**MEMORANDUM**

DATE: May 21, 2004
 TO: Montgomery County Planning Board
 VIA: Rick Hawthorne, Acting Chief
 Development Review Division
 FROM: Michael Ma, Supervisor *Ma*
 (301) 495-4523

REVIEW TYPE: **Site Plan Amendment**
 CASE NUMBER: **8-01017B**
 PROJECT NAME: **White Flint Place**
 APPLYING FOR: Replacing the approved commercial building with a 235-unit, high-rise apartment building with 15,000-square-foot ground floor retail.
 REVIEW BASIS: Sections 59-C-8 and D-3, Montgomery County Zoning Ordinance

ZONE: TS-M
 LOCATION: Northeastern quadrant of the intersection of Rockville Pike (MD 355) and Old Georgetown Road (MD 187)

MASTER PLAN: North Bethesda/Garrett Park
 APPLICANT: WFP Front Lot Limited Partnership
 FILING DATE: March 23, 2004
 HEARING DATE: May 27, 2004

**BACKGROUND**

White Flint Place is a mixed-use development originally consisting of commercial office, retail, and residential uses and underground parking garages. The approved site plan 8-01017 proposes three high-rise buildings: two residential apartment buildings and one office/retail building. The first residential building is completed and occupied. The second one is nearing completion. The purpose of the subject site plan amendment is to replace the commercial/office building with a 235-unit, high-rise apartment building with 15,000-square-foot ground floor retail.

STAFF RECOMMENDATION:

Approval of replacement of the previously approved 10-story commercial/office building with a 235-unit, high-rise residential building with 15,000-square-foot retail space with the following conditions:

1. Prior Approval

The terms and conditions of all applicable prior regulatory approvals and agreements remain in full force and effect, except as affected by the conditions of this site plan amendment.

2. Interior Noise Mitigation

- a. Applicant shall provide analysis of projected exterior noise levels from all transportation sources for staff review and approval. All residential units subject to projected exterior noise levels equal or exceeding 65 dBA Ldn, must be constructed to meet the 45 dBA Ldn interior noise standard.
- b. Certification from an acoustical engineer that the building shell of impacted buildings has been designed to attenuate projected exterior noise levels per the approved study to an interior level not to exceed 45 dBA Ldn shall be submitted to M-NCPPC technical staff for review prior to release of building permit.
- c. The applicant shall construct these units in accord with acoustical design specifications, with any changes that may negatively affect acoustical performance approved for equivalent or better performance by an acoustical engineer in advance of installation.
- d. Prior to occupancy of the units, the builder shall certify, via written notice to M-NCPPC staff, that the residential units are constructed in accordance with the acoustical design specifications as identified.

3. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated March 16, 2004.

4. Moderately Priced Dwelling Units (MPDUs)

The proposed residential building (Phase II B) shall provide 30 MPDUs or 12.5 percent of the total number of the proposed dwelling units.

5. Site Plan Enforcement Agreement

Submit a revised Site Plan Enforcement Agreement including Development Program for review and approval prior to approval of the signature set as follows:

Development Program to include a phasing schedule as follows:

- a. Street tree planting shall progress as street improvement is completed, but no later than six months after completion of the proposed building.
- b. The proposed streetscape, public amenities, pedestrian pathways, recreation facilities, landscaping, and outdoor lighting shall be completed prior to occupancy of the building.
- c. Clearing and grading to correspond to the construction phasing, to minimize soil erosion and forest loss.
- d. Coordination of each section of the development and roads.
- e. Phasing of stormwater management, sediment/erosion control, recreation, community paths, or other features.

6. Clearing and Grading

No grading prior to M-NCPPC approval of signature set of plans.

