



MCPB
Item #2
April 14, 2011

MEMORANDUM

DATE: April 6, 2011

TO: Montgomery County Planning Board

VIA: Rollin Stanley, Director *RS*
Director's Office

CC: Dan Hardy, Chief
Functional Planning and Policy Division

Glenn Kreger, Chief
Area 2 Team

Shahriar Etemadi, Supervisor
Area 2 Team

FROM: Jacob Sesker, Planner Coordinator *JS*
Director's Office

SUBJECT: White Flint Transportation Approval Mechanism

RECOMMENDATION

Provide direction to staff with respect to the transportation approval mechanism and other issues as identified by staff and stakeholders.

PURPOSE

The purpose of this work session is to perform a detailed review of staff's recommendations for Chapter 3 (transportation approval mechanism). Where the recommendations in this memorandum differ from the language in the version that was included in the packet for the March 31, 2011 roundtable discussion, staff has included underlines (additions) and strikethroughs (deletions).

Concerns expressed by stakeholders regarding the text of other specific sections of text will be addressed in separate work sessions.

INTRODUCTION

The transportation approval mechanism will be one part of the White Flint Implementation Guidelines. Adoption of the White Flint Implementation Guidelines before July 13, 2011 would satisfy the requirement in the White Flint Sector Plan that the Planning Board must establish a transportation approval and monitoring program within 12 months of the adoption of the sectional map amendment.

The transportation approval mechanism that is supported by stakeholders requires amendments to the Subdivision Staging Policy (formerly “Growth Policy”). Those changes will create a new Alternative Review Procedure for development within the White Flint Sector Plan boundary. The Council’s public hearing on the Planning Board’s proposed amendment to the Subdivision Staging Policy is tentatively scheduled for June 14, 2011.

The process through which the Planning Board will manage staging via the Alternative Review Procedure is generally beyond the scope of what would be an appropriate level of detail for the Subdivision Staging Policy. There are several existing Alternative Review Procedures, none of which are as complex as the proposed transportation approval mechanism for White Flint. The complexity of the mechanism in White Flint requires that many of the operational details be included in Planning Board guidelines, rather than in a Council resolution.

The White Flint Implementation Guidelines are not unlike the LATR & PAMR Guidelines through which the Planning Board administers adequate public facilities for the rest of the County. In White Flint, the Council passed a resolution in 2010 exempting all new development within the White Flint Special Taxing District from both LATR and PAMR. The White Flint Implementation Guidelines are intended to serve both as a replacement for the LATR & PAMR Guidelines for White Flint, and as a means of documenting the procedures associated with the biennial monitoring program. In this respect, these Implementation Guidelines serve a dual purpose as guidelines for implementing transportation APF in White Flint and as guidelines for implementing the Staging Plan.

PROPOSED TEXT (CHAPTER 3)

3. Transportation Approval Mechanism

Staff Recommendation:

The streamlined transportation infrastructure delivery described on Page 54 of the White Flint Sector Plan directs the County to “establish an alternative adequate public facilities (APF) review procedure with an exaction process based on the planned transportation infrastructure as proportioned to the traffic generated by each development.” The adequate public facilities Alternative Review procedure is also referenced indirectly in the Staging Plan, which required the County to create public entities or financing mechanisms necessary to implement the Sector Plan, and required the Planning Board to “develop a transportation approval mechanism and monitoring program within 12 months of adopting the sectional map amendment.” The transportation approval mechanism and monitoring program replaces traditional transportation

APF (PAMR and LATR) within the Special Taxing District, and supplements traditional transportation APF for the limited number of properties that are within the Sector Plan but outside the Special Taxing District.

The intent of the above-referenced language was fulfilled by the implementing legislation contained in Appendix A that established the Special Taxing District and the Alternative Review Procedure within the Subdivision Staging Policy. These Planning Board guidelines provide the operational details of the transportation approval mechanism authorized and described in the Alternative Review Procedure, and implement the staging plan described on pages 67 to 71 of the approved and adopted Sector Plan.

~~In accordance with amendments to the Subdivision Staging Policy adopted by the County Council in Resolution #xxx on June xx, 2011, the transportation APF process for properties within the Special Taxing District has been replaced by the combination of taxing and staging described in the resolution and detailed in these Guidelines.~~

Discussion:

Staff recommends the changes above in order to clarify the relationships between the staging plan, the taxing district, adequate public facilities, the Subdivision Staging Policy amendments, and these proposed guidelines.

3.1. Staging Allocation Request Process

Staff recommendation:

Under the White Flint Sector Plan, staging capacity in Phase 1 will be allocated on a “first-in, first-out” basis. The advantages of this approach include fairness, predictability, and efficiency. Such a system encourages potential applicants to request capacity earlier in the process potentially creates a “race for capacity,” which will accelerate the build-up of additional tax revenues that can be used to ~~construct~~ fund the infrastructure projects that are triggers under the Staging Plan. The biennial monitoring reports will provide the Planning Board with the information it needs to determine whether this approach is achieving the Sector Plan vision.

Discussion:

The proposed change clarifies that the staging allocation system (first-in, first-out) is intended to encourage more rapid development of the White Flint Sector Plan area, not to move forward the point in the development process at which applicants will request staging capacity. In fact, the staging allocation process tied to building permit will lead to later requests for capacity than if the capacity was requested at preliminary plan or site plan.

3.1.1. Staging Allocation Request

Staff recommendation:

A Staging Allocation Request is a request for staging capacity under the White Flint Sector Plan. The contents of a Staging Allocation Request and the effect of submitting a completed Staging Allocation Request will be established in these guidelines.

3.1.2. Contents of Staging Allocation Request

Staff recommendation:

A Staging Allocation Request must include a statement by the applicant that the applicant has received any necessary sketch plan approvals, preliminary plan approvals, or site plan approvals. The request should indicate the number of buildings proposed as well as the amount of residential and non-residential staging capacity requested, the gross amount of new development, and the net amount of new development if there will be demolition of existing structures. If demolition occurred before the submission of the Staging Allocation Request, the applicant must furnish information showing the amount of demolition that occurred after the adoption of the Sector Plan. If a Staging Allocation Request Form has been approved by the Planning Board, each Staging Allocation Request must include that form.

Discussion:

The final two sentences of this paragraph have not previously been discussed at the Planning Board.

- There will be instances in which it will make sense to demolish a structure before receiving a staging allocation for the building/buildings that will replace the demolished structure. Staff proposes placing the burden on the applicant to furnish information showing how much space was demolished that existed at the time the Sector Plan was adopted.
- Creating a form (Staging Allocation Request Form) could be a part of this process. The form would be adopted when the guidelines are adopted.

3.1.3. Planning Board review of Staging Allocation Request

Staff recommendation:

The Planning Board must approve the Staging Allocation Request if sufficient staging capacity remains available, under the White Flint Sector Plan, to accommodate the applicant's entire request.

Discussion:

The intent of this statement is to clarify the scope of the Planning Board's review. The negative of this statement (how to treat Staging Allocation Requests when there is not sufficient capacity to accommodate the applicant's entire request) will be addressed in conjunction with 3.1.4, below.

3.1.4. Effect of Staging Allocation Request

Staff recommendation:

In order to be deemed complete, a Staging Allocation Request must contain all information required under the Subdivision Staging Policy section TA6 Alternative Review Procedure for the White Flint Policy Area, must comply with these Planning Board guidelines, and must be submitted concurrently with any application fees established under these guidelines.

Once a Staging Allocation Request has been deemed complete, the Planning Board must not allocate to any other applicant the capacity requested, unless the Staging Allocation Request is rejected by the Planning Board or withdrawn by the applicant or unless a Staging Allocation Approval becomes void or expires under these guidelines. A Staging Allocation Request that has been deemed complete must be approved by the Planning Board if sufficient capacity remains available, under the White Flint Sector Plan, to accommodate the applicant's entire request. If sufficient capacity is not available to accommodate the applicant's entire request, the Staging Allocation Request will be placed in a queue and will be scheduled for Planning Board action when capacity becomes available.

