



Scott Fosler, *Mayor*  
Mary Flynn, *Vice Mayor*  
Fred Cecere, *Secretary*  
Barney Rush, *Treasurer*  
John Bickerman, *Community Liaison*

**Bethesda Downtown Plan Public Hearings  
Montgomery County Council  
Testimony by Scott Fosler,  
Mayor of the Town of Chevy Chase  
November 1<sup>st</sup>, 2016**

The proposed new master plan for Downtown Bethesda (the “Plan”) is a very significant document for residents of the entire Bethesda–Chevy Chase area. It will guide development in downtown Bethesda for at least the next twenty years and includes provisions for substantial additional development and building heights. It also contains new approaches to density distribution and novel features not previously used in County master plans. Moreover, we who are residents of the Town of Chevy Chase, immediately east of Bethesda, are keenly aware that much of the most substantial development proposed in the Plan would occur along Wisconsin Avenue and Montgomery Lane, right next to us.

We have studied the Plan thoroughly and consulted extensively with our residents in developing our views. We have concluded that there are many features of the Plan we support, others that should be strengthened, and some that cause grave concern. In this testimony, we set out our positions, including specific recommendations that we believe will help ensure that the Plan achieves its ultimate goals.

**Introduction: Our Vision and Summary of Recommendations**

We thank the Planning Board and its staff for their diligent work developing the final draft Plan over the past two years. The Planning Board held 17 intensive work sessions on the Plan, with the Chair providing time for all concerned to state their views. The staff has been highly responsive to residents’ requests for information and meetings. We appreciate this time and effort.

We’d also like to state upfront key features of the Plan that we support. These include the emphasis on affordable housing, design guidelines to require setbacks and light and space between taller towers, the establishment of the Design Review Advisory Panel to encourage buildings with architectural distinction, the concept of Priority Sending Sites, and the strong

statements of support for parks and open spaces with the provision for “Greenways” adjacent to residential neighborhoods. We also understand the rationale for the concept of a density pool, which should avoid having density tied up where it may not be used. We appreciate the ingenuity and thought that have gone into developing these features.

### **Our Vision: A Vibrant Downtown Bethesda with Compatible Connections to Adjacent Neighborhoods**

The Bethesda-Chevy Chase area is a highly desirable place to live, raise a family, work, and enjoy a variety of activities. The area’s success depends on the vitality of downtown Bethesda, which is strongly complemented by the livability of the surrounding long-established neighborhoods, whose residents shop, eat, and play in the urban center. Downtown Bethesda has attracted new residents to its condominiums and apartments and made the surrounding neighborhoods even more sought-after. Buildings on shopping-entertainment streets are inviting for people to move around downtown Bethesda and take advantage of its urban options. The quality of the B-CC cluster schools also has contributed to Bethesda’s success, drawing families to the core and the surrounding neighborhoods.

Any plan for this area should maintain and enhance these attributes. If development proposed for downtown Bethesda is not accompanied by necessary improvements in infrastructure and public amenities, and with regard for neighboring communities, Bethesda’s future will suffer, and it will no longer be as enticing a place for residents, companies and visitors. In sum, for the Plan to be successful, population and infrastructure must be in balance, at the start and throughout the life of the Plan.

The Plan must also ensure compatibility with the neighboring communities. It sets out three interlocking principles to create a “truly sustainable downtown:” Bethesda should be economically competitive, socially desirable and yet affordable, and environmentally sensitive with new green spaces and sufficient infrastructure to encourage walking, biking, and mass transit. We agree with these principles but also want to add another: enhancing the quality of life for all residents in the area, including those who live downtown and in surrounding neighborhoods. The vitality of the urban core does not depend only on what is developed within the core, but also on its surrounding communities, which are critical to Bethesda’s success. We who live in the surrounding communities are not separate from downtown Bethesda, but closely connected to it. We therefore want the Plan to maintain and enhance the urban to residential connections in a compatible way that will be successful for downtown Bethesda AND the surrounding communities.

In promoting compatible connections, we are not opposing growth and development. We have seen many examples of compatible development in recent years in Bethesda: buildings that are architecturally exciting, successful commercially, and inviting to residents and visitors alike yet not terribly tall or massive. Such development integrates with our communities without creating canyons adjacent to us. This is the quality economic development we support.

Montgomery County has been a leader in the planning and implementation of “smart growth,” embracing the concept of “wedges and corridors” in the 1960’s, supporting the Metro in the 1970’s, and creating the Agricultural Reserve in the 1980’s. We all understand that such growth

should and will lead to higher densities in key down-county areas, including Bethesda. But smart growth is not defined solely by high density in some areas, with less development in others; it is defined by enhancing the quality of life for all the residents of the County, including those of us who live near the areas slated for intense development. If smart growth is not broadly beneficial, it risks losing its broad base of support.

Finally, we note the value of humility when forecasting far into the future. The vagaries of the development process and pace of economic change can lead to very different outcomes than what even the best trained and most conscientious experts may predict. We therefore believe that a Plan that will ultimately be most successful is one that allows us, periodically, to stop, check, and make sure we're on the right track before proceeding to the next step.

### **Summary of Our Recommendations**

**To ensure balance:** We recommend that the increase in density be considered in three stages, with appropriate metrics to ensure that the Plan is meeting its objectives.

**To ensure compatibility:** We recommend reduced heights on selected buildings adjacent to our Town, and we support the development of guidelines to shape and limit density.