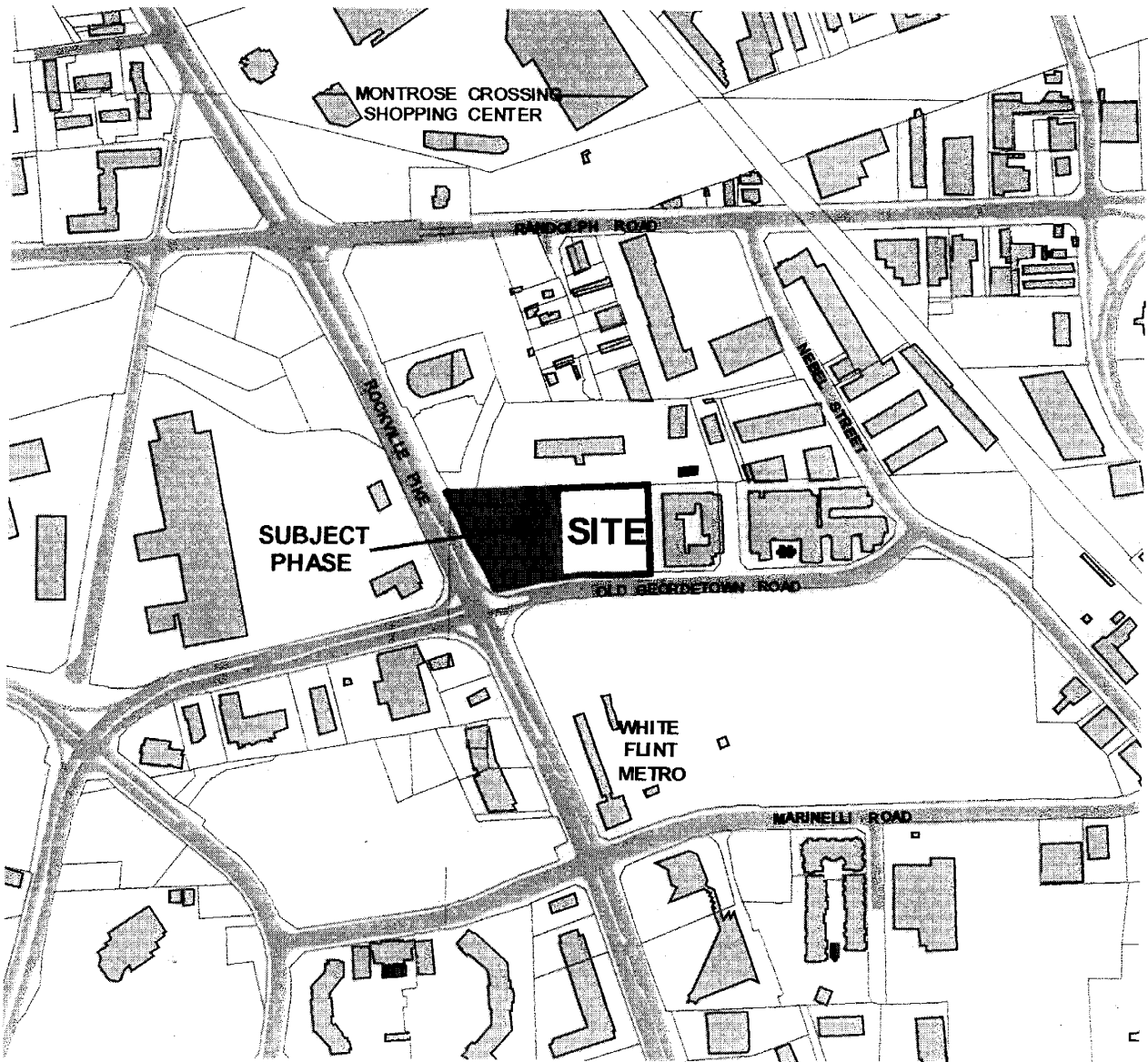
7. Signature Set

Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Identify tree IA.
- b. Outdoor pole lighting details with correct pole height.
- c. Paving details.
- d. Parking and MPDU information for both Phases 2A and 2B.
- e. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- f. The development inspection schedule and Site Plan Opinion.

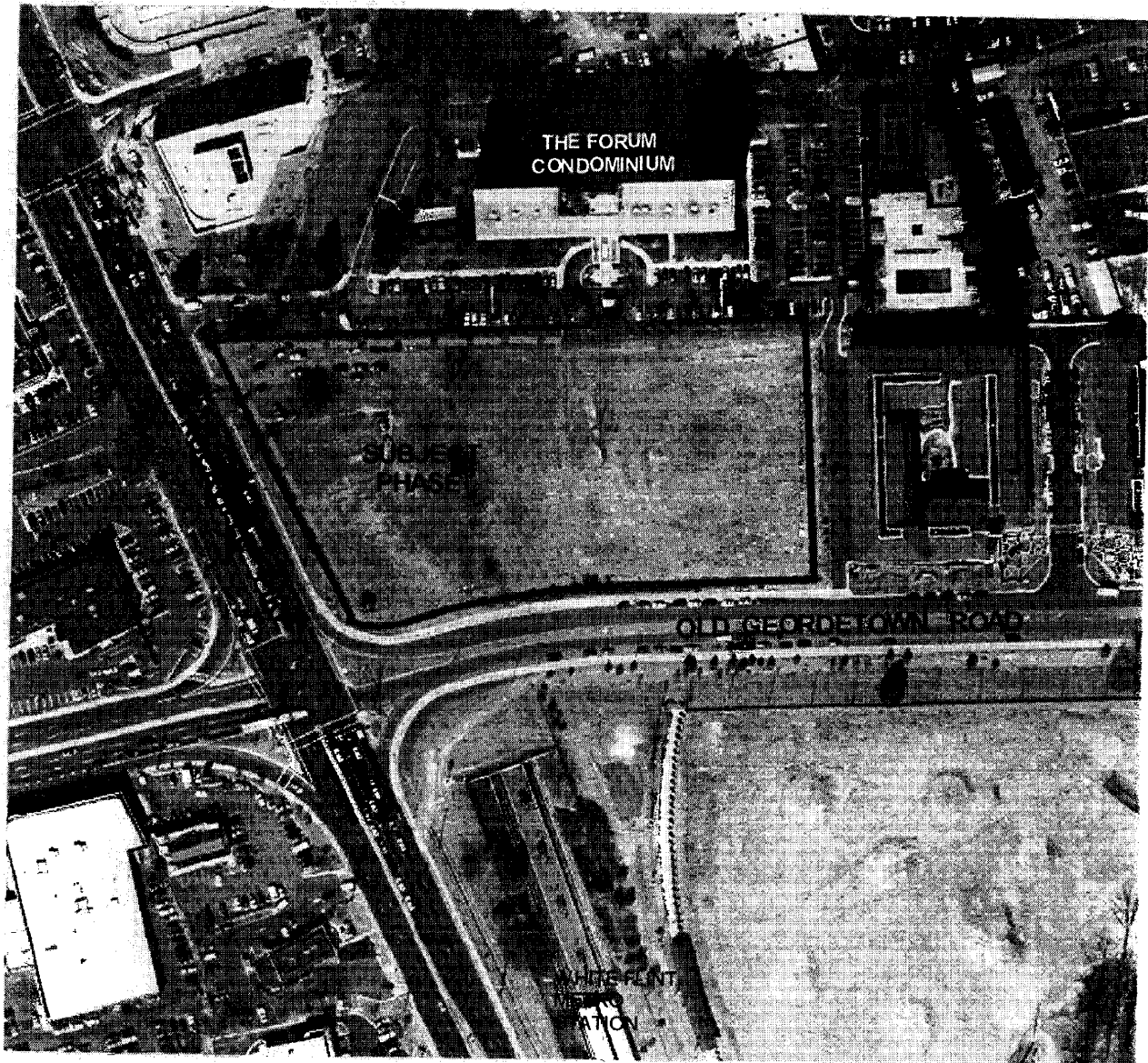
PROJECT DESCRIPTION: Surrounding Vicinity