Discussion:

Several stakeholders have expressed concern about the final sentence of section 3.1.4 (this concern would also pertain to section 3.2, below). In essence, their concern is that they should not have to submit separate Staging Allocation Requests if they want to request more density than is available under the staging limits. Two alternatives to this sentence that would address their concerns would be as follows:

Alternative #1: ~~If sufficient capacity is not available to accommodate the applicant's entire request, the Staging Allocation Request will be placed in a queue and will be scheduled for Planning Board action when capacity becomes available.~~ the Planning Board must approve the request up to the greatest amount of capacity available that represents an entire building identified in a phased site plan, with any remainder being placed in a queue.

Alternative #2: ~~If sufficient capacity is not available to accommodate the applicant's entire request, the Staging Allocation Request will be placed in a queue and will be scheduled for Planning Board action when capacity becomes available.~~ the Planning Board must approve the request up to the greatest amount of capacity available that represents an entire phase identified in a phased site plan and identified as a phase in the Staging Allocation Request, with any remainder being placed in a queue.

The advantage of the language as recommended by staff is the simplicity of a system in which one Staging Allocation Request will result in one Staging Allocation Approval. In either of the alternatives, the result would be that some Staging Allocation Approvals would only be for a portion of the density requested, creating a need to track the remainder separately. In addition, a concern about the alternatives is that whether such a system will create opportunities for capacity hoarding.

Under staff's recommended language, where capacity is limited, the property owner would submit one Staging Allocation Request for an amount of capacity available that corresponds to a portion of their approved site plan, while simultaneously submitting a second (and possibly third, fourth, etc.) Staging Allocation Request for additional density that would sit in the queue until the entirety of that request could be accommodated. For example:

- Remaining Phase 1 non-residential capacity is 250,000 square feet
- Applicant has approved phased site plan with demolition of 25,000 square feet of non-residential, and two new buildings with 200,000 square feet each of non-residential (total net of 375,000 square feet)
- Applicant submits two Staging Allocation Requests (one for 175,000 square feet and a second one for 200,000 square feet)
- The Planning Board grants a Staging Allocation Approval for 175,000 square feet
- The Staging Allocation Request for 200,000 goes into the queue
- The remaining staging capacity is 75,000 square feet of non-residential
- A separate applicant has an approved site plan with 75,000 square feet of non-residential
- The Planning Board grants a Staging Allocation Approval for the 75,000 square feet
- The first applicant's 200,000 square foot request remains in the queue

It may be possible, using the potential alternatives shown above, to create a system that could achieve a similar result. In that case, it would be necessary for these guidelines to be clear that the original Staging Allocation Request could not be amended.

To the extent that stakeholders are concerned with the expense of submitting multiple Staging Allocation Requests (as opposed to one phased Staging Allocation Request), staff does think it is reasonable to charge only one application fee for developers submitting simultaneous requests due to insufficient capacity. However, that concern could be addressed through a simple amendment to 3.1.11. For example, 3.1.11 could be changed to include the following language: *...Any applicant submitting multiple and simultaneous Staging Allocation Requests because there is not sufficient capacity available to accommodate the entire request will be required only to pay one application fee.*

3.1.5. Staff approval of ~~certain~~ Staging Allocation Requests for zero net staging capacity

Staff recommendation:

3.1.5.1. No net draw on capacity

A Staging Allocation Request will always be approved, regardless of available staging capacity, if the Request is for an amount equal to or less than any development being removed. In such cases, the Staging Allocation Approval may be granted by staff without Planning Board review.

~~3.1.5.2. Public facilities~~

~~A Staging Allocation Request will always be approved, regardless of available staging capacity, for any public facility subject to the Mandatory Referral process. In such cases, the Staging Allocation Approvals for such public facilities may be granted by staff without Planning Board review.~~

3.1.5.2. Development approvals that pre-date the approval of the Sector Plan

A Staging Allocation Request will always be approved, regardless of available staging capacity, for projects requesting capacity for which they have valid Adequate Public Facilities approvals or development plan approvals that predate the approval of the White Flint Sector Plan on July

13, 2010. In such cases, the Staging Allocation Approvals may be granted by staff without Planning Board review.

3.1.5.3. Procedures for staff approval of certain Staging Allocation Requests

Staging Allocation Requests that can be approved by staff under 3.1.5.1, or 3.1.5.2, or 3.1.5.3 must be approved by the appropriate Chief or supervisor Planning Director or designee. Such staff approvals must be included in the biennial monitoring report.

3.1.5.4 Projects approved by staff under 3.1.5 not subject to certain provisions of these guidelines

A Staging Allocation Approval issued by staff under 3.1.5 is not subject to the requirements of the following subsections: 3.1.6 (Contents of Staging Allocation Approval); 3.1.7 (Timely submission of building permit applications); 3.1.8 (Reporting requirement); 3.1.9 (Effect of failure to timely submit); 3.1.10 (Validity); and 3.1.11 (Application fees).

Discussion:

The intention of these provisions is to provide a “safety valve” so that projects that do not require staging allocations can receive a Staging Allocation Approval for the benefit of DPS, should DPS request evidence of such an approval. By allowing staff review in such cases, these projects will be able to move forward without the additional and unnecessary delay that would necessarily result if such projects were required to go through the full Planning Board approval process.

Staff, in consultation with stakeholders, has determined that the section addressing public facilities could have been construed to imply that the Planning Board has authority to determine when public facilities may move forward. Staff has instead recommended changing the language in section 3.3.3 to establish a definition for public facilities and to specifically exempt public facilities from staging.

Language has been added (see 3.1.5.4) that clarifies that staff approvals of staging allocation for projects that are requesting no net capacity (e.g. replacing a structure that burned down) should not be subject to many of the requirements of these guidelines because the rationale for those requirements is to prevent hoarding. In addition, projects that have approvals that predate the sector plan should not be subject to many of these same requirements for much the same reason—such projects would not be hoarding capacity because that capacity is already theirs.

3.1.6. Contents of Staging Allocation Approval

Staff recommendation:

A Staging Allocation Approval must incorporate all information included in the Staging Allocation Request. The Staging Allocation Approval must also specify, as established in these guidelines, (1) the deadline for completion and acceptance of a building permit application under 3.1.7, and (2) the Staging Allocation Approval expiration date under 3.1.10.

3.1.7. Timely submission of building permit applications

Staff recommendation:

An applicant who has received a Staging Allocation Approval from the Planning Board must present that Staging Allocation Approval to the Department of Permitting Services when applying for a building permit. The Staging Allocation Approval becomes void if a completed building permit application for core and shell is not accepted within 90 days from the date the Planning Board’s Resolution granting the Staging Allocation Approval. ~~The Planning Board may allow~~ An applicant who submits a Staging Allocation Request for multiple buildings has a period of up to 180 days to have building permit applications accepted for at least the core and shell of all buildings.

Discussion:

This change clarifies that a developer of a single-phase, multi-building project need not meet both the 90 day time limit for the first building and the 180 day time limit for all buildings. Rather, the applicant in such cases need only have all building permit applications accepted within 180 days. In addition, the use of the word “may” was inappropriate given the generally ministerial nature of the Planning Board’s review of Staging Allocation Requests.

3.1.8. Reporting Requirement

Staff recommendation:

The applicant must present evidence of acceptance to the Planning Board within ~~10~~ 15 business days after a building permit application is accepted.

Discussion:

Some stakeholders have expressed concern that the 10 day timeframe was too short, given that there is not an event that occurs in every application that signifies to all parties that an application has been accepted as complete. To the extent that that concern can be addressed by lengthening the time period, staff recommends extending the period from 10 business days to 15 business days. This allows an applicant 3 weeks to determine whether or not an application has been accepted as complete and to notify the Planning Board. This seems like ample time in the context of the 90/180 day period established under 3.1.7.

3.1.9. Effect of failure to timely submit

Staff recommendation:

Any failure to timely submit a building permit application ~~and comply with the reporting requirement established in these guidelines~~ results in the loss of staging capacity allocated for which no building permit application has been accepted. The portion of the Staging Allocation Approval that is not perfected by timely submission, and acceptance by the Department of Permitting Services, is void as of the day after the date established for timely submission of an application for building permit.