**To ensure adequate open space:** We recommend a stronger commitment to realizing the Plan's vision by reserving the two major surface parking lots for conversion to parks and expanding the greenway concept to provide a longer and deeper stretch of open land that will connect with these additional parks.

**To ensure transitions and connections from urban to residential land use:** We endorse the concept of the greenway but recommend it be expanded and linked to new parks we recommend, and we also identify other specific zoning changes that will insure appropriate transitions are maintained.

The development of our views and the full statement of our recommendations follow. We present our positions in the following four sections: (i) density and staging; (ii) building heights and design guidelines; (iii) open spaces and parks; and (iv) transition areas bordering our town. Our detailed recommendations are set out at the end of each section.

## **I. The Plan Proposes Significant Density Increases: How Will We Ensure Balance Between Population and Infrastructure?**

The Plan proposes raising the limit on building development in downtown Bethesda to 32.4 million square feet. That's 18% more than the previous plan's limit of 27.8 million square feet and a 37% increase over what is on the ground now. Most of the contemplated building will be combined commercial/residential with a heavy tilt toward residential: The Plan contemplates up to approximately 8,500 additional dwelling units -- which would more than double the downtown's current population to over 35,000 residents by 2040.

## **We Support Proposed Density Allocation Mechanisms But Are Concerned Over Total Increase in Density**

The Plan proposes two innovations to channel newly created density, both of which we support. Under the draft Plan, the mapped densities for most properties in the Plan area will be the same as those under the 1994 Plan. If a developer wants additional density, it may be purchased from owners of “Priority Sending Sites” or from a newly created County-operated density “pool.” Priority Sending Sites will have approximately 1.2 million sq. ft. to sell, while the pool will have approximately 3.4 million sq. ft. to allocate. Under the current draft of the Plan, density from the pool and from Priority Sending Sites can be transferred to any property within the Plan area with CR or CRT zoning, including properties that are adjacent to single-family homes. The developer may also purchase density from neighboring property owners selling their unused density, subject to existing density-averaging rules.

Developers wishing to acquire density from the pool can do so on a first-come basis. In doing so, they must make a “Park Impact Payment” contribution of \$10/square foot, used to purchase land for parks; they must provide 15% MPDUs (Moderately Priced Dwelling Units) instead of the 12.5% otherwise required; and their buildings will be subject to design review.

Our Town’s residents support both the creation of the pool and the Priority Sending Sites, and we endorse the Park Impact Payment as an innovative way to help fund the great need for additional park and open space.

However, our residents are very concerned with the overall increase in density permitted in the Plan. This concern arises from juxtaposing the substantial amount of additional development that will be permitted with the reality that such development will greatly challenge school and transportation infrastructure. Our concerns are further heightened by the conflicting and uncertain estimations from the different agencies and the impacts this development will have. The Plan also lacks clarity as to the pace of improvements in environmental infrastructure and the provisions of key amenities, most notably parks.

## **Impact on School Overcrowding Has Been Underestimated; Updated and Holistic Analysis is Needed**

According to the Plan, MCPS estimates that full build-out of 8,500 households would result in about 695 new students: 355 elementary school students, 145 middle school students, and 195 high school students. The Plan states that impacts of the Plan on schools cannot be assessed, because it isn’t possible to know how much of the build-out will occur and when. MCPS enrollment projections only cover the next six years.

However, the Plan acknowledges that:

- Bethesda Elementary School is near capacity now, and no additional capacity can be added to the school due to site constraints.
- The two area middle schools also may not be able to absorb students from the new housing without further expansion.

- B-CC High School is currently over capacity, and that may continue even after its addition is completed (after which there will be no more room for added capacity). The Plan states that B-CC is “at the high end of the desired enrollment size for high schools.” Thus, it is unlikely that B-CC High School will be able to absorb students coming from the new housing.
- The new elementary, middle, and high school students would probably have to be accommodated at schools outside the B-CC cluster, at additions made to other schools, or at reopened county schools.

We are concerned that the Plan’s estimates understate the overall increase in school infrastructure required. In March 2016, the MCPS Board of Education (BOE) sent a letter to the Planning Board and the County Council objecting to the level of development in the Plan. The letter focused on the holistic effect on our local schools of three new master plans for nearly contiguous areas: Bethesda, Westbard, and Lyttonsville. It noted that these areas will all add new B-CC cluster students “when many of the schools in the area either currently exceed capacity or are projected to exceed capacity in the near future.”

BOE estimated that the increase in Bethesda alone would be an incremental 795 students (405 elementary, 170 middle school, and 220 high school), compared to the 695 students projected in the Plan. More importantly, the BOE estimated that the combined impact of the three area master plans will result in an additional 1,275 students in B-CC cluster schools: 649 new elementary school students, 273 middle school students, and 353 high school students. BOE concluded that the increases in student enrollment associated with the Plan, when combined with Westbard and Lyttonsville, would require construction of a new elementary school and would pose significant challenges at B-CC and other area high schools.

We are concerned that even the student generation rates projected in BOE’s letter may be conservative. Parents at the recent public hearings confirmed that considerable numbers of students already come to the B-CC cluster from multi-family buildings. Using the student generation rates proposed in the 2016 Subdivision Staging Policy, which were developed based on empirical data about MPCS students, we estimate that 1,175 new students could come just from the new housing in downtown Bethesda - 48 percent higher than BOE’s March estimate. In addition, the BOE estimates do not include new enrollment arising from implementation of the new master plan for Chevy Chase Lake.