The site is located on the east side of Rockville Pike (MD 355), north of Old Georgetown Road (MD 187). It is bounded on the north by the high-rise Forum Condominium and on the east by the Windsor Villa garden apartments. Across Old Georgetown Road to the south is the as-yet-undeveloped WMATA/LCOR joint development parcel containing the White Flint Metro station. To the west across Rockville Pike is an existing strip shopping center. To the north on Rockville pike is the site of an approved Site Plan for an office building.



PROJECT DESCRIPTION: Site Description

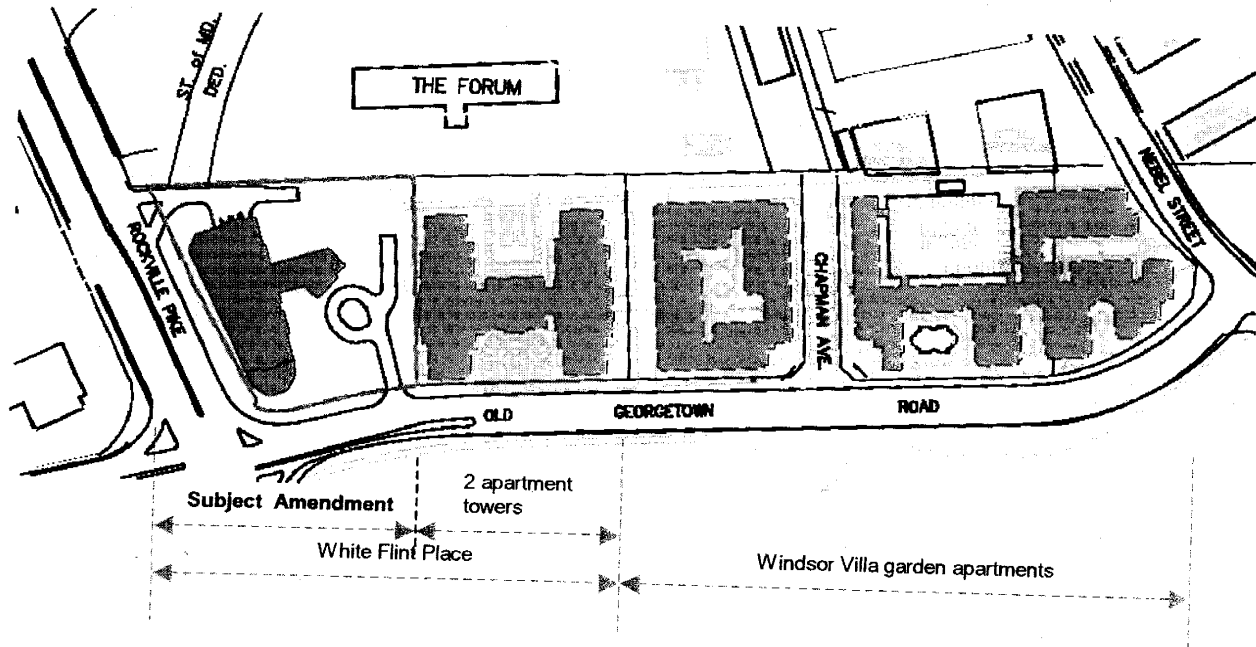
The relatively level site was substantially clear of vegetation. It has been graded for the proposed development. The first two high-rise buildings have been constructed in the eastern part of the site. The WMATA tunnel for Metro rail tracks traverses the site parallel to Rockville Pike and 100-150 feet east of it. The tunnel is a shallow, cut-and-cover structure, the roof of which is within a few feet of existing grade.



PROJECT DESCRIPTION: Proposal

Previous Approval

The previously approved proposal consists of 252,799 square feet of office, 18,804 square feet of auxiliary retail, and 453 residential units. The proposed development would include a 10-story office building straddling the Metro tunnel near Rockville Pike, two 16-story apartment towers in the eastern portion of the site, and a 1,155-space underground parking garage. Storm water structures are located in the northwest corner beneath the service/parking driveway and in the southeast corner next to the tower.