Discussion:

While the reporting requirement provides a valuable check in the process, failure to comply with the reporting requirement does not rise to the level of offense that justifies applicant loss of the Staging Allocation Approval.

3.1.10. Validity

Staff recommendation:

A Staging Allocation Approval that has not become void due to failure to satisfy the requirement to timely submit a building permit application remains valid for 2 years from the date of the Planning Board's Resolution approving the Staging Allocation Approval. All core and shell building permits necessary to construct the capacity allocated by the Planning Board must be issued within that 2 year validity period. ~~The Planning Board may allow~~ An applicant who submits a Staging Allocation Request for multiple buildings has a period of up to 3 years to have building permits issued for the core and shell of all buildings.

Discussion:

As in 3.1.7 this change would clarify the ministerial nature of the Planning Board's review.

3.1.11. Application fees

Staff recommendation:

~~An applicant submitting a Staging Allocation Request must pay a fee of \$5,000 at the time the Staging Allocation Request is submitted, unless, under Section 3.1.5 of these guidelines, that Staging Allocation Request may be approved without Planning Board action. Any public facility and any Staging Allocation Request for no net staging capacity (under 3.1.5 of these guidelines) is exempt from this requirement. An applicant submitting a Staging Allocation Request for a net increase of less than 20,000 square feet of non-residential or fewer than 20 dwelling units must submit a fee of \$2,500. A Staging Allocation Request for a net increase of at least 20,000 square feet of non-residential or at least 20 dwelling units must submit a fee of \$5,000. For purposes of calculating the fee for a mixed-use Staging Allocation Request, one dwelling unit is equal to 1,000 square feet of non-residential. For example, a Staging Allocation Request for 18 dwelling units and 1,900 square feet of non-residential would be subject to a fee of \$2,500 (18x1,000 equals 18,000 plus 1,900 equals 19,900, which is less than 20,000).~~

Discussion:

This language clarifies that public facilities and other requests for no net staging capacity are not subject to the application fee. In addition, the changed language recognizes the inherent fairness of charging lower fees to smaller projects.

3.1.12. Joint Staging Allocation Requests

Staff recommendation:

Multiple property owners may submit Joint Staging Allocation Requests if those property owners also submitted a joint sketch site plan application, which was approved by the Planning Board,

and which included conditions establishing a phasing schedule of demolition and construction on all subject properties.

Discussion:

One of the three sketch plans submitted and approved was a joint sketch plan. The joint applicants took advantage of provisions in the CR Zone in order to average residential and commercial densities across property lines between contiguous properties so long as the development remained within the total zoning envelope for each property. Bill Kominers, representing one of the property owners that filed the joint sketch plan, has recommended alternative language that would change “site plan” to “sketch plan.”

Mr. Kominers argues that the averaging of residential and commercial density is something occurs at sketch plan under 59(C) 15.121 (a). While joint sketch plan applicants may choose to file joint site plans, the applicants would maintain maximum flexibility by filing separate site plans. If properties that were under a joint sketch plan and which each had approved site plans were ready to develop at the same time, such properties should then be allowed to file a joint Staging Allocation Request.

Staff would characterize this as a very close call, though upon further reflection, staff recommends Mr. Kominers’ proposed alternative. Mr. Kominers’ alternative represents a reasonable solution given the reality that property owners may not want to inextricably link their projects by filing a joint site plan. Rather, they are likely to prefer the flexibility afforded by separate site plan applications, which could then either be joined under one Staging Allocation Request or remain separate.

3.2. Staging queue management

Staff recommendation:

The Planning Department will maintain a White Flint Sector Plan staging queue. This queue will document the timing of Staging Allocation Requests that cannot be approved by the Planning Board due to insufficient staging capacity.

- ~~• The queue will be managed on a first-in, first-out basis.~~
- Any Staging Allocation Request for which there is not sufficient capacity (see also 3.1.4) will be placed in the queue.
- The queue will track dates on which ~~of all~~ Staging Allocation Requests were submitted ~~and accepted~~ as complete.
 - ~~○ Staging Allocation Approvals (with due dates for voidance and expiration)~~
 - ~~○ Acceptance of permit application by DPS~~
 - ~~○ Staging Allocation Approval voidance or expiration~~
- The queue will be managed on a first-in, first-out basis. ~~The oldest eligible application(s) in the queue will be placed on the consent agenda calendar~~ be accepted only ~~at such time as staging capacity exists for both the full residential and commercial development proposed in the application.~~

- *Adjustments to queue position may be granted by the Planning Board, but only after receipt of a proposal jointly submitted by all applicants whose positions in the queue would be affected. The Planning Department would not be a party to any negotiations between applicants who agree to change queue positions.*

Discussion:

The changes above clarify the nature of the queue. Staff believes it is more appropriate that the queue serve as an “overflow parking lot” when there is not enough capacity to accommodate the request. An alternative construction of the queue would be that the queue would be a portal through which all projects would pass on their way to the agenda. The language of section 3.1.4 indicates a clear intention that the queue serve as an overflow, whereas the original draft of section 3.2 was more ambiguous. This distinction is critical for the following reason: projects for which there is capacity to accommodate the entire request will not stop at the queue, and therefore may receive a Staging Allocation Approval while another project that filed a Staging Allocation Request earlier sits in the queue.

The third bullet would be changed if the Board—in its deliberations of 3.1.4—decides to allow applicants to submit Staging Allocation Request if there is not sufficient capacity to accommodate the applicant’s entire request.

3.3. Exemptions from Staging Allocation

3.3.1. Development approvals Preceding predating Establishment of Special Taxing District approval of the Sector Plan

Staff recommendation:

The Sector Plan states:

“Any development approvals that predate the approval of this Sector Plan are considered to be in conformance with this Plan. For such approvals, only the difference between the amount of the prior approval and any requested increase would be subject to the phasing caps.”

While the language in the Sector Plan refers specifically to the staging caps, the intent was that these projects would not be subject to the staging allocation process generally. Therefore, while staff approval of a Staging Allocation Request remains an option for such property owners (e.g. to prove to other agencies that they can move forward with their development), such approvals should not be subject to the other requirements or limitations set forth in these guidelines (see 3.1.5.4).

On December 9, 2010 the Planning Board confirmed its intent that four specific projects should not be subject to the phasing caps ~~staging limits~~ up to the amount of development approval that predated the adoption of the Sector Plan.

- 1) North Bethesda Center (LCOR)
 - 1,350 dwelling units
 - 1.14 million square feet of office

202,037 square feet of commercial
Zone: TSM
Zoning Application: G-801; County Resolution No. 15-154
Preliminary Plan: 120040490
Site Plans: 820050340; 820080110

- 2) *North Bethesda Market (JBG)*
440 dwelling units
223,000 square feet of non-residential
Zone: TSM
Zoning Application G-830
Preliminary Plan: 120060310
Site Plan: 820060170

- 3) *White Flint View (Quantum/Noland Plumbing)*
183 dwelling units
29,500 square feet of non-residential
Zone: C-2
Preliminary Plan: 120070380

- 4) *Metro Pike (BF Saul)*
247 dwelling units
201,822 square feet of non-residential
Zone: TSM
Zoning Application: G-860; Resolution No. 16-430

Discussion:

Staff added the specific language from the Sector Plan to provide additional context, clarified that approvals that predate the adoption of the Sector Plan should not be subject to the limitations and requirements established in these guidelines, and—in order to avoid potential mistakes of exclusion—deleted references to specific zoning, preliminary plan, and site plan approval numbers.

3.3.2. Affordable housing units

Staff recommendation:

Affordable housing units that are in addition to those required by Chapter 25A and which are provided under the CR Zone incentives are not to be counted against staging plan limits for residential development.

3.3.3 Public facilities and staging projects submitted under the mandatory referral process

A public facility is a facility that is owned or operated by a governmental body or an instrumentality of a governmental body and which serves a public purpose.

Staff recommendation:

3.3.3.1 Public facilities subject to mandatory referral are exempt from staging

Public facilities which are subject to the mandatory referral provisions of Article 28, section 7-112 are not subject to staging.