Because of the vital importance of high quality education, we encourage the County Council to pay particular attention to the statements and positions of the Montgomery County Board of Education; adopt its perspective of reviewing school adequacy holistically, based on the impact of all four of the master plans covering the area; and request from the BOE updated estimates using the student generation rates set out in the 2016 Subdivision Staging Policy as the basis for projecting school adequacy. We also believe that the Plan should set out viable options for addressing the material increase in schools that would be needed to meet these potential increases in enrollment.

## **Impacts on Traffic Congestion Have Been Underestimated; Additional Study Needed Using University of Maryland Model**

The Plan concludes that:

No intersections within the Plan area would exceed congestion standards, although four intersections immediately outside the Plan area would be over the standard: East-West Highway at Connecticut, Bradley at Connecticut, Bradley at Huntington, and Cedar at Rockville Pike.

Intersections at Bradley and Wisconsin Avenue, and Montgomery and Wisconsin Avenue would approach the congestion standards under certain scenarios. The traffic analysis assumes implementation of four major transportation infrastructure improvements in the region: completion of the Purple Line between Bethesda and New Carrollton, elimination of the Metrorail turn-back at Grosvenor, addition of express tolls on I-270 from I-370 to Frederick, and HOV lanes on I-95 between the ICC and MD 198.

Our review of the Plan and information obtained from the Planning Board staff has led us to conclude that the traffic analysis conducted for the draft Plan should be reassessed for the following reasons:

- The traffic analysis was based on a traditional traffic model that does not adequately consider the cumulative impact of multiple development projects, regional impact, or the suppression of Critical Lane Volume (“CLV”) counts in highly congested areas caused by queuing. In our view, a more accurate understanding of the impact of development on individual intersections could be obtained by using the University of Maryland’s state-of-the-art model that considers the cumulative effect of development and dynamic impact of queuing. This model was developed for analysis of the Intercounty Connector and the Chevy Chase Lakes sector plan and currently covers most of the Plan area.
- The Plan’s traffic analysis is inconsistent with a similar analysis conducted for the 2014 Bethesda Purple Line Station Minor Master Plan Amendment, which found that three intersections in the Plan area would exceed congestion standards after redevelopment of the Apex and Artery buildings (just one block in Bethesda).
- The Plan’s projections of future CLV’s for intersections in Bethesda varied significantly, with estimates of the increases for particular intersections ranging from a 6 percent reduction to a 33 percent increase.
- Some of the CLV counts used in the analysis were between three and five years old. Also, some of the cited CLVs differed from numbers used in the background documentation, and some intersections included in the Purple Line Station Minor Master Plan traffic analysis were not included in the Plan’s traffic analysis.
- A Transportation Policy Area Review (TPAR) specific to the Plan area and the development proposed in the Plan was not conducted.

Based on our recalculations using recent CLV data and the Planning Department's average traffic growth projection across the Plan area of 10 %, it appears that several intersections in the Plan area will exceed the congestion standards during the life of the Plan.

Because of the importance of traffic projections, we strongly recommend that a supplemental traffic analysis be undertaken before the Council approves a new Plan for the area, and we recommend the University of Maryland model for this purpose.

### **Uncertainty Regarding Environmental Quality Improvements and Availability of Parks and Open Space**

The Plan recognizes environmental quality as one of its three critical pillars in achieving a truly sustainable downtown. It also acknowledges that water quality is poor in the Little Falls watershed and that the area currently suffers from inadequate storm water management and from far too high a percentage of impervious surfaces. We understand that the downtown area even currently lacks an enforceable state water quality permit. In seeking to address these environmental challenges, the Plan makes a series of recommendations, explicitly noting that these are not requirements. As a result, there is great uncertainty regarding the degree and pace of improvement in storm water management and other environmental benefits.

The Plan also calls for the addition of open space and parks. We believe that the proposed additions fall short of what is necessary to meet the needs that result from the expected population surge. The proposed Park Impact Payment covers only a fraction of the acquisition costs of proposed parks. But we are also concerned that even what is proposed may not be realized, and the Plan does not provide any pacing for park development commensurate with the expansion of building.

### **We Propose Staging as the Means to Provide Assurance that the Plan Will Be in Balance**

Given our concerns about the vital issues discussed above, we recommend that the Plan be modified to include explicit stages, so that a balance between infrastructure and development will, in fact, be maintained through the life of this Plan.

We understand that the Planning Board considered staging for the Plan but did not find Bethesda comparable to other areas in the County with staged master plans, such as those covering White Flint, Chevy Chase Lake and Great Seneca. For Bethesda, the conclusion was reached that the essential transportation infrastructure is in place or committed, that no further major infrastructure improvements are required for the Plan to remain in balance, that the Subdivision Staging Policy addresses issues regarding school adequacy, and that, therefore, staging would have no value. In sum, the Planning Board is comfortable that the assumptions of today will be valid for the next 20 to 30 years.

However, our residents remain very concerned about granting such a long-term "green light." The inconsistencies in the data and the recurring understatement of the prospective stresses on

our infrastructure have eroded our confidence that the Plan will be in balance. Furthermore, no one can know today what the limits of development can and should be so many years into the future, or how development will actually proceed under the Plan.

Is it certain that the Purple Line will be built, and when? Do we know the pace at which Metro will make service improvements, such as eliminating the turnback at Grosvenor and adding trains and cars at rush hours? Do we know when a Bus Rapid Transit system may be developed for Wisconsin Avenue, and what effect this will have on traffic? Do we know the changes in congestion that will evolve over 20 years? Are we sure that the analysis of school adequacy, set out in the SSP, captures the holistic impact of the scale of development planned for Bethesda and the surrounding areas in the B-CC cluster?