New Residential Tower

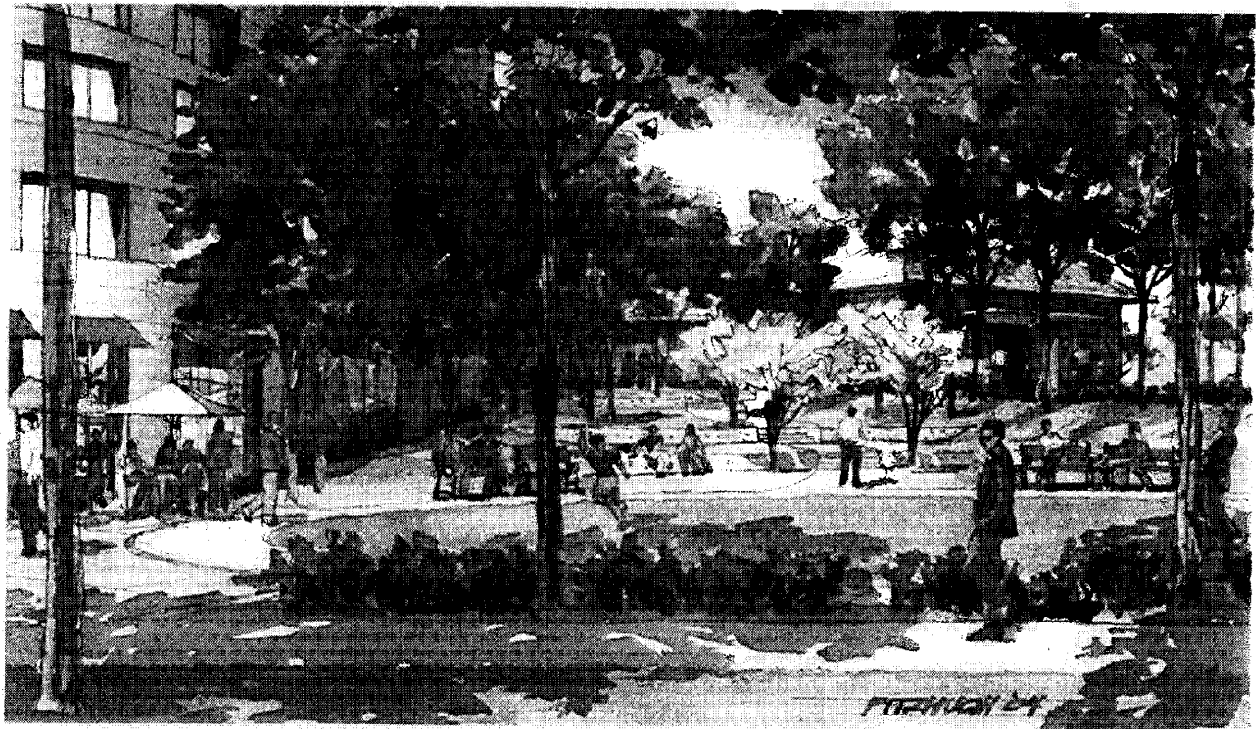
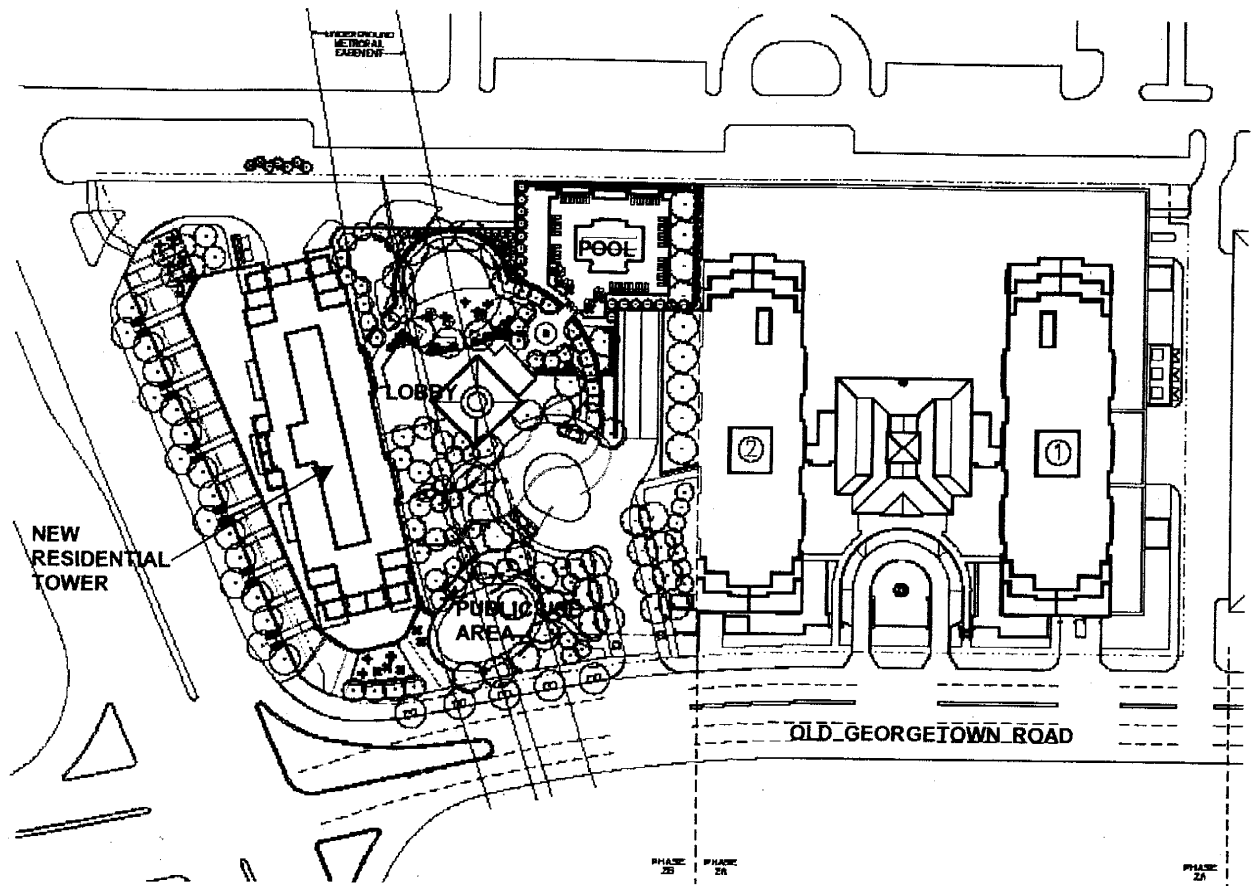
The subject amendment to the approved plan proposed to replace the previously approved 10-story commercial/office building with a 235-unit, 16-18-story residential building with 15,000-square-foot ground floor retail. The underground parking garage for this building will provide 340 parking spaces. A one-story pavilion attached to the east side of the new residential tower will include common recreation and management space and lobby functions. Access to the lobby and underground parking will be via two driveways off Rockville Pike and Old Georgetown Road.

