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May 15, 2023

**Via Email**

The Honorable Evan Glass, Council President,  
And Members of the County Council  
Stella B. Werner Council Office Building  
100 Maryland Avenue, 4th Floor  
Rockville, MD 20850

Re: May 16, 2023 County Council Public Hearing Regarding Zoning Text Amendment 23-03,  
Bethesda Overlay Zone (“BOZ”) Extensions – (the “ZTA”); Washington Property  
Company’s Written Testimony

Dear Council President Glass and Councilmembers:

On behalf of Washington Property Company (“WPC”), we offer one significant amendment request and the following comments in support of the ZTA. While the primary rationale for the strict validity period of a site plan approved pursuant to the BOZ was necessary (i.e., to prevent hoarding of BOZ density), the circumstances unique to the last several months, including volatile capital markets and heightened construction costs, makes necessary the extension to the validity period provided for with the ZTA to address and respond to the current inflationary period, heightened construction costs, and challenges in obtaining viable construction financing. As explained in greater detail below, WPC respectfully requests that the ZTA be modified to grant a 2-year extension for these projects to submit a completed building permit application because the currently proposed 1-year extension is insufficient given the ongoing economic challenges.

By way of background, WPC has developed over 1,000 multi-family dwelling units in the County (including over 200 MPDUs) over the past decade. Within Downtown Bethesda alone, WPC constructed Solaire Bethesda (a high-rise mixed-use residential project located between Miller Avenue and Woodmont Avenue on Wisconsin Avenue) and is presently developing Solaire 7607 Old Georgetown Road (another high-rise mixed-use residential project located at the corner of Commerce Lane and Old Georgetown Road). WPC received Site Plan approval from the Montgomery County Planning Board for construction of a mixed-use project with up to 340,000 square feet of office/retail uses and up to 150 multifamily dwelling units (including a minimum of {00535595;2 } \*00450790;2

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17.6% MPDUs) for the assembled site that frames Hampden Lane, Montgomery Lane, and East Lane in July of 2021 (“Hampden East”). Hampden East will further many of the goals and priorities of the 2017 Bethesda Downtown Sector Plan at a strategic location in the urban core of Downtown Bethesda with proximity to both Metro and the future Purple Line stations.

WPC supports that the ZTA would modify, on a limited basis, the existing requirement in the BOZ that development projects file for building permit within 2 years of Site Plan approval to maintain Site Plan approval and an allocation of BOZ density. Absent the filing of a building permit within 2 years, the BOZ mandates that a developer’s Site Plan approval is automatically revoked. This timing constraint is unique to the BOZ, intended to prevent the hoarding of BOZ density, but it was established in 2017 with drastically different market and economic conditions at play. In the instance of Hampden East, prevailing capital markets and construction costs have made it infeasible to proceed to building permit application by the end of July 2023.

Given the foregoing, WPC respectfully requests that the ZTA be modified to grant a 2-year extension of time (rather than just 1 year). WPC believes that a 1-year extension is insufficient considering the ongoing market turbulence. A 2-year extension would provide greater opportunity for the financial markets to enter a more normal state such that projects with Site Plan approvals (a total of 6 that this ZTA would apply to) could obtain the necessary financing to deliver on those approvals and the important economic benefits to the County’s tax base (as well as increased affordable housing). Additionally, a 2-year automatic extension period is consistent with the Council’s past practice of providing for extensions of Preliminary Plan of Subdivision approvals so there is compelling rationale for applying that same standard to this ZTA.

We believe that this revision will further the goals and objectives of the ZTA. We thank you for your time and consideration reviewing these written comments and are encouraged by the ZTA as a positive policy change to support redevelopment opportunities during an economically changing time.

Very truly yours,

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

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cc: Ms. Livhu Ndou  
Janel Kausner