We are writing to you to make sure that when you prepare and vote on the Bethesda Downtown Sector Plan, that you make sure, for us, that the road, initially proposed to run through our green Battery Lane park, is NOT in the final plan.

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Thank you for your work for us.

Sincerely,  
Holly and Jim Clemans



MCP-Chair

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**From:** Katya Marin <katya.a.marin@gmail.com>  
**Sent:** Tuesday, June 21, 2016 11:20 AM  
**To:** Katya Marin  
**Subject:** 4820 Auburn and Bethesda Plan

To the Planning Board and County Council:

Last week I attended the public meeting for the building proposed for 4820 Auburn Avenue and I was dismayed to see plans for yet another BOX to go up at that site. It is zoned for 90 feet and of course they are buying density and of course they are earning public good points, and plan to build to 110' with minimal setbacks and – to earn design excellence points – a meager 5 foot step-back at the 3<sup>rd</sup> floor, giving us another ugly, imposing building and eroding the charm of Bethesda.

The public good points are an embarrassment, and developers earn additional height for doing things they should do anyway. Montgomery County is shamefully selling out its neighborhoods, building ugly buildings, and leaving residents with little or no real benefit. There is one meager retail space coming in this building and the other half of the first floor is a lobby; 48 spaces for 58 units; signs for the neighborhood (who cares); Bethesda brick (should be required); a few trees (really?) and a green roof (which we know is a joke, we can see dead trees on recently built green roofs in Bethesda).

You are killing the goose that laid the golden egg.

People do NOT flock to the dense areas of Bethesda. People do NOT congregate around the Metro and the tall buildings. They flock to Woodmont Triangle and Bethesda Row. They go where they and walk (and, yes, where they can park), and see the sky and shop and eat outside and let their kids run around.

If the Plan moves forward as-is, Bethesda will become a cautionary tale and in the end your legacy will be to have done irrevocable damage – and very real environmental damage – to a once-charming place to live and visit.

I have the usual litany of complaints, they must be growing familiar to you.

- **We have dwindling parks, trees, green spaces.** Where buildings that used to go up with landscaping and open space on street corners, we are getting flat walls going straight up. EVERYWHERE You have made hypothetical and contingent plans for green space, that all rely ironically on more, bigger development. There is no actual plan in the plan; nothing that doesn't cost more than we gain. I went to Little Rock, AR, last week and

we are being outclassed by them on green space. You should be ashamed that our County is so backward on this front. You can't tend to the areas where it's easy and leave Bethesda a concrete mess; take trees out here and plant them where there are plenty. You can't solve this with broad, county-wide numbers, it has to be done neighborhood by neighborhood, block by block. A \$6M renovation of the park across from Casey Anderson doesn't mean that East Bethesda and Takoma Park should get by with what we have, because MoCo has invested in its parks.

- **Our schools are overcrowded.** (I really need to say that?) Bethesda Elementary, with its new addition, is already at capacity again. We had 5 kindergarten classes there last year, as opposed to the usual 3 or 4, and scrambled for a teacher and a space at the beginning of the year. We already intend to move classes back into rooms that were never intended to be used as classrooms, and we fully expect to see portables again before long. B-CC is getting an addition, taking it to absolute capacity, and costing it some 50-70 trees. ALL of our cluster schools are above recommended capacity and THERE ARE NO PLANS FOR SCHOOLS in the Bethesda Sector Plan. How can that be?

- **Traffic is failing.** Say what you want, but it is failing. It regularly takes me 30-40 to go less than a mile from Wisconsin and Cheltenham to Wisconsin and Jones Bridge. Per SHA's AADT report, NIH and Navy Medical add 10,000 cars daily between Jones Bridge and Cedar. That prevents anyone south of Rosedale from getting through the next two intersections in less than 4-5 or sometimes 8 (seriously!) light cycles. So there are two matters - Bethesda roads were built as town roads, and don't support the density proposed (as compared to Silver Spring or Rockville Pike, with its 4-lane streets), and Wisconsin and Old Georgetown are maxed out, with heavy or severe traffic most of the day.

The Plan relies on the Purple Line and BRT, and assumes ridiculously low increases in cars being used. I would like to know how many of you take your children on the bus or metro to their practices, their games, their friends' houses; how many of you walk to the grocery store for your weekly groceries; how many of you would take your 8 year old daughter on a bike ride to school across Wisconsin Avenue and Old Georgetown. None of you would let this happen near your own homes, especially Amy Presley, yet she refers to Bethesda as "our [the Planning Board's] CBD," and you all ignore our pleas to scale things back, develop infrastructure at pace with density, and get some decent architecture – actual architecture – as opposed to these profit-driven eyesores.

Have any of you been to Hampden Lane lately, and seen the hideous row of buildings going up? (Or tried to drive past the construction vehicles and personal vehicles parked there every day?) Or seen the building on Woodmont between Hampden and Elm? It is ONE BLOCK north of a thriving retail area and there is not a single retail space on the ground floor, and there are enormous, ugly columns that make passersby feel completely unwelcome. What kind of walkable community are you building, when there are no amenities offered to pedestrians?