Amenities

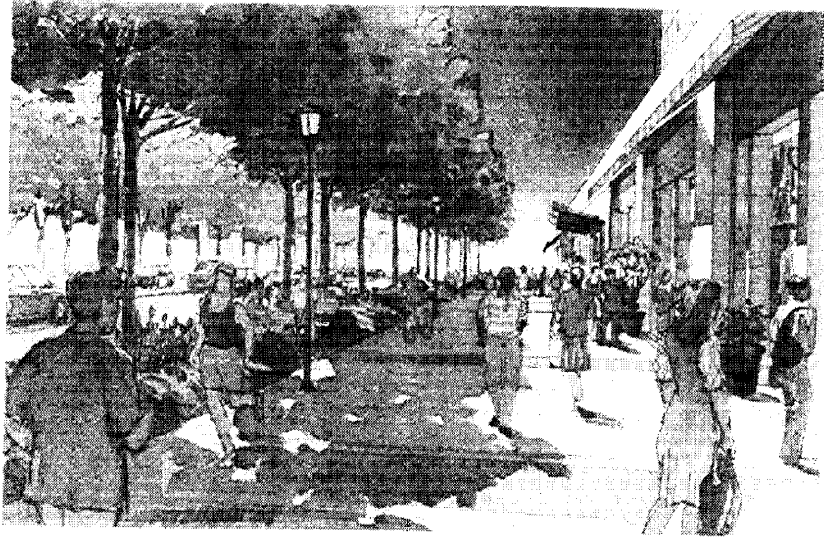
The site features several public amenity areas, including landscaped open space off Old Georgetown Road, outdoor sitting/dining areas and urban streetscape along both the Rockville Pike and Old Georgetown Road frontages. A 10-foot-wide bikeway is proposed as part of the 25-foot-wide sidewalk along Rockville pike. Two rows of street trees will be provided between the sidewalk and Rockville Pike. Private amenities include including an arrival plaza, indoor recreation/social facilities, a swimming pool, pathways, sitting areas, and landscaped open space

MPDUs

The first two residential towers, which include 453 units, of the White Flint Place development provide 124 MPDUs of which 40 are provided on-site. The subject 235-unit residential building will provide 12.5 percent MPDUs as required by the Zoning Ordinance. A copy of the Memorandum of Understanding between the applicant and the Montgomery County Department of Housing and community Affairs regarding the MPDUs on this site dated May 11, 2004 is attached.