We recognize that answers to many of these questions depend on actions by agencies not under the control of the County Government. But the residents of the Bethesda–Chevy Chase area should not become proverbial canaries in the coal mine, with government bodies finding that congestion and over-crowding have become too great only after residents experience a diminished quality of life. We therefore believe that is more prudent to consider the growth of Bethesda in a series of steps that can be managed over time, rather than taking one great leap, with no opportunity to stop, check and adjust if and as appropriate.

We recommend that development proceed in three stages: up to 27.8 million square feet (the 1994 Plan limit); up to 30.0 million square feet (halfway between the first limit and 32.4 million square feet); and up to the 32.4 million-square-foot maximum proposed in the Plan.

We appreciate the challenge in setting measures to be applied for at each stage. We would therefore welcome work sessions involving the Council and Planning Board staffs, along with residents from affected communities, to develop appropriate measures. Such measures could include progress on the specific infrastructure projects that the Plan counts on to maintain balance, such as the Purple Line, improvements to Metro, and development of vital amenities such as parks. Specific measures should also be considered, such as attainment of specified percentages of a Non-Auto Driver Mode Shares (NADMS) for downtown workers and residents, improvements in water quality, and adequate school capacity in the B-CC cluster.

We encourage the concept of staging to be considered broadly. Staging may be more flexible than providing pass/fail tests by also offering opportunities for Plan adjustment: a shortfall in achieving the requisite progress at a stage could result in modifications of the Plan that would tilt subsequent development to ensure achievement of ultimate goals. It also provides opportunities to redo our projections and take such revisions into account in considering any further modifications. Staging also offers the opportunity to reassess our ultimate goals and see if any of these should be modified.

We also recommend that a citizen advisory group be established by the Planning Board at the outset of the first stage as has been done in the White Flint and Great Seneca master plans.

## Recommendations

- *The Plan should set out staged development with interim limits of 27.8 and 30.0 million square feet. We encourage a broad dialogue with the staffs of the Planning Board and the County, including input from residents in downtown Bethesda and surrounding communities, to discuss and agree on the metrics for the tests and achievements, such as those described above, which would be required to pass from stage to stage.*
- *The Council should reassess the Plan's school and traffic projections as part of its current review. We recommend using the traffic model developed by the University of Maryland and encourage a new generation of one updated and unified set of school enrollment projections. Analysis of school adequacy should include the impact of all four area master plans, and the Plan should include options for meeting projected requirements.*
- *The Planning Board should establish a citizens advisory group at the outset of the first stage.*

## **II. Building Compatibility: Heights & Design Guidelines Are Vital to Successful Neighborhood Connections**

One of the most consequential proposals in the Plan is to dramatically increase the heights allowed for buildings in downtown. If guided only by the new mapped heights, one would conclude that the number of buildings over 200 feet high could increase from 4 to 32 or more, and the number between 140 and 199 feet could increase from 24 to 43. Such an increase in the number of very tall buildings would rank Bethesda only behind Baltimore in the region, and Bethesda would have a much larger number of very tall buildings than Silver Spring, Tysons Corner and Alexandria.

The Planning Board has stated that, as a practical matter, not all these properties could have buildings reaching these heights, because the 8.8 million square feet of available density would be used up before all these structures could be built. However, there is adequate density for a large number of tall buildings. Moreover, because many of the properties along Wisconsin Avenue south of the Metro are relatively underdeveloped compared to other parts of Bethesda, it is likely that this area will attract the early attention of developers who will be able to acquire all the density they need from the Pool. Therefore, the height and density of buildings in this area could indeed equal what this Plan would permit.

### **The Southern Wisconsin Corridor Will Have Greatly Increased Building Heights**

In the 1994 plan, it was envisioned that development would be shaped like a tent, with the tallest buildings concentrated around the Metro Station and heights tapering down the farther one moved away from it. This has largely been adhered to, with the exception of the 14-story "Ford" building (7101 Wisconsin at Leland), which preceded the 1994 plan.

The same general vision remains true in the new Plan, but with the expectation of a far higher tent. On the three blocks south of the Metro station, the Plan calls for 290- and 250-foot buildings on both sides of Wisconsin Avenue. Two hundred-foot buildings are proposed next to the Bethesda Farm Women's Market and across Wisconsin Avenue from it. Properties further away from this core would have lower but still substantially increased heights compared to the current plan. Most properties south of Leland Street and on the east side of Wisconsin Avenue would be allowed heights of 90 feet. But further south, and farther away from the Metro, the property where Trader Joe's is located has been granted 120 feet. Immediately south, and north of St. John's Church, the adjacent two lots at 6801 and 6807 Wisconsin Avenue have received a height of 145 feet.

Our town residents, along with residents of other neighborhoods adjacent to downtown, are deeply concerned over the dramatic change the Plan would promote along the entire Wisconsin Avenue corridor. In particular, we believe the proposed heights for buildings near the Metro are excessive in scale and are not required to foster economic competitiveness and growth. However, in determining our Town's specific recommendations, we have focused on those properties that are near or directly adjacent to our Town, which we know best and will have the greatest impact on our community. We expect residents of other neighborhoods may highlight specific properties of greatest concern to them.

In regard to these selected properties, we are concerned both with height and density. We believe that very large buildings on these properties will isolate our community, instead of maintaining or enhancing integration; reduce light and openness; and exacerbate problems with traffic and access. We further believe there is simply not enough space to accommodate such large structures and permit a successful, graduated transition to the single-family residences of our community.