3.3.3.2 Public facilities provided as a proffer are exempt from staging

Public facilities that are to be owned or operated by a public entity and that are provided in a private project as a proffer (e.g. in exchange for a density award) are not subject to staging, if such public facility will be conveyed to the public entity in fee simple, by perpetual exclusive easement, or by a long-term lease in excess of fifty years. The terms and method of any such conveyance must be acceptable to the public entity prior to the Planning Board's approval of the staging allocation request for the private elements of the project for which such public facility is proffered. The private elements of a project that includes a public facility are subject to the staging allocation requirements.

3.3.3.3 Effect on traffic analysis of development outside the special taxing district

Traffic generated by public facilities must be included in any analysis of development that is proposed to occur the outside special taxing district, as described below.

~~Public projects reviewed by the Planning Board as part of the mandatory referral procedure of Article 28 are not subject to either APFO or staging requirements. Freestanding facilities to be built, constructed and owned by the public sector in perpetuity are expected to include a fire station, an expanded Montgomery Aquatic Center, and possibly an elementary school and a library. As decided by the Planning Board during their July 22 2010 worksession, such freestanding facilities are neither to be subject to staging nor included in tracking against the staging ceiling caps. Traffic generated by these facilities, however, does need to be included in any analysis of development outside special taxing district, as described below. Facilities that may be leased to the public, such as space for a community center or express library within a privately owned building, should be counted against the staging cap unless the conditions of site plan approval prevent their conversion to other uses.~~

Discussion:

This proposed change clarifies that public facilities, whether or not those facilities are the sort of public facility that would normally go through the mandatory referral process, are exempt from staging.

Section 7-112 of Article 28 (Mandatory referrals) of the Code of Maryland states in part: "...No road, park, or other public way or ground, no public (including federal) buildings or structures, and no public utility, whether publicly or privately owned, shall be located, constructed, or authorized in the regional district until and unless the proposed location, character, grade, and

extent thereof has been submitted to and approved by the Commission. In case of disapproval, the Commission shall communicate its reasons to the State, federal, county, municipal, or district board, body, or official proposing to locate, construct, or authorize such public way, ground, building, structure, or utility. Thereupon the board, body, or official in its discretion may overrule the disapproval and proceed.”

To the extent that a public facility does not constitute a “public way, ground, building, structure, or utility” the language in section 3.3.3.2 clarifies that so long as it is a public facility (e.g. proffered in exchange for zoning density, as part of a “beauty contest,” etc.) and under control of a public entity for an extended period of time, it is exempt from staging.

3.4. Relationship to other transportation related processes and requirements

Staff recommendation:

The Subdivision Staging Policy states that any property in the Special Taxing District is exempt from the requirements of either Local Area Transportation Review or Policy Area Mobility Review. The intent of this requirement is to remove the need for any individual applicant to prepare transportation studies for the purposes of determining APF validity

3.4.1. Development outside the special taxing district

Staff recommendation:

For ~~in~~ general, for the purposes of assessing the transportation impacts of new development, the ~~WFSTD~~ White Flint Special Taxing District will be treated in a manner similar to the way a separate jurisdiction such as Rockville is treated. In general, applicants inside and outside of the Special Taxing District will be responsible only for their improvements on their side of the Special Taxing District boundary. Applicants outside of the Special Taxing District will be tested for APF compliance and intersection improvements (if needed) outside of the Special Taxing District boundary.

Applications outside ~~WFSTD~~ the White Flint Special Taxing District must submit LATR and PAMR transportation studies that reflect development within ~~WFSTD~~ the Special Taxing District as part of their background traffic. The Planning Board will provide guidance on trip generation and distribution assumptions as part of the most recent biennial Comprehensive Local Area Transportation Review (CLATR). It is expected that the first biennial CLATR will be completed prior to completion and application of the new guidelines. Applicants outside the Special Taxing District who must submit LATR and PAMR transportation studies will conduct traffic assignment consistent with the CLATR. Applicants outside the Special Taxing District will be responsible only for intersection improvements outside the Special Taxing District.

Within the ~~WFSTD~~ White Flint Special Taxing District, the applicants will be responsible only for constructing improvements required by Section 50-24, such as streets interior or adjacent to their sites, making any additional improvements necessary for safe access and circulation (other than those associated with APF) and providing the funds for those shared projects identified through the taxing district mechanism. The improvements inside the ~~WFSTD~~ Special Taxing

District are planned to accommodate traffic generated by development occurring outside the WFSTD Special Taxing District.

Outside the WFSTD, the applicants will be responsible only for the intersection improvements outside the WFSTD. The improvements outside of the WFSTD will include the impact from development occurring inside the WFSTD.

In general, applicants inside and outside of the WFSTD be responsible only for their improvements on their side of the WFSTD boundary. Applicants outside of the WFSTD will be tested for APF compliance and intersection improvements (if needed) outside of the WFSTD boundary.

3.4.2. Privatization of Traffic Carrying Streets

Staff recommendation:

Page 51 of the Plan identifies four specific business street segments that are required to be open to general vehicular use as part of the robust street grid needed to disperse traffic. Page 52 of the Plan identifies eight conditions for potential construction and operation of these streets as private streets. All eight conditions must be incorporated within the Planning Board's subdivision approval opinion.

3.4.3. Transportation Information Required From Applicants

Staff recommendation:

The Subdivision Staging Policy states that any property in the Special Taxing District is exempt from the requirements of either Local Area Transportation Review or Policy Area Mobility Review. The intent of this requirement is to remove the need for any individual applicant to prepare transportation information for the Planning Board whose sole purpose is to assess transportation system adequacy as required by the Subdivision Staging Policy.

Applicants will still be required to provide information to state or County agencies as needed to fulfill other requirements of the law. Such information may include, but not be limited to:

- *Parking space requirements*
- *Sight distance evaluations*

Attachment A: Letter from Natalie Goldberg (November 1, 2010)

Attachment B: Letter from Natalie Goldberg (March 29, 2011)

Attachment C: Example Staging Queue (Phased Staging Allocation Requests)

Attachment D: Planning Board Packet Item #11, incl. Draft Guidelines (March 31, 2011)

THE WHITE FLINT COMMUNITY COALITION

Representing the wishes of the people of the White Flint area

11111 Jolly Way
Kensington, Md. 20895
November 1, 2010

Chairman Françoise Carrier
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Update on Staging Allocation (White Flint Sector Plan)

Dear Chairman Carrier:

The White Flint Community Coalition had several concerns with the material in the staff packet dated October 26, 2010 regarding the agenda item on White Flint Staging.

1. Attachment 3, Circle 17, states the mode share goals for Phase 1 and Phase 2 as achieving NADMS for "Plan area employees". The Sector Plan on page 71 states the mode share goals as "non-auto driver mode share for the Plan area". It does not reduce the measurement to employees only, but includes both those employees coming to work in White Flint and those residents going to work from within the Sector Plan area. We urge you to correct this attachment.
2. Attachment 4, Circle 19, discusses the Special Taxing District and states "It is quite possible, however, that there will be some properties within the Sector Plan that choose not to participate in the Special Taxing District". Our understanding of the proposed District legislation is that all properties within the Sector will be obligated to participate, with the exception of several existing residential developments detailed in the legislation. We recognize that this is a draft document only, subject to change after the financial plan is adopted, but suggest that the scenarios can be simplified by omitting this option.

We look forward to the Planning Board discussion on Staging Allocation and to further participation in this process. Thank you considering our comments.

Sincerely,

Natalie Goldberg
On behalf of the
White Flint Community Coalition

*Combining the strength of community bodies representing more than
3,200 households and 8,500 residents in or near the White Flint Sector*

Crest of Wickford Condominium Association · Garrett Park Citizens Association
Garrett Park Estates-White Flint Park Citizens' Association · Luxmanor Citizens Association
Parkwood Residents Association · The Sterling Condo HOA
Timberlawn Homeowners Association · Wickford Community Association



11111 Jolly Way
Kensington, Md. 20895
March 29, 2011

Chairman Françoise Carrier
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: White Flint Implementation Guidelines
Agenda Item 11B March 31, 2011

Dear Chairman Carrier:

I am writing to express concern about Section 5.2 Mode Share Goals, Page 17 of the White Flint Implementation Guidelines memo dated March 23, 2011. The mode share goals are planned to be determined based entirely on annual employee surveys. Yet the mode share requirement as specified in the White Flint Sector Plan is for both residential and non-residential mode share.