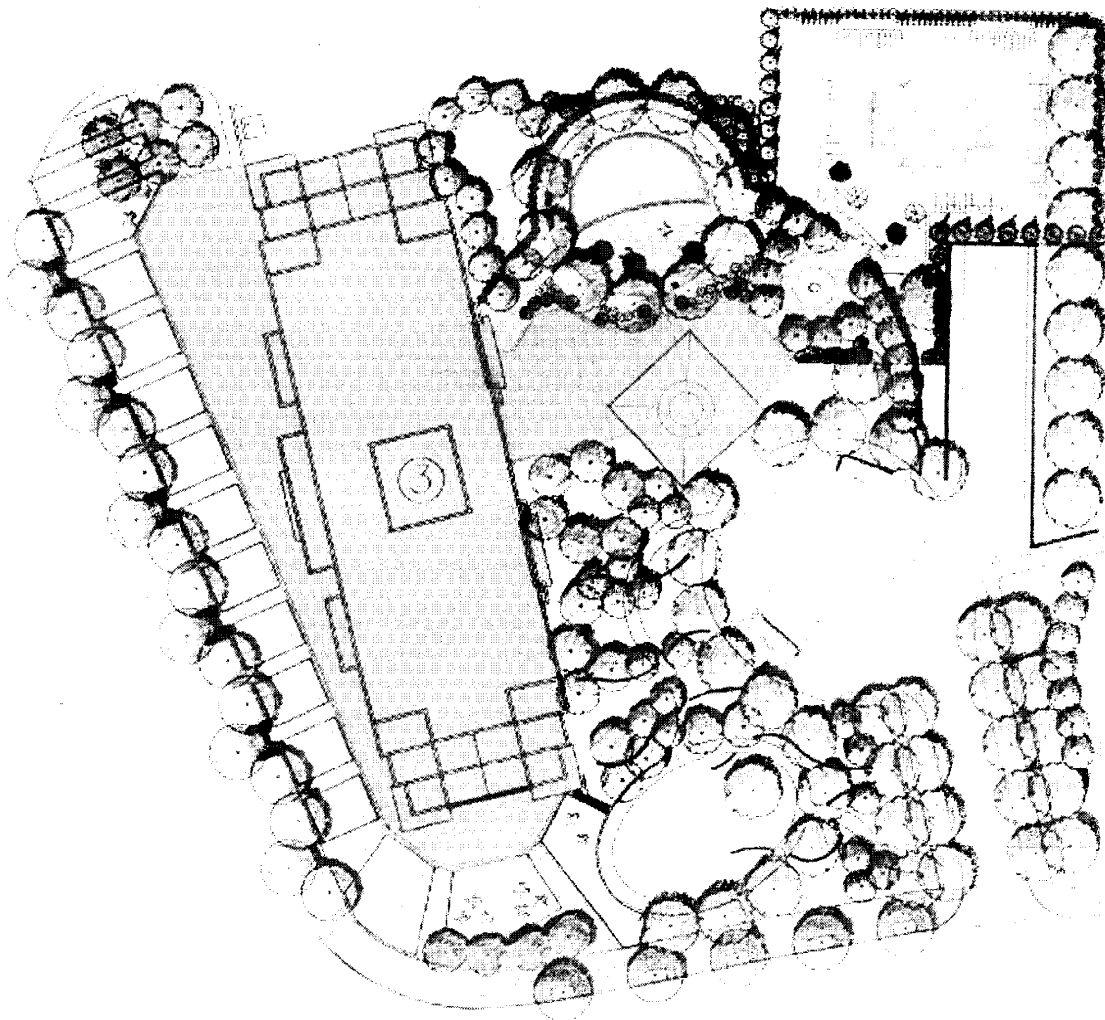


View of public use area off Old Georgetown Road with the residential building on the left and the one-story lobby on the right



STREETScape ALONG THE
ROCKVILLE PIKE FRONTAGE
WITH THE GRAND FLOOR

LANDSCAPE PLAN



PROJECT DESCRIPTION: Prior Approvals

Development Plan Amendment (DPA 04-1)

In March 2004, the applicant received approval from District Council to modify an approved Development Plan to replace the 10-story office/commercial building proposed on the western portion of the property with a 16-18-story multi-family high-rise development, consisting of approximately 235 units, and ground floor retail along Rockville Pike. The Development Plan Amendment, known as Phase 2B, consisted of a maximum of 244,555 square feet of residential use and 15,000 square feet of commercial space. A copy of County Council resolution 15-564 for DPA 04-1 is attached.

Preliminary Plan

Preliminary Plan 1-01039 was approved by the Planning Board on April 19, 2001. A copy of Planning Board opinion is attached. The revised Preliminary Plan is being reviewed and heard concurrently with this Site Plan amendment.

Site Plan

Site Plan 8-01017 for White Flint Place was approved by the Planning Board on April 19, 2001 with conditions. A copy of the Planning Board Opinion for the plan is attached. The plan was amended for a parking waiver request for the office building. Amended Site Plan 8-01017A was approved by the Planning Board on February 27, 2003 with conditions.

ANALYSIS: Conformance to Development Standards

PROJECT DATA TABLE (TS-M Zone)

| Development Standard | Permitted/ Required | Proposed |
|------------------------------|------------------------|------------|
| Min. Tract Area (s.f.): | | 207,274 |
| Number of Dwelling Unit | | |
| Phase 2A | | 453 |
| Phase 2B | | <u>235</u> |
| Total | | 688 |
| Number of MPDUs | | |
| Phase 2A | 12.5%+50% of bonus | 124 |
| Phase 2B | 12.5% | 30 |
| Public Use Space (%) | 10 | 10 |
| Private Recreation Area (%): | 25 | 29.6 |
| Parking Spaces | | |
| Phase 2A (453 d.u.) | 520* | 523 |
| Phase 2B (235 d.u.) | 314* | <u>340</u> |
| Total | | 863 |
| Motorcycle | 7 | 7 |
| Bicycle | 17 | 17 |

* after credits: (1) transit station dev. area (10%), (2) distance to Metro (5%), and (3) office share-a-ride (15%).

RECREATION CALCULATIONS:

| | Tots | children | teens | adults | seniors |
|------------------------|-------|----------|-------|--------|---------|
| Demand Points | | | | | |
| For 235 HR units | 9.40 | 9.40 | 9.40 | 181.00 | 108.00 |
| Supply Points | | | | | |
| Pedestrian System | 0.90 | 0.90 | 1.80 | 76.00 | 45.50 |
| Open play area II | 3.00 | 4.00 | 4.00 | 10.00 | 1.00 |
| 4 picnic/sitting areas | 4.00 | 6.00 | 6.00 | 20.00 | 8.00 |
| Swimming pool | 0.50 | 1.80 | 1.80 | 42.30 | 15.20 |
| Indoor exercise room | 0.90 | 0.90 | 2.70 | 50.70 | 40.40 |
| Indoor community rm. | 0.90 | 1.40 | 2.70 | 50.70 | 40.40 |
| On-Site Total | 10.20 | 15.00 | 17.20 | 249.70 | 150.50 |

Conformance to Master Plan

The proposed plan for White Flint Place is in compliance with the 1992 *North Bethesda-Garrett Park Master Plan*. The White Flint area, as proposed in the Master Plan, is to be developed as part of the main urban center of North Bethesda. The plan also encourages the use of the existing Metro system infrastructure. The Master Plan further intends for developments to vitalize the area with mixed-use developments, including a significant transit serviceable residential component within the White Flint Sector Planning Area. Lastly, a Master Plan goal is to ensure a lively pedestrian environment in the White Flint planning area. The proposed use of the Phase 2B development, and the provision of additional residential development in the transit station area all satisfy these Master Plan goals.