We realize that this Plan only specifies maximum heights for properties and that the forthcoming design guidelines, including the greenways and certain recent changes to the zoning code, hold out the possibility to shape and otherwise limit the density of proposed development. Therefore, our recommendations address both heights and the design guidelines, all with the goal of ensuring buildings that are compatible with our neighborhoods.

Some have asserted that if height and density are reduced on these properties, other important features of the Plan, such as encouraging affordable housing, will not be met. But this does not bear scrutiny. If the amount of density under the Plan is insufficient to build all the properties to their maximum dimensions, as the Planning Board states, then reducing the height of certain buildings near the edge will simply provide more opportunity for added density on properties more centrally located – with no net loss of affordable housing or tax revenue.

### **Reducing Heights on Selected Properties is Key to Compatibility**

We have particular concerns regarding the proposed heights for the following properties:

- **6801 and 6807 Wisconsin Avenue and the two abutting properties that face West Avenue.** The proposed maximum building height of 145 feet along Wisconsin Avenue would tower over the landmark St. John's Church and is inappropriate for its location.

Because of the angle of Wisconsin Avenue, 6801 and 6807 Wisconsin Avenue are closer to Town residences than any other lots on this avenue, and they are also in the far southeastern corner of the Plan area. A reasonable height would be consistent with that of nearby existing buildings, the tallest of which is 90 feet at the Adagio across Wisconsin Avenue. In addition, we see no reason for a building on this property, or on the property where Trader Joe's is located, to be any higher than the 90-foot limit for other buildings on the east side of Wisconsin and south of Leland, particularly since these properties are further from the Metro.

We recognize that St. John's Church, immediately south of these properties, seeks an accommodation with these properties that meets certain objectives. We support the Church property becoming a Priority Sending Site, with its allocation of increased mapped density. But we, too, are immediate neighbors to these properties, so a solution should meet our needs as well.

Finally, we note that significant concerns regarding the height of this proposed building were registered by the Planning Board itself: the vote to increase the allowed height to 145 feet from the staff's recommendation of 120 feet was passed by only a 3 – 2 vote, with the Chair one of the dissenting votes.

- **7121 Wisconsin.** The proposed height of 200 feet is too tall next to the historic, one-story Farm Women's Market and only one block from Town residences. It may be asserted that the impact of such a tall building could be mitigated by successfully applying design guidelines, which should apply to three sides of the building: Wisconsin Avenue, the Farm Women's Market, and the east side facing the Town. However, given the small size of the lot, we doubt that meaningful setbacks could be established on all three sides.
- **4400 Montgomery Avenue (Bethesda Sport & Health Club) and 4424 Montgomery Avenue.** The proposed height for the 4400 site is 120 feet. This property sits only 60 feet from the rear property lines of eight Elm Street homes, separated only by the Capital Crescent Trail. Development along the south side of Montgomery Avenue has long been strictly limited to create a compatible relationship between Town residences and the more intensive development on the north side of Montgomery Avenue. The proposed 120 feet height is too high so close to single-family residences. We want assurance that the Compatibility Requirements specified in the County zoning code (discussed below) will apply, which they will if the Trail is a public right of way. But even with such assurance, we believe that the height should be reduced as well to guide the development of a building compatible with our community. We also believe that the allowed height of 145 feet is too high for the immediately adjacent property of 4424 Montgomery Avenue, which sits within the same block as 4400.

In advocating lower heights on selected buildings, we are not limiting the opportunity to fully utilize the additional density allowed under the Plan. Nor are we limiting the potential for economically viable and exciting new development. Bethesda now has a number of new buildings that would fit within the heights we recommend: The Darcy is 10 stories and so could fit next to the Farm Women's Market, and the Flats and the Bethesda Lane development are substantially less tall than the 90 feet we recommend for all building south of Leland St. and east of Wisconsin Ave. What we do not support is excessive development along the edges of residential communities.

## We Support Design Guidelines

We support the design guidelines outlined in the Plan. The Planning Staff is developing these guidelines to address bulk, spacing of tall towers, building-top design, base design, building step-backs, curb setbacks, and through-block connections to “limit the impacts of imposing building massing and bulk, particularly in the design of tall buildings, by designing with sensitivity for their effect on access to sunlight and air, shadows and how they contribute to the character and visual identity of Downtown Bethesda.” These guidelines should also address step-down of buildings towards single-family homes in the neighboring communities.

We also support creation of the Design Review Advisory Panel that will review preliminary site plans of proposed projects (or at least of those projects that seek to use density from the pool) “to help ensure” that they are in compliance with the guidelines.

However, these guidelines are not a part of the Plan itself and will be finalized and approved only by the Planning Board in a separate process. It is therefore unclear how binding these guidelines will be, along the continuum from merely being recommendations to becoming requirements with which developers will have to comply. Given the importance of these guidelines to the prospective success of the Plan, we believe they should be available for stakeholder review prior to the County Council voting on the Plan; and our recommendations below assume that important concepts which we understand are being considered for the guidelines, such as step backs of the upper floors, will be required.