Casey Anderson, late in the planning process – before worksession 12 – came to visit East Bethesda and walked around with us. He admitted that the Plan missed the mark. Planning Staff also reconsidered building heights once they came and saw it from the ground. But other members of the Planning Board felt that they had already been over things in detail and didn't want to reconsider. Do I really need to point out that it's better to get this done right? And not quickly? These are irreversible decisions.

I implore you to send the Bethesda Plan Back to the Planning Staff, get some decent traffic numbers, see how the area functions with the countless projects in progress now (including a grocery store at one of our worst intersections), and most importantly, come see for yourselves. Send the Planning Board to work here every day

for a month. Come to practice at 6pm with my soccer carpool. Take your kids across Wisconsin in a crosswalk without a traffic light or stop sign. Try to get out of Glenbrook Village at rush hour, which lasts 2 hours in the morning and 3 hours at night. Walk in our shoes. Neither you nor the Planning Board has the professional expertise and/or the empirical understanding to warrant dismissing so many Montgomery County residents and taxpayers (who elect you--or not--and pay your salaries) as NIMBY's or anti-development without first understanding what we see and live every day of our lives.

Katya Marin  
Fairfield Drive, Bethesda

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katya marin  
301 648 3237

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katya marin  
301 648 3237

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# STONEBRIDGE CARRAS

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Via Email

June 21, 2016

The Maryland-National Capital Park and Planning Commission  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Bethesda Downtown Sector Plan  
Parks Fee

Dear Members of the Planning Board:

At Worksession 14 for the Bethesda Downtown Sector Plan, the Planning Staff put forth Park Amenity Program Alternatives, potential budgets and a funding mechanism. We certainly would welcome additional park space in Downtown Bethesda. While we are very proud of the public spaces developed in our three Bethesda CBD projects – Two Bethesda Metro Center, Lot 31 and 8300 Wisconsin – we also appreciate that not all of the public spaces in Optional Development Method Projects have resulted in highly active and utilized spaces in the CBD. In providing mechanisms and policies for realizing these improved park spaces, however, there is a need to ensure the successful development of the Sector Plan and for the County to allocate its resultant resources prudently.

The County has a long standing practice of encouraging higher density development in the CBD's in exchange for public benefits. The achievement of gaining the necessary public benefit density points for CR zone optional method approval is currently a challenge to the economic feasibility of any project. The new Sector Plan process is focused on further improvements to the future developments for the benefit of the public that also will significantly increase the cost of development. That said, raising the bar for development in Bethesda is good and can be achieved. Raising the bar PLUS a tax for the use of additional density is not appropriate. If it is the collective judgment of the Planning Board, and subsequently the County Council, to add another development exaction in the form of the proposed park tax, it needs to be a realistic number that can be absorbed into the land cost for future development. A tax in the range of that proposed by Staff, \$25.81/foot for additional density "purchased" from the County, is simply not feasible or achievable. Even a tax in the range of \$10 per square foot (as suggested by Chairman Anderson) - which would increase the current commercial impact taxes and BLT requirements by almost 150% and residential taxes and BLT requirements by more than 100% - is also not reasonable in the context of the enhanced design standards.

The Planning Board seems to be using creative and appropriate tools by creating priority sending sites that should result in the County gaining control of open spaces with what should

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be little, or no, use of cash. With this land under control, if the County wishes to ensure the Planning Board's vision for the parks is realized then it should be funded under the traditional capital improvement planning process. The Planning Board, the community and developers should make the case for the priority funding of the parks over other capital projects.

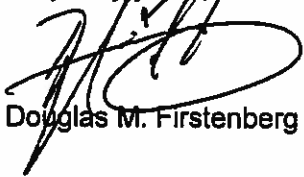
The direction to essentially legislate the creation of the parks with a required payment to develop density under the new Sector Plan to fund the parks seems to go beyond the scope of planning. At a minimum, should a decision be made to assist the funding of parks through another tax exaction, it should be at the lower rate than the \$10 per square foot suggested by Chairman Anderson or it must offset other exactions such as impact fees or the BLT payment (which would have the benefit of having an exaction funding improvements in the community where the development occurs).

Bethesda is the main economic engine of Montgomery County. The new Sector Plan should provide the means to enhance the County's economy, quality of life and level of development. The County's primary economic benefit comes from the actual development of assets that generate a multitude of increases in annual tax revenues. The Planning Board is putting forth expectations for higher quality development in Bethesda. Developers should be enhancing the economy and providing higher quality projects. Developers should not be required to "purchase" or be "taxed" to achieve the higher level of densities envisioned by the Sector Plan.

I would welcome the opportunity to discuss this issue and how to maximize the value of the priority sending sites for the County while helping the sending sites.

Thank you for your tremendous effort to bring forth a plan that will help Bethesda grow, prosper and be an even better place in the future.