White Flint Place Phase 2B is located on 2.44 acres of land in the northeast corner of the intersection of Rockville Pike and Old Georgetown Road in the TS-M Zone. The project satisfies the purposes of the TS-M Zone as it promotes the optimum use of transit facilities given its close proximity to the White Flint Metro Station and the enhanced pedestrian facilities proposed in the plan.

Transportation

Site-Generated Traffic

The majority of the vehicular trips generated by general office uses occur in the weekday peak direction, compared with the majority of the vehicular trips generated by housing units occurring in the weekday reverse peak direction. Besides the vehicular trips generated by the proposed high-rise apartments occurring in the non-peak direction, the proposed apartments generate fewer total peak-hour trips than the previously-approved office use. Thus, the congestion levels at the nearby intersections would be reduced from the Critical Lane Volume (CLV) values shown in the memorandum prepared for the previous preliminary plan approval.

Policy Area Transportation Review/Staging Ceiling Condition

In the White Flint Policy Area, the remaining transportation staging ceiling capacities are 1,233 housing units and 5,584 jobs, as of April 30, 2004, under the *FY2004 Annual Growth Policy*. The table below

shows the equivalent number of jobs and housing units comparing the prior approved and proposed development:

Transportation Demand Management

This site is within the boundary of the North Bethesda TMD. For the multi-family residential development, participation is required in the North Bethesda Transportation Management Organization (TMO) to encourage and assist the North Bethesda TMD in achieving and maintaining the 39% non-driver traffic mitigation goal for Stage II of the Master Plan development.

To assist the North Bethesda TMD in achieving and maintaining the traffic mitigation goal of the *North Bethesda/Garrett Park Master Plan*, participation would include the following:

1. Designating an employee transportation coordinator to assist in implementation of the planning and coordinating with the North Bethesda TMO staff.
2. Disseminating information on transportation programs and services to the residents and on-site employees.
3. Monitoring the achievement of traffic mitigation goal by participating in the annual employee survey.

The North Bethesda TMO staff is available to provide transportation information, technical advice, and other forms of assistance normally provided by the TMO to sites within North Bethesda.

FINDINGS:

1. *The Site Plan is consistent with an approved development plan.*

In March 2004, the District Council approved DPA 04-1 to modify the approved Development Plan to replace the 10-story office/commercial building proposed on the western portion of the property with a 16-18-story multi-family high-rise development, consisting of approximately 235 units, and ground floor retail along Rockville Pike. The subject site is consistent with the approved Development Plan in land use, density, access, amenities, and general layout.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

See project Data Table above.

3. *The location of the building and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.*

- a. Recreation:

Recreation demand is satisfied as shown in the recreation calculations table above.

- b. Vehicular and Pedestrian Circulation:

Because the site is across from the White Flint Metro station, pedestrian amenity in the project has been concentrated in the public use space associated with the sidewalks in the rights-of-way of both Rockville Pike and Old Georgetown Road, to maximize the attractiveness and efficiency of the pedestrian part of the transit trip. The pedestrian way on Rockville Pike is also designed to incorporate the Master-planned bikeway.

- c. Open Space:

The proposed plan provides 43,312 square feet of public use area and 128,515 square feet of private open space throughout the site for recreation purposes. The stormwater management concept for the proposed development consists of on-site water quantity control via underground storage and on-site water quality control via a stormfilter and vortechinics device. Storm water structures are located in the northwest corner beneath the service/parking driveway and in the southeast corner next to the tower.

d. Vehicular Circulation:

Access to the lobby and underground parking will be via two driveways off Rockville Pike and Old Georgetown Road. Drop-off courts are provided near the building entrances.

4. *Each structure and use is compatible with other uses and other Site Plans and with existing and proposed adjacent development.*

The proximity of the Forum Condominium required two responses, to deal with vistas and with edge conditions. The three towers are arranged to maximize the ability of Forum residents to see long distances to the south. The retaining wall along the north edge of the site is exposed to view from the Forum site, so extensive landscaping has been proposed along the edge of the Forum Property to screen the wall. The proposed development is anticipated in the Master Plan, permitted in the zone, and found compatible among the adjacent buildings in the immediate area.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation.*

ATTACHMENT

- A. County Council resolution for DPA 04-1.
- B. Planning Board Opinion for Preliminary Plan 1-01039.
- C. Planning Board Opinion for Site Plan 8-01017.
- D. Memorandum of Understanding between the applicant and the Montgomery County Department of Housing and Community Affairs dated May 11, 2004.