### Recommendations:

- *The Plan should map substantially lower heights for specific buildings on the Town's borders, as follows:*
  - *6801 and 6807 Wisconsin Ave. and the property with Trader Joe's: a maximum height of 90 feet, consistent with the heights allowed for all other buildings on the east side of Wisconsin and South of Leland.*
  - *7121 Wisconsin Avenue: a maximum height of 120 feet*
  - *4400 and 4424 Montgomery Avenue: a maximum height of 90 feet and 120 feet, respectively*
- *We endorse the development of building design guidelines including those that require buildings to have low- to mid-rise bases with upper floors stepped back, significant space between towers, meaningful sidewalks, and other features that contribute to a pedestrian-friendly environment. The guidelines should require “step-downs” on the sides of buildings that face residential communities, consistent with the Compatibility Requirements of Zoning Code Section 4.1.8. We also support guidelines concerning other features, such as greenways, which we discuss in Section IV.*
- *We recommend that the guidelines be available before the Council votes on the Plan, so that Councilmembers and stakeholders will have a full and accurate understanding of both documents, taken together, during the deliberations on the Plan.*
- *The key design guidelines should be followed rigorously, subject only to modification in very unusual circumstances.*

### **III. Provision for Parks and Open Space Should Match the Intent of the Plan**

At present, only 2.2% of the Plan area's 451 acres is dedicated to public parks and open space. This is substantially less than the green space in major cities. For example, green space occupies almost 20% of New York City and Washington, DC. The Plan acknowledges that parks and open space provide needed green places for residents, their families, and friends to gather, socialize, and relax, and they contribute to public health and quality of life. The Plan also recognizes that Bethesda is underserved by parks and that more parks, both large and small, will be needed as population more than doubles and density increases. Parks and open space also provide an economic benefit – they increase the values of properties all around the area.

Parks and open space rank first among the Plan's "Overarching Goals," yet, under the full build-out of the Plan, parks and open space could expand to only 4.9% of the Plan area, an amount substantially less than the green space many consider necessary for a successful urban area, even if all the land proposed for parks is acquired. Furthermore, while the Plan identifies possible locations for future parks, the timing and process for adding parks have not been determined. Nor is it clear that the identified land will become available for purchase, and further, the funds available under the Park Impact Payment— less than half the amount the Planning Board staff recommended—will fall substantially short of what is required to purchase the land.

#### **The Plan Proposes Inadequate Open Spaces**

Among the recommended additional park and open space, the following are closest to the Town of Chevy Chase:

- A "civic green" replacing surface parking around the Farm Women's Market.
- "Greenways," also called "neighborhood greens," along the western side of 46th Street and West Avenue. The Plan proposes the creation of a greenway along the western side of 46th Street between Walsh St. and Willow Lane, if and when County Parking Lots 10 and 24 are redeveloped. It also proposes the creation of a similar greenway along West Avenue between Walsh St. and the St. John's Church property. Greenway width, between 20 and 75 feet, would be determined by the developer, subject to approval by the Planning Board.
- A recreational space for a portion of the 4300 block of Montgomery Avenue, where small businesses are located. The 1.89-acre Eastern Capital Crescent Urban Greenway is envisioned as an active recreational space (including a dog park and skateboard area) and would be the largest new park in the Plan area. The park would be approximately half a mile from dense development near the Metro and a greater distance from other parts of downtown. To establish this park, at least 12 contiguous properties would have to be assembled and purchased. The Plan designates the Montgomery Avenue properties as Priority Sending Sites to facilitate their acquisition but has not provided any additional density for them to sell.

While we appreciate the Plan's intentions regarding parks, we find the possibility of a few pocket parks and greenways, and one moderately sized park on Montgomery Avenue, completely inadequate for the needs of Bethesda's growing population and incapable of offering a core park area that Bethesda needs: one that is accessible, substantial, and able to serve a variety of civic purposes and recreational activities that enhance enjoyment and integration. But in our view, such a space is available.

### **The County Should Commit to Converting Parking Lots 10 and 24 into Parks When the Parking Spaces Are Moved Underground**

Two surface parking lots, #24 behind the Farm Women's Market, and #10, just south, across Leland Street, are prime locations for future parks. These are among the last remaining parcels of open space in downtown Bethesda and would link to the existing Elm St. Park. These sites are already County-owned and substantial in size. Located on the block just behind the planned dense development along Wisconsin Avenue, across from the Purple Line station and the new Apex towers, parks here would be easily approached through the future green around the Farm Women's Market. They would be an easy walk for the growing number of residents in other parts of downtown Bethesda, and are transit and bike-trail accessible.

These parks could serve as a place for civic gatherings, provide recreation, enhance the environment, offer space for restaurant patios and outdoor eating, and of course, remain a quiet and shaded refuge as well. Parks at this location would be highly desired and well used not only by current residents, but by the thousands of new residents and office workers who are expected to come with Marriott and other businesses. Without these new spaces, residents would have only Elm St. Park in the immediate vicinity – inadequate for the future growth in population and likely to be compromised by the need to accommodate the Capital Crescent Trail.

The Plan identifies Parking Lot 10 as a Priority Sending Site with a density of 3.5 FAR, possibly with a long-term goal of developing a park there. The County Department of Transportation (DOT), which owns the lot, would have the option to sell the density, which would make conversion to a park possible, or instead pursue selling the lot for building development, which might or might not include dedicating some of the land for park use. The Plan proposes to zone Lot 24 for development with a height of up to 70 feet (in which case there would be a greenway along 46<sup>th</sup> Street). It is not designated as a Priority Sending Site.

The County DOT has stated that any proposals for underground parking must maintain the same number of parking spaces that now exists, approximately 320. DOT's goal is to earn sufficient funds from the sale of the lots or of PSS density, to pay for undergrounding the parking spaces. In light of the Marriott announcement, will a much larger underground garage be needed at these sites?