This issue previously arose after the staff memo of Oct. 26, 2010. At that time, the White Flint Community Coalition, under my signature, sent a letter to the Planning Board. This letter, dated November 1, 2010, stated:

1. "Attachment 3, Circle 17, states the mode share goals for Phase 1 and Phase 2 as achieving NADMS for "Plan area employees". The Sector Plan on page 71 states the mode share goals as "non-auto driver mode share for the Plan area". It does not reduce the measurement to employees only, but includes both those employees coming to work in White Flint and those residents going to work from within the Sector Plan area. We urge you to correct this attachment."

At the Planning Board meeting of November 4, 2011, Mr. Jacob Sesker brought this letter to the attention of the Planning Board. He stated at that time that I was correct, that "we made a mistake" and that the mode share definition would be corrected.

I was disappointed to see the previous incorrect definition of mode share used in the White Flint Implementation Guidelines. I urge that Section 5.2 Mode Share Goals in the White Flint Implementation Guidelines be modified to reflect additional actions necessary to measure residential journey-to-work trips.

I am attaching a copy of the referenced November 1st letter for your information. Thank you for considering this issue.

Sincerely,

Natalie Goldberg

Cc: Mr Jacob Sesker, Planner Coordinator Director's Office
Mr. Dan Hardy, Chief Functional Planning & Policy

(B)

Attachment C: Example Staging Queue (Phased Staging Allocation Requests)

This example illustrates how a process in which applicants could submit phased Staging Allocation Requests. Such an approach would be an alternative to the system described (e.g. in 3.1.4) in which a request would go into the queue unless all of the capacity requested could be accommodated under the staging limits.

Available Staging Capacity: 500,000sf of commercial use

Phased Staging Allocation Request A – Accepted 8/1/11

Phase 1 – 400,000sf of commercial use including removal and reconstruction of 50,000sf

Phase 2 – 200,000sf of commercial use

Phase 3 – 175,000sf of commercial use

Staging Allocation Request B – Accepted 8/5/11

100,000sf of commercial use

Staging Queue on 8/6/11(based on acceptance date)

1. 350,000sf for A1
2. 200,000sf for A2
3. 175,000sf for A3
4. 100,000sf for B

Planning Board action on 8/6/11 – Allocation of 350,000sf for A1 and 100,000sf for B

Result –

50,000sf of staging capacity remains

Staging Queue on 8/7/11 becomes:

1. 200,000sf for A2
2. 175,000sf for A3
3. Allocation Request C...



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item#11B
March 31, 2011

MEMORANDUM

DATE: March 23, 2011

TO: Montgomery County Planning Board

FROM: Dan Hardy, Chief
Functional Planning & Policy *DKH*

Jacob Sesker, Planner Coordinator
Director's Office *JS*

Shahriar Etemadi, Supervisor
Area 2 Team *[Signature]*

H.S.
Nkosi Yearwood, Senior Planner
Area 2 Team

BS
Ben Gruswitz, Research Planner
Center for Research and Information Services

SUBJECT: Roundtable-White Flint Implementation Guidelines

Attached is a discussion draft of the White Flint Implementation Guidelines. The discussion draft is intended to provide the Planning Board with an update with respect to staff's progress, and to provide an early opportunity for the Board to comment on the topics addressed and not addressed in the document.

The sector plan establishes a deadline of 12 months after the adoption of the sectional map amendment for the development of a transportation approval mechanism and monitoring program (the 12 month period will expire on July 13, 2011). Adoption of the Guidelines by the Planning Board would satisfy the requirement that the Planning Board establish a transportation approval mechanism and monitoring program.

The next work session on the guidelines will be on April 14, 2011. That work session will introduce an updated draft of the entire Implementation Guideline document, though the focus of that work session will be on Chapter 3 (Transportation Approval Mechanism).



WHITE FLINT IMPLEMENTATION GUIDELINES
DISCUSSION DRAFT
March 23, 2011

⑤₁

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2. Guideline Procedures
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 - Use of Guidelines
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 - Public Facilities
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 - Privatization of Traffic Carrying Streets
 - Transportation information required from applicants
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 - Public Facilities and Amenities
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 - CIP and Subdivision Staging Policy
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1. Implementing Legislation
 - Sector Plan / SMA
 - Special Taxing District
 - Subdivision Staging Policy
- 2 . Staging Allocation Request Form

1. Introduction

The 2010 Approved and Adopted White Flint Sector Plan is being implemented through focused coordination between public and private interests. The vision of the Sector Plan is to transform an auto-oriented development pattern into an urban center with residential and non-residential development with new amenities including parks and open spaces, and new cultural destinations and public facilities.

Most new development in White Flint is regulated by the Commercial Residential (CR) zone. The zone requires a sketch plan for optional method development, which is a conceptual plan that illustrates the general development pattern of a project, including streets, building heights, pedestrian network, parks and open space, and other features.

The Sector Plan recommends the creation of a financing mechanism. The County Council, via Bill 50-10, enacted the White Flint Special Tax District in November 2010 as the source to fund several transportation infrastructure improvements in the Plan area. The Council also approved the White Flint Sector Plan Implementation Strategy and Infrastructure List (Resolution No. 16-1570) that complements the tax district.

This *ad valorem* tax will cover all existing commercial properties, and excludes existing multi-family residential buildings, townhouses and a religious institution. Beginning July 1, 2011, the White Flint Special Tax rate will be \$1.027 per \$100 of assessed value. This tax will be levied and collected as other County property taxes.

Pursuant to the Sector Plan, the Planning Board established an implementation advisory committee comprised of stakeholders in the Plan's redevelopment, including property owners and residents. The committee is responsible for monitoring the Plan's recommendations, Capital Improvement Program (CIP), and subdivision staging, and recommending action to the Planning Board and Council.

The White Flint Sector Plan directs the Montgomery County Planning Board to develop a transportation approval mechanism and biennial monitoring program to implement the Sector Plan.

These Guidelines provide direction to the Planning Board and their staff on appropriate procedures for implementing the Sector Plan and related enabling legislation.

The focus of these Guidelines is on the procedures required to initiate Phase 1 and to proceed from Phase 1 to Phase 2. The White Flint Sector Plan recognizes that over the decades required for full sector plan implementation, some modifications may be needed to the staging plan. The process for considering amendments to the White Flint Implementation Guidelines is described in Section II of these Guidelines.

2. Guideline Procedures

2.1. White Flint Implementation Advisory Committee

The Sector Plan requires that the Planning Board must establish an advisory committee that consists of property owners, interest groups, and residents that are stakeholders in the redevelopment in the Sector Plan area. The committee is also responsible for monitoring the Plan's recommendations, Capital Improvement Program (CIP), and subdivision staging and recommending actions to the Planning Board and Council.

The committee consists of 23 individuals including representatives from surrounding civic and homeowners associations, property owners, and representatives from the Executive Branch. All members are appointed by the Planning Board for two year-terms with reappointments also made by the Board. The Committee meets monthly to discuss issues related to the Plan's implementation, including the Comprehensive Local Area Transportation Review (CLATR), and CIP projects.

2.2. Use of Guidelines

These guidelines are intended to be used by the Planning Board and its staff in the implementation of the White Flint Sector Plan. They will provide direction specific guidance and supplement situations that are not articulated in the Sector Plan, Subdivision Staging or other County policies.

2.3. Changes to Guidelines

The Approved and Adopted Sector Plan states the following: "A successful staging plan should be elastic enough to respond to market forces without losing the plan's vision or requiring amendments." The biennial monitoring program that is established in the Sector Plan is charged with several specific tasks, one of which is to "conduct a regular assessment of the staging plan and determine if any modifications are necessary." The Sector Plan clearly contemplates that implementation of the staging plan will be an iterative and evolving process. However, the staging plan and Implementation Guidelines must also remain constant enough that market actors will be able to make rational decisions based on their reasonable expectations that the implementation process is predictable.