Very truly yours,



Douglas M. Firstenberg

cc: Gwen Wright  
Robert Kronenberg  
Lesley Howerton  
C. Robert Dalrymple  
Jane G. Mahaffie



ideas that work

*Attorneys at Law*

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rgbrewer@lerchearly.com

June 17, 2016

Casey Anderson, Chair  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Bethesda Sector Plan  
Comments on Draft Park Impact Payment

Dear Mr. Anderson:

This letter is in response to your open invitation at the Planning Board's worksession on June 9, 2016, for public comment on the proposed Park Impact Payment (PIP). The PIP would be imposed on applicants in the Bethesda Sector Plan area who seek to utilize density in excess of the current zoning, to the extent that such density is then available within the Sector Plan density pool limits and is not derived from other property owners or Priority Sending Sites.

Our land use group practice attorneys submit that there are several critical points which require a substantial revision of the PIP proposal made by the Parks Department Staff on June 9. They are as follows:


- **Relative Burden:** The Staff proposes that 75% of the cost of new park area acquisition and development in the Bethesda CBD be imposed on developers. This is despite the Board's directive at its previous worksession that such cost burdens be shared with the users of the park areas and new development. Proposing to impose such a high percentage of the cost burden on new development is patently unfair, and will drive the cost and feasibility of new development to unsustainable levels. We suggest that most of the burden be borne by the users of park areas through the County's general fund. Never before in the history of land use development in Montgomery County has the burden of creating existing parks (outside of the confines of an individual development project) been suggested to be borne by new development. This is especially troubling when nearly all of the benefit and enjoyment of the new park areas will be by existing residents and workers. Therefore, most of the park acquisition and development burden should be borne by the County's general funds, which includes support from the tax revenues generated, at least in part, by new development.
- **Cost Estimates:** There is widespread concern that the cost estimates prepared by the Parks Department Staff, and shared in public session on June 9, are grossly inflated. We believe that some of the proposed acquisition costs are overstated due to the likelihood of dedications for various sites. Further, the estimated development costs are based on

elaborate park designs and construction with huge price tags. Neither the acquisition costs nor development costs have been subjected to market scrutiny to assess their relative accuracy. If we are correct that these conceptual estimates are high, then it will result in the imposition of erroneous and inordinately high PIP fees.

- **Relative Affordability:** The Chair is correct that there is no free lunch in the development process. In fact, new development makes huge contributions already to the public coffers: regulatory application fees, impact taxes for schools and transportation, school facility fees, Building Lot Termination fees, building permit fees and MPDU units (where actual costs are not covered by rentals or sale prices). Adding yet another government tax of the proposed magnitude of the PIP is burdensome, excessive, and threatening to future development in downtown Bethesda. To recall a phrase from a previous land use debate, the “parfait” of exactions is overflowing. Already, the Board is proposing to increase the MPDU requirement by 20%, thereby magnifying the cash loss which each MPDU multi-family dwelling unit’s construction imposes on developers due to the failure of MPDU rental and sale prices to cover construction costs fully. Imposing a PIP anywhere near the magnitude suggested by Parks Department Staff will add significantly to the per square foot development cost for new development, in addition to a non-recoverable additional cost for more affordable housing. Affecting new development’s pro-forma in this manner has a multitude of implications: it will require higher rental rates for prospective residents and office tenants; it will require more equity from developers to undertake projects; it will require more lender risk (and therefore interest rate expense) due to higher costs; and it will cause developers to examine closely whether it is economically feasible to develop in Bethesda as compared to Silver Spring, Tysons Corner, Arlington, Alexandria, Washington, D.C. or otherwise. Bethesda’s market is not an isolated one—it is merely one of many in the Washington D. C. region where people want to live and work. Developers have choices of where to spend precious capital and incur great risks in the lengthy and costly development process (especially true in Montgomery County). Imposing a disproportionately large PIP fee may backfire and discourage new development, thereby precluding the acquisition and development of new park and amenity spaces and leaving Bethesda relatively underserved by the demonstrable benefits that new development usually brings. Over time, those lost opportunities for quality new development adversely affect commercial and residential property values, which diminishes government tax revenues and the asset values of residential owners.
- **Park Dedication:** The Staff and the Planning Board recognized that the cost of acquiring additional land for park purposes is the most significant cost component associated with the provision of new parks. Accordingly, to the extent a development project includes the dedication of a meaningful amount of land (e.g. greater than 5,000 square feet) for park purposes, such development should be exempt from the PIP. To do otherwise effectively imposes a double burden on those projects dedicating land to the Parks Department.

Casey Anderson, Chair  
June 17, 2016  
Page 3

We urge the Planning Board to approach the PIP discussion realistically and pragmatically. If the Board is convinced that a PIP is necessary, we urge you to keep it relatively small, with most of the cost burden of park acquisition and development borne by those who will use it most—current and new residents and workers in the area. Thank you very much.

Sincerely,  
  
Robert G. Brewer, Jr.

cc: Ms. Gwen Wright  
Mr. Mike Riley  
Mr. Robert Kronenberg  
Ms. Leslye Howerton  
Ms. Brenda Sandberg  
Ms. Rachel Newhouse