Regardless of how much parking the County may decide to provide underground, the essential point is that both of these lots should remain open space: surface parking until funds are in place to build an underground garage, and then converted to parks. One means to accomplish this end would be to (i) provide that both lots become Priority Sending Sites, with sufficient density to help raise the necessary funds for constructing a garage; and (ii) cause the County to take whatever action is necessary to ensure that DOT will, in fact, go forward with the sending-site

mechanism. There may be other ways to affect the same result. Whatever way is chosen, it is vital that no action be taken which could forever deny current and future residents and workers in Bethesda the enjoyment of such critically needed open space.

We also want to raise the importance of another feature that will increase access, integration, and safety: a passageway under Wisconsin Avenue that would replace the anticipated loss of the current tunnel to the Purple Line and would accommodate the growing number of bikers and pedestrians. This proposal is included in plans for the redevelopment of the Apex site and should be added to the Plan.

### **Recommendations:**

- *The County should ensure that Parking Lots #10 and #24 remain open spaces and are converted to parks when funding is available to put the existing surface parking spaces underground. This could be accomplished by having Lot #24 also designated as a Priority Sending Site in the new master plan combined with a binding commitment from the County to choose the Priority Sending Site option for both lots, selling the density and dedicating the land to Montgomery Parks.*
- *The Plan should list the replacement Capital Crescent Trail tunnel (under the Apex building).*

## **IV. Transitions to our Community Should Be Enhanced**

The Plan acknowledges that it is vital to preserve and protect existing single-family neighborhoods at the edges of the Plan area. To that end, the Plan proposes the greenway concept, which we endorse. Yet all of the properties along the Town's western and northern borders, which historically have functioned as transitions from Bethesda to the Town, are being up-zoned from R – 60 to Commercial Residential (C/R) and Commercial/Residential Town (CRT), and more intensive development will be allowed on most of them. We are not confident that the measures proposed to mitigate impacts of this increased development will be adequate to maintain appropriate transitions.

### **Existing Transition Provisions in the 1994 Sector Plan and Zoning Code Recognize the Need to Ensure Compatible Transitions:**

The following provisions of the 1994 plan and zoning code ensure effective transitions:

- Properties on the west side of West Avenue and 46<sup>th</sup> Street are zoned R- 60, which limits the height of development on those properties to 35 feet and also limits the land uses allowed. Density transfers to these properties are not allowed.
- Properties on the south side of Montgomery Avenue adjacent to the Town are zoned Commercial/Residential Neighborhood (CRN), with most assigned a height of 35 feet

and a FAR of 0.5. Land uses under this zoning also are limited. Density transfers to these properties are not allowed.

- The 1994 Plan recognizes the south side of Montgomery Avenue as a critical buffer for the single-family homes on Elm Street and includes several design guidelines to be applied when any of the south-side Montgomery Avenue properties redevelop, including a 10-foot wide greenway requirement along the rear lot line. The greenway was to provide a “sight-impervious screen incorporating landscaping and fencing.”

### **The Plan Would Increase Potential for Incompatible Development Along Town Borders, Notwithstanding Some Good Provisions**

The Plan would result in the following changes:

- Properties on the west side of West Avenue between Stanford Street and Bradley Lane, which currently are zoned R-60, would be up-zoned to C/R, which is the most intense commercial zone, with a density of 1.5 FAR and a height limit of 70 feet. All land uses allowed in the C/R zone would be allowed as would density transfers.
- Properties on the west side of West Avenue between Walsh St. and Stanford St. would be up-zoned from R-60 to CRT with a density of 0.5 FAR and a height limit of 70 feet. Land uses allowed in the CRT zone would be allowed as would density transfers.
- 4400 Montgomery Avenue would be up-zoned from CRN to CR with a density of 3.5 FAR and height limit of 120 feet. All land uses allowed in the C/R zone would be allowed as would density transfers.
- Properties in the 4300 block of Montgomery Avenue would be up-zoned from CRN to CRT with a density of 0.5 FAR and height limit of 35 feet. Land uses allowed in the CRT zone would be allowed as would density transfers.
- As a consequence of these changes, properties on the Town’s western border would become eligible for floating zone development because they would confront properties in a C/R zone.

These proposed zoning changes would mean that properties on the Town’s western and northern borders would lose the height, density, density transfer, and land use protections they currently have under the zoning code and the 1994 plan. We expect that other neighborhoods bordering downtown are subject to the elimination of these same protections.

We understand that two countervailing measures can help offset these losses of protection: Compatibility Requirements, which are already in the code, and the greenways proposed in the Plan.

As a result of these proposed zoning changes, an important provision of the zoning code will become applicable: The Compatibility Requirements, stated in Chapter 59, Section 4.1.8. These require that any new building on a commercially-zoned property that is adjacent to a residentially-zoned property must (i) for confronting properties, be set back at least the distance

required by the underlying R-60 zone – 25 feet, and for abutting properties, be set back 1.5 times the rear setback of the R-60 property; (ii) rise from the set back to a height not greater than allowed with the current zoning – 35 feet; and (iii) slope up at an angle not greater than 45 degrees. As a result, for example, a building on a confronting commercial property with a maximum height of 90 feet can only reach 90 feet in height at 80 feet from the front property line.