Changes to the Implementation Guidelines require Planning Board approval. The need to balance flexibility and certainty indicates that Planning Board changes to the Implementation Guidelines should be guided by the following principles:

- 1) To the extent appropriate, major changes approved by the Planning Board should generally take effect at the commencement of the next phase of development as set forth in the staging plan. This would mean that major changes made in Phase 1 generally should not take effect until the beginning of Phase 2. In considering whether it is appropriate to make major changes to the Implementation Guidelines that take effect

before the commencement of the next stage, the Planning Board may consider a variety of factors, including the nature of the change under consideration, the underlying facts that justified the proposed change, and the testimony submitted by stakeholders.

- 2) The Planning Board may consider a proposed change to the Implementation Guidelines at any time if the Planning Board finds that events have occurred or facts have emerged that render specific provisions of the Guidelines no longer appropriate.
- 3) The Planning Board should reconsider the Implementation Guidelines in conjunction with the Planning Board's review of the biennial monitoring report or other periodic assessments.

3. Transportation Approval Mechanism

The streamlined transportation infrastructure delivery described on Page 54 of the White Flint Sector Plan directs the County to “establish an alternative adequate public facilities (APF) review procedure with an exaction process based on the planned transportation infrastructure as proportioned to the traffic generated by each development.”

The intent was fulfilled by the implementing legislation contained in Appendix A that established the Special Taxing District and the Alternative Review Procedure within the Subdivision Staging Policy.

In accordance with amendments to the Subdivision Staging Policy adopted by the County Council in Resolution #xxx on June xx, 2011, the transportation APF process for properties within the Special Taxing District has been replaced by the combination of taxing and staging described in the resolution and detailed in these Guidelines.

3.1. Staging Allocation Request Process

Under the White Flint Sector Plan, staging capacity in Phase 1 will be allocated on a “first-in, first-out” basis. The advantages of this approach include fairness, predictability, and efficiency. Such a system encourages potential applicants to request capacity earlier in the process, which will generate additional tax revenues that can be used to construct the infrastructure projects that are triggers under the Staging Plan. The biennial monitoring reports will provide the Planning Board with the information it needs to determine whether this approach is achieving the Sector Plan vision.

3.1.1. Staging Allocation Request

A Staging Allocation Request is a request for staging capacity under the White Flint Sector Plan. The contents of a Staging Allocation Request and the effect of submitting a completed Staging Allocation Request will be established in these guidelines.

3.1.2. Contents of Staging Allocation Request

A Staging Allocation Request must include a statement by the applicant that the applicant has received any necessary sketch plan approvals, preliminary plan approvals, or site plan approvals. The request should indicate the number of buildings proposed as well as the amount of residential and non-residential staging capacity requested, the gross amount of new development, and the net amount of new development if there will be demolition of existing structures. If demolition occurred before the submission of the Staging Allocation Request, the applicant must furnish information showing the amount of demolition that occurred after the adoption of the Sector Plan. If a Staging Allocation Request Form has been approved by the Planning Board, each Staging Allocation Request must include that form.

3.1.3. Planning Board review of Staging Allocation Request

The Planning Board must approve the Staging Allocation Request if sufficient staging capacity remains available, under the White Flint Sector Plan, to accommodate the applicant's entire request.

3.1.4. Effect of Staging Allocation Request

In order to be deemed complete, a Staging Allocation Request must contain all information required under the Subdivision Staging Policy section TA6 Alternative Review Procedure for the White Flint Policy Area, must comply with these Planning Board guidelines, and must be submitted concurrently with any application fees established under these guidelines.

Once a Staging Allocation Request has been deemed complete the Planning Board must not allocate to any other applicant the capacity requested unless the Staging Allocation Request is rejected by the Planning Board or withdrawn by the applicant or unless a Staging Allocation Approval becomes void or expires under these guidelines. A Staging Allocation Request that has been deemed complete must be approved by the Planning Board if sufficient capacity remains available, under the White Flint Sector Plan, to accommodate the applicant's entire request. If sufficient capacity is not available to accommodate the applicant's entire request, the Staging Allocation Request will be placed in a queue and will be scheduled for Planning Board action when capacity becomes available.

3.1.5. Staff approval of certain Staging Allocation Requests

3.1.5.1. No net draw on capacity

A Staging Allocation Request will always be approved, regardless of available staging capacity, if the Request is for an amount equal to or less than any development being removed. In such cases, the Staging Allocation Approval may be granted by staff without Planning Board review.

3.1.5.2. Public facilities

A Staging Allocation Request will always be approved, regardless of available staging capacity, for any public facility subject to the Mandatory Referral process. In such cases, the Staging Allocation Approvals for such public facilities may be granted by staff without Planning Board review.

3.1.5.3. Development approvals that pre-date the approval of the Sector Plan

A Staging Allocation Request will always be approved, regardless of available staging capacity, for projects requesting capacity for which they have Adequate Public Facilities approvals or development plan approvals that predate the approval of the White Flint Sector Plan on July 13, 2010. In such cases, the Staging Allocation Approvals may be granted by staff without Planning Board review.



3.1.5.4. Procedures for staff approval of certain Staging Allocation Requests

Staging Allocation Requests that can be approved by staff under 3.1.5.1, 3.1.5.2, or 3.1.5.3 must be approved by the appropriate Chief or supervisor. Such staff approvals must be included in the biennial monitoring report.

3.1.6. Contents of Staging Allocation Approval

A Staging Allocation Approval must incorporate all information included in the Staging Allocation Request. The Staging Allocation Approval must also specify, as established in these guidelines, (1) the deadline for completion and acceptance of a building permit application under 3.1.7, and (2) the Staging Allocation Approval expiration date under 3.1.10.

3.1.7. Timely Submission of Building Permit Applications

An applicant who has received a Staging Allocation Approval from the Planning Board must present that Staging Allocation Approval to the Department of Permitting Services when applying for a building permit. The Staging Allocation Approval becomes void if a completed building permit application for core and shell is not accepted within 90 days from the date the Planning Board's Resolution granting the Staging Allocation Approval. The Planning Board may allow an applicant who submits a Staging Allocation Request for multiple buildings a period of up to 180 days to have building permit applications accepted for at least the core and shell of all buildings.

3.1.8. Reporting Requirement

The applicant must present evidence of acceptance to the Planning Board within 10 business days after a building permit application is accepted.

3.1.9. Effect of failure to timely submit

Any failure to timely submit a building permit application and comply with the reporting requirement established in these guidelines results in the loss of staging capacity allocated for which no building permit application has been accepted. The portion of the Staging Allocation Approval that is not perfected by timely submission, and acceptance by the Department of Permitting Services, is void as of the day after the date established for timely submission of an application for building permit.

3.1.10. Validity

A Staging Allocation Approval that has not become void due to failure to satisfy the requirement to timely submit a building permit application remains valid for 2 years from the date of the Planning Board's Resolution approving the Staging Allocation Approval. All core and shell building permits necessary to construct the capacity allocated by the Planning Board must

be issued within that 2 year validity period. The Planning Board may allow an applicant who submits a Staging Allocation Request for multiple buildings a period of up to 3 years to have building permits issued for the core and shell of all buildings.

3.1.11. Application fees

An applicant submitting a Staging Allocation Request must pay a fee of \$5,000 at the time the Staging Allocation Request is submitted unless, under Section 3.1.5 of these guidelines, that Staging Allocation Request may be approved without Planning Board action.

3.1.12. Joint Staging Allocation Requests

Multiple property owners may submit Joint Staging Allocation Requests if those property owners also submitted a joint site plan application, which was approved by the Planning Board, and which included conditions establishing a phasing schedule of demolition and construction on all subject properties.

3.2. Staging Queue Management

The Planning Department will maintain a White Flint Sector Plan staging queue. This queue will document the timing of Staging Allocation Requests that cannot be approved by the Planning Board due to insufficient staging capacity.