In an effort to continue to provide for an adequate transition between urban and residential areas, the new Plan also calls for the creation of an “Eastern Greenway,” as previously mentioned. The portion of this greenway along 46<sup>th</sup> St. would no longer be relevant if both parking lots are maintained as open spaces, but it is also envisioned that the greenway would continue for two blocks on the west side of West Ave., from Walsh St. to St. John’s Church. The developer will have the option to choose, subject to the expected design guidelines and site plan approval from the Planning Board, among three basic designs, or “tiers:”

- Tier 1: For a building set back 20 to 35 feet from the curb, the maximum building height is 35 feet.
- Tier 2: For a building set back 36 feet to 75 feet from the curb, the maximum building height is 50 feet.
- Tier 3: For a building set back more than 75 feet from the curb, the maximum building height is 70 feet.

We support the greenway concept and believe it can offer material benefits to residents. However, as currently set out, it offers a transition that could be less than what the Compatibility Requirements would ensure, and it is not clear which rules will prevail. Specifically, a building could be constructed within Tier 1 that is set back less than the Compatibility Requirements, and Tier 2 would appear to permit a building to reach a height of 50 feet only 36 feet into the property – higher than the Compatibility Requirements would allow.

The Plan does not provide for a greenway along the south side of Walsh Street between the Writer’s Center and West Avenue. Furthermore, the Plan removes the current plan’s provision for a greenway behind the properties along Montgomery Avenue.

### **Recommendations for an Enhanced Greenway:**

*We support using the greenway as a fundamental means to ensure an appropriate transition at the edge of our Town, but, to be effective, the concept should be strengthened.*

- *Tier 1 should be eliminated: A width of as little as 20 feet barely merits the term “greenway,” or “neighborhood park,” as this width amounts to only a modest addition to the right of way assigned to many sidewalks. And as noted above, it is less than the setback required under R- 60 zoning and the Compatibility Requirements.*
- *Developers opting for Tier 2 or Tier 3 should also be required to comply with the more stringent of (i) the 45-degree-angle rule, measured from the applicable property line as required by the Compatibility Requirements, or (ii) the guidelines for these tiers. With this change, a Tier 2 building could reach 36 feet, if placed 36 feet from the property line*

*bordering our Town, and up to 50 feet if placed between 50 and 75 feet from the property line.*

*The area converted to greenways should be expanded as well. Specifically:*

- *The properties on the south side of Walsh St., just east of the Writer's Center, should also be required to include the greenway, if the lots west of West Ave. between Walsh St. and Stanford St. are ever unified and developed.*
- *The greenway should be reinstated on the backside of the lots along the south side of Montgomery Avenue. The need for this amenity is even greater going forward than it was in 1994, given the impending loss of all of the trees and shrubbery along the Capital Crescent Trail. A greenway in this location also would serve to improve the experience of bikers and pedestrians using the new trail, which will run along the northern edge of the train tracks, and would serve as a link to the proposed recreational park on Montgomery Avenue.*

### **Connecting Greenways to Parks: A Strategy to Realize a Vision**

This widening and expanding of the greenways, combined with the creation of parks on lots 10 and 24, will enable the realization of the Plan's vision for an environment that is greener and more connected. A green necklace of open space can stretch from East-West Highway along the Capital Crescent Trail, widen into the linked parks of Elm St. and the converted parking lots, and continue south to St. John's Church. Such a connected and coherent stretch of parkland will enhance the enjoyment of all residents of the Bethesda area, help assure the transition from urban to residential space, and yet also facilitate the connection between cityscape and single-family neighborhoods. Creation of such a stretch of park would truly be an historic accomplishment.

Finally, it is important that the greenways actually be required, so we will review carefully the language regarding the greenways that will be stated in the design guidelines.

### **Additional Recommendations to Ensure Long-term Compatibility:**

*If the greenway concept is widened and opened, expanded in total length and required as discussed above, we can accept in principle the elimination of R- 60 zoning at our borders and understand the value to developers of unifying the zoning of the parcels that they control. However, we believe that incremental protections are still required to ensure that new buildings have compatible uses and do not have excessive mass confronting our neighborhoods.*

- *Limit allowed uses on Plan area properties adjacent to and confronting residential properties to those permitted on properties zoned CRT. This would ensure that any development of large buildings adjacent to our Town, on lots on the west side of West Avenue and on the south side of Montgomery Avenue, would be limited to uses appropriate for development near single family homes.*

- *Retain the current mapped density of 0.5 FAR on all the lots confronting homes in our Town, and continue to not permit density transfers to single lots that are not unified and were previously zoned R – 60.*
- *For lots bordering the Town that are assembled with other properties and up-zoned, include provisions in the Zoning Text Amendment (ZTA) for the Bethesda Overlay Zone that limit the maximum density allowed, including any transfers, for the portion of any building that sits within the boundaries of the former R – 60 lot. This will provide further assurance that the mass of the new building will not sit unreasonably close to the residential community. Determining the allowed FAR can only be finalized upon review of the design guidelines, but at this time we recommend that density be set to be no greater than 1.5 FAR.*

*Finally, we also recommend the following protection, to ensure the long-term stability of our Town's character:*

- *Develop a ZTA that excludes properties in the residential neighborhoods adjacent to the Plan area from eligibility for floating zone development, other than for any properties explicitly identified for such development in the Plan. This will avoid any potential for commercial development to inadvertently encroach on our residential community.*

In closing, we would like to emphasize our commitment to work with the County Council and the Planning Board and their staffs, and with appropriate County departments, over the next several months while this Plan is reviewed. We want the final version of this proposed Plan to succeed, so that we have an enhanced downtown that benefits residents of Bethesda, the surrounding neighborhoods such as Chevy Chase and the County.

Thank you for considering these recommendations.