- The queue will be managed on a first-in, first-out basis.
- The queue will track dates of all:
 - Staging Allocation Request submissions and acceptance as complete
 - Staging Allocation Approvals (with due dates for voidance and expiration)
 - Acceptance of permit application by DPS
 - Staging Allocation Approval voidance or expiration
- The oldest eligible application(s) in the queue will be accepted only at such time as staging capacity exists for both the full residential and commercial development proposed in the application
- Adjustments to queue position may be granted by the Planning Board, but only after receipt of a proposal jointly submitted by all applicants whose positions in the queue would be affected. The Planning Department would not be a party to any negotiations between applicants who agree to change queue positions.

3.3. Exemptions from Staging Allocation

3.3.1. Development Preceding Establishment of Special Taxing District



The White Flint Sector Plan states that: "Any development approvals that predate the approval of this Sector Plan are considered to be in conformance with this Plan. For such approvals, only the difference between the amount of the prior approval and any requested increase would be subject to the phasing caps."

On December 9, 2010 the Planning Board confirmed its intent that four specific projects should not be subject to the staging limits up to the amount of development approval that predated the adoption of the Sector Plan.

- 1) North Bethesda Center (LCOR)
 - 1,350 dwelling units
 - 1.14 million square feet of office
 - 202,037 square feet of commercial
 - Zone: TSM
 - Zoning Application: G-801; County Resolution No. 15-151
 - Preliminary Plan: 120040490
 - Site Plans: 820050340; 820080110

- 2) North Bethesda Market (JBG)
 - 440 dwelling units
 - 223,000 square feet of non-residential
 - Zone: TSM
 - Zoning Application G-830
 - Preliminary Plan: 120060310
 - Site Plan: 820060170

- 3) White Flint View (Quantum/Noland Plumbing)
 - 183 dwelling units
 - 29,500 square feet of non-residential
 - Zone: C-2
 - Preliminary Plan: 120070380

- 4) Metro Pike (BF Saul)
 - 247 dwelling units
 - 201,822 square feet of non-residential
 - Zone: TSM
 - Zoning Application: G-860; Resolution No. 16-430

3.3.2. Affordable housing units

Affordable housing units that are in addition to those required by Chapter 25A and which are provided under the CR Zone incentives are not to be counted against staging plan limits for residential development.

3.3.3 Public projects submitted under the mandatory referral process

Public projects reviewed by the Planning Board as part of the mandatory referral procedure of Article 28 are not subject to either APFO or staging requirements. Freestanding facilities to be constructed and owned by the public sector in perpetuity are expected to include a fire station, an expanded Montgomery Aquatic Center, and possibly an elementary school and a library. As decided by the Planning Board during their July 22, 2010 worksession, such freestanding facilities are neither to be subject to staging nor included in tracking against the staging ceiling caps. Traffic generated by these facilities, however, does need to be included in any analysis of development outside special taxing district, as described below. Facilities that may be leased to the public, such as space for a community center or express library within a privately owned building, should be counted against the staging cap unless the conditions of site plan approval prevent their conversion to other uses.

3.4. Relationship to Other Transportation Related Processes and Requirements

The Subdivision Staging Policy states that any property in the Special Taxing District is exempt from the requirements of either Local Area Transportation Review or Policy Area Mobility Review. The intent of this requirement is to remove the need for any individual applicant to prepare transportation studies for the purposes of determining APF validity.

3.4.1. Development Outside Special Taxing District

In general, for the purposes of assessing the transportation impacts of new development, the WFSTD will be treated in a manner similar to the way a separate jurisdiction such as Rockville is treated.

Applications outside WFSTD must submit LATR and PAMR transportation studies that reflect development within WFSTD as part of their background traffic. The Planning Board will provide guidance on trip generation and distribution assumptions as part of the most recent biennial Comprehensive Local Area Transportation Review (CLATR). It is expected that the first biennial CLATR will be completed prior to completion and application of the new guidelines. Applicants will conduct traffic assignment consistent with the CLATR.

Within the WFSTD, the applicants will be responsible only for constructing streets interior to their sites, making any additional improvements necessary for safe access and circulation (other than those associated with APF) and providing the funds for those shared project identified

through the taxing district mechanism. The improvements inside the WFSTD are planned to accommodate traffic generated by development occurring outside the WFSTD.

Outside the WFSTD, the applicants will be responsible only for the intersection improvements outside the WFSTD. The improvements outside of the WFSTD will include the impact from development occurring inside the WFSTD.

In general, applicants inside and outside of the WFSTD be responsible only for their improvements on their side of the WFSTD boundary. Applicants outside of the WFSTD will be tested for APF compliance and intersection improvements (if needed) outside of the WFSTD boundary.

3.4.2. Privatization of Traffic Carrying Streets

Page 51 of the Plan identifies four specific business street segments that are required to be open to general vehicular use as part of the robust street grid needed to disperse traffic. Page 52 of the Plan identifies eight conditions for potential construction and operation of these streets as private streets. All eight conditions must be incorporated within the Planning Board's subdivision approval opinion.

3.4.3. Transportation Information Required From Applicants

The Subdivision Staging Policy states that any property in the Special Taxing District is exempt from the requirements of either Local Area Transportation Review or Policy Area Mobility Review. The intent of this requirement is to remove the need for any individual applicant to prepare transportation information for the Planning Board whose sole purpose is to assess transportation system adequacy as required by the Subdivision Staging Policy.

Applicants will still be required to provide information to state or County agencies as needed to fulfill other requirements of the law. Such information may include, but not be limited to:

- Parking space requirements
- Sight distance evaluations

4. Community Facilities and Amenities

The Sector Plan recommends several community facilities, including:

- Public Library
- Civic Green
- Fire, Rescue and Emergency Medical Services Station and Police Sub-Station
- Satellite Regional Services Center
- Recreation Center
- Police Substation
- Elementary School

Most of these public facilities are recommended in the core area of the plan area, Metro East and Metro West Districts. These facilities will create a civic presence and destination within the core area of the Sector Plan. The Plan encourages the co-location of public facilities, especially the library and regional services center in the Metro West and Metro East Districts. Wall Local Park/Montgomery Aquatic Center is the preferred location for the recreation center. It is anticipated that these facilities will be provided either by the public or private sector.

(Details on implementation guidance pending further interagency and stakeholder coordination)

5. Completing Phasing Prerequisites

The Sector Plan identifies prerequisites for moving from Phase 1 to Phase 2 and from Phase 2 to Phase 3. To move from one Phase to another, the Planning Board will consider a staff recommendation to that effect and hold a public hearing. The staff recommendation will address each of the individual requirements in the staging plan. The staff recommendation will document coordination with the White Flint Implementation Committee. The Planning Board should not move from Phase 1 to Phase 2 without considering the written testimony of the White Flint Implementation Committee.

Prior to the development of a staff recommendation to move from Phase 1 to Phase 2, the Executive must submit testimony to the Planning Board staff that the Executive branch staff agencies find that all prerequisites for moving from Phase 1 to Phase 2 have been met.

5.1. Transportation Facilities

During Phase 1, the Planning Board may issue Staging Allocation Approvals until the limits of 3,000 dwelling units or 2.0 million square feet of non-residential development is reached. "Work-around" roads planned for the west of Rockville Pike, including the streets for the civic core, should be contracted for construction during Phase 1 of the staging allocation and completed before the first Staging Allocation Approval is issued for Phase 2 development. Other projects that must be underway prior to moving to Phase 2 are described below. In each case, the Planning Board's determination that the prerequisite has been met will be based on staff recommendation in conjunction with the White Flint Implementation Committee review and other public testimony.

The first two improvements are incorporated in the White Flint District West PDF (#501116) in the Executive's proposed FY 11-16 CIP:

- Contract for the construction of the realignment of Executive Boulevard and Old Georgetown Road.
- Contract for construction of Market Street (B-10) in the Conference Center Block (Metro West).

The Planning Board should consider these prerequisites to be met when contracts have been issued that cover all construction necessary for these streets to open to traffic with contractual requirements that work be completed within the next 24 months. The one exception is that the portion of Market Street between Woodglan Drive and Rockville Pike may be subject to a breakout contract that allows deferral of the construction beyond 24 months if the most recent CLATR demonstrates that this segment is not yet needed for roadway capacity.

The next improvement addresses Quality of Service for pedestrians and bicyclists:

- Fund streetscape improvements, sidewalk improvements, and bikeways for substantially all of the street frontage within one quarter-mile of the Metro station: Old Georgetown Road, Marinelli Road, and Nicholson Lane.

The Planning Board should consider these prerequisites to be met when all referenced improvements within a one-quarter mile radius of the existing Metrorail station portal (as defined for the purposes of sketch plan review) are fully funded for construction within the first six years of a CIP or CTP. The exceptions to this rule (as indicated by the word “substantially” in the Plan text) are that the following improvements are not necessarily expected to be implemented during Phase 1:

- the reconstruction of Rockville Pike
- the segment of Market Street between Woodglen Drive and Rockville Pike

The next prerequisite involves planning for Rockville Pike implementation.

- Fund and complete the design study for Rockville Pike to be coordinated with SHA, MCDOT, and M-NCPPC.

The Planning Board should consider this prerequisite to be met after the Planning Board has recommended, and the Maryland State Highway Administration has concurred with, a preferred alternative that has been the subject of a Categorical Exclusion, a Finding of No Significant Impact, a Draft Environmental Impact Statement, or a Mandatory Referral review.

The next prerequisite regarding mode share goals is discussed in a subsequent section.

- Achieve 34 percent non-auto driver mode share for the Sector Plan area.

The final prerequisite addresses housing needs.

- The Planning Board should assess whether the build out of the Sector Plan is achieving the Plan’s housing goals.

Staff and the White Flint Implementation Committee will review the jobs-to-housing balance and the proportion of affordable housing units for current and pipeline development as part of the biennial monitoring report. The Planning Board should consider this prerequisite to be met if recent biennial reports demonstrate roughly proportional progress between the conditions at time of Sector Plan adoption and the conditions anticipated at the end of Phase 3. A jobs-to-housing balance that is more housing-heavy than indicated by the proportional progress is also acceptable.

5.2. Mode Share Goals

Mode share goals to be determined based on annual employee surveys conducted by the North Bethesda TMD (the same process as used in Bethesda CBD staging in 2004). Relevant survey information includes journey-to-work mode share for employees arriving to their workplace in the White Flint Sector Plan Area during the AM peak period (6:30 – 9:30 AM)

Non-Auto Drivers include transit users, carpool/vanpool passengers, walkers, and bikers. Non-Auto Drivers do not include employees on scheduled leave or sick leave, or out of the office (they are neither in the numerator of non-auto-drivers nor the denominator of all employees working in White Flint). Non-Auto Drivers do include teleworkers and compressed-schedule employees.

The NADMS will be the weighted average of responses for the full week of the survey.

The NAMDS is a non-integer number. The Phase 1 requirement is a 34 percent NADMS. A survey response of 33.9% does not meet the NADMS requirement; a survey response of 34.1% should meet the NADMS requirement.

Once the NADMS requirement has been met, any subsequent lower survey result does not change the validity of the decision to move from one phase to the next. The staff must consider the variability inherent in survey results in developing the recommendation to move to another phase (i.e., if four consecutive annual surveys during Phase 1 showed NADMS results of 27%, 26%, 28%, and 35%, any consideration to move to Phase 2 in the fifth year should be accompanied by analyses of independent indicators of changes in mode share behavior).

6. Biennial Monitoring Program

The Biennial Report will be developed during the spring of each odd-numbered year to be incorporated with biennial status reports prepared as part of the Subdivision Staging Policy efforts to inform development of the Executive's biennial CIP during the following autumn.

6.1. Development Approval

The Planning Board on January 20, 2011 approved three sketch plans: North Bethesda Market II, Mid-Pike Plaza, and North Bethesda Gateway. These plans comprise a total of 2.944 million square feet of non-residential development and 3,266 dwelling units. This amount of development exceeds the first phase of development established in the Sector Plan.

Most new development will be approved via a sketch plan, which is required in the Commercial Residential (CR) zone. A sketch plan is a conceptual plan that illustrates general development pattern of a project, including streets, building heights, pedestrian network, parks and open

space, public facilities or amenity, and sustainable features. It is required for optional method of development. After sketch plan approval by the Planning Board, the next review will be either preliminary plan or site plan review.

Planning staff will develop a publicly accessible web application for the purpose of tracking remaining staging capacity and demand for staging capacity through each sector plan phase. Net dwelling units and net non-residential square footage of current submitted and approved plans that may result in staging allocation requests (Sketch, Preliminary, and Site plans) as well as submitted, approved, and queued Staging Allocations will be displayed in three ways. Those are:

- an interactive map application
- bar charts summing up data for submitted and approved plans
- tables itemizing data for each individual plan

6.2. Public Facilities and Amenities

The Plan recommends several public facilities, including a library, fire and emergency service station, satellite regional services center, elementary school, and police sub-station.

(details on monitoring guidance pending further interagency and stakeholder coordination)

6.3. Status of New Facilities

Public facilities will be provided either through the County's Capital Improvement Program (CIP), Amenity Fund, or a development dedication of land or building square footage for a facility. The biennial monitoring report will include information on facility progress through each of these mechanisms.

6.4. CIP and Subdivision Staging Policy

The biennial monitoring report (produced during the summer of odd-numbered years) will include a section describing any recommended amendments to existing Project Description Forms (PDF) or new PDFs to be added to the subsequent biennial CIP (developed for public hearing in the spring of even-numbered years). This section will also describe whether any changes to the Subdivision Staging Policy are needed, a particularly important element considering that the development of the Subdivision Staging Policy and these guidelines in 2010 cannot anticipate the full range of circumstances that will arise of the several decades expected for full Plan implementation. The Planning Board may consider changes to the Subdivision Staging Policy at any time (they need not wait for a biennial review), but must consider the performance of the Subdivision Staging Policy at the time of the biennial review.

6.5. Comprehensive Local Area Transportation Review

The Comprehensive Local Area Transportation Review (CLATR) will include all signalized intersections in the Sector Plan area plus all signalized intersections on major highways and arterials elsewhere in the North Bethesda/Garrett Park Master Plan area, with the exception of Rock Spring Park (i.e., southwest of the I-270 Spur) and in the Twinbrook Metro Station Policy Area (i.e., both northeast of the CSX tracks and north of Montrose Parkway).

The CLATR will incorporate the most recent Non-Auto-Driver Mode Share (NADMS) survey results and traffic counts developed by the North Bethesda Transportation Management District by December of even numbered years per Section 42-27(a) of the County Code.

The CLATR will consider the following scenarios:

- Existing conditions
- A ten-year to fifteen-year development horizon (rounded to the nearest five years, consistent with the philosophy in the Executive's TPAR report) considering:
 - approved development within White Flint Sector Plan area, consisting of pipeline development not subject to staging plus approved sketch plans (as adjusted by sketch plan property owner representations of the amount of sketch plan development expected to be built by the horizon year).
 - the latest round of cooperative forecasts submitted by the Planning Department to MWCOG for the rest of Montgomery County (including the municipalities)
 - the latest round of cooperative forecasts approved by MWCOG for the rest of the region
 - the latest CLRP transportation network approved by MWCOG for the rest of the region
 - additional projects in Montgomery County if approved by the County Council as part of the Subdivision Staging Policy / CIP process
 - local infrastructure programmed by the state, County, or special taxing district for the specified horizon year.

The CLATR will identify intersections which are not forecasted to meet the congestion standards for either existing conditions or the CLATR development horizon condition. The CLATR will identify alternative transportation improvements that could be implemented to meet the congestion standards and a recommended course of action. The CLATR recommendations will be reviewed by the White Flint Implementation Committee and the Planning Board prior to transmittal of Planning Board comments to the Executive and County Council for consideration in the CIP development process.

6.6. Changes to Staging Plan

The Sector Plan recognizes that over time, the implementation of the Sector Plan will need to accommodate new technologies, policies, and regulations. Some changes may warrant reconsideration of the Sector Plan staging plan and such reconsideration should be made through a regular deliberative process. The biennial monitoring report will therefore contain a section describing whether any amendments should be considered to these White Flint Implementation Guidelines or to the Sector Plan Staging Plan itself.