Resolution No.: 15-564
Introduced: March 30, 2004
Adopted: March 30, 2004

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: Approval of Development Plan Amendment (DPA) 04-1

BACKGROUND

1. Development Plan Amendment ("DPA") application No. 04-1 was filed on November 12, 2003. The Applicant, the Donohoe Companies, Inc., seeks to amend the approved Development Plan applicable to 2.44 acres of land located at the northeast corner of the intersection of Rockville Pike and Old Georgetown Road, in Rockville. The subject property is included within a 10.46 acre tract known as the "Montouri Property," which was reclassified to the Transit Station-Mixed (TS-M) Zone in 1996 via Local Map Amendment ("LMA") No. G-726. The Development Plan for the Montouri Property was divided into two phases. Phase 1 was constructed on 5.69 acres of land in the eastern half of the property, and Phase 2 was planned for the 4.76 acres of land left on the western side of the property. The Development Plan for Phase 2 was the subject of DPA 01-01, which was approved by the Council on January 16, 2001, by Resolution No. 14-735. The first part of Phase 2 (*i.e.*, Phase 2A) has been constructed already. The instant DPA application, which seeks to further amend the Development Plan already amended in DPA 01-01, concerns the second portion of Phase 2 (*i.e.*, Phase 2B) and involves only 2.44 acres of land.
2. DPA 04-1 would permit the development of the northeast portion of the subject property in Phase 2B by replacing the proposed 10-story office building along Rockville Pike with a 16-18-story multi-family building consisting of approximately 235 units and a maximum of 15,000 square feet of ground floor commercial uses, maintaining the 2.4 FAR for the overall Montouri Property. The development will also provide 22,344 square feet of public use space

and 26,559 square feet of active and passive recreational space. A three-story underground parking garage will provide parking for the residential and non-residential uses. Moderately Priced Dwelling Units (MPDU's) will be provided in conformance with the recommendations of the Sector Plan (12.5%). Amenities will include a pool deck recreational area located behind the common lobby area serving the buildings.

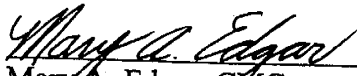
3. Technical Staff of the Maryland-National Capital Park and Planning Commission, by memorandum dated February 20, 2004, recommended approval of DPA 04-1, concluding that it is in compliance with the recommendations of the 1992 North Bethesda Master Plan, consistent with the purposes of the TS-M Zone, in accord with the development standards for the zone and will aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District.
4. The Montgomery County Planning Board reviewed DPA 04-1 at its regular meeting on February 26, 2004 and, by unanimous vote, recommended approval for the reasons stated in the Technical Staff report.
5. On March 2, 2004, the Technical Staff filed a revised report, correcting some errors in its earlier report, but still recommending approval of the DPA application. On March 11, 2004, the Planning Board reissued its recommendation of approval, supplementing it with a notation which makes it clear that the Planning Board was aware of all the significant information corrected in the revised Technical Staff report before the Board voted on February 26, 2004.
6. On March 19, 2004, the Technical Staff filed a memorandum noting that the attachment to their March 2, 2004 report labeled "Development Plan Amendment" was, in reality, the rendered version of that Plan, but the Planning Board considered the actual Development Plan Amendment at its February 26, 2004 meeting, and a copy of the actual Development Plan Amendment is attached to both the original February 20, 2004 report and the corrected March 2, 2004 report under the label, "Phasing Plan."
7. There is no opposition to DPA 04-1, the Planning Board does not recommend a public hearing in this case, and no request has been made for a hearing.
8. On March 30, 2004 the District Council reviewed DPA 04-1 and concluded that the DPA meets the requirements of the Zoning Ordinance and its approval would be in the public interest.

ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution.

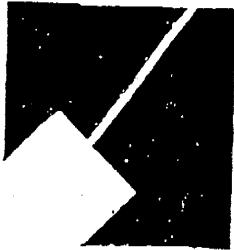
DPA 04-1, which requests an amendment to Phase 2B of the approved Development Plan for the Montouri Property, as it applies to 2.44 acres of land located at the northeast corner of the intersection of Rockville Pike and Old Georgetown Road, Rockville, to replace the proposed 10-story building along Rockville Pike with a 16-18 story multi-family building consisting of approximately 235 units and a maximum of 15,000 square feet of ground floor commercial uses, is approved subject to the specifications and requirements of the Development Plan Amendment, Exhibit 6, provided that the applicant submits the Development Plan Amendment for certification by the hearing examiner under the provisions of §59-D-1.64 within 10 days of the District Council action.

This is a correct copy of Council action.



Mary A. Edgar, CMC
Clerk of the Council

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

Date Mailed: June 5, 2001

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation
Motion of Comm. Bryant, seconded by
Comm. Holmes with a vote of 5-0;
Comms. Bryant, Holmes, Hussmann,
Perdue and Wellington voting in favor

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-01039

NAME OF PLAN: WHITE FLINT PLACE, PARCELS A, B, & C

On 01/03/01, DONOHOE DEVELOPMENT CORPORATION submitted an application for the approval of a preliminary plan of subdivision of property in the TS-M zone. The application proposed to create 480 multi-family dwelling units and 259,430 square feet office/retail on 4.75836 acres of land. The application was designated Preliminary Plan 1-01039. On 04/19/01, Preliminary Plan 1-01039 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-01039 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-01039.

Approval, subject to the following conditions:

- (1) Compliance with conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- (2) Compliance with the conditions of approval outlined in Transportation Planning Memorandum dated, April 12, 2001, as follows:
 - Limit the preliminary plan and site plan to general office use of up to 249,911 square feet, general retail use of up to 10,550 square feet, quality sit-down restaurant of up to 8,249 square feet, health club of up to 49,129 square feet, and up to 480 high-rise apartment units or other mix of land uses not to exceed 407 peak-hour trips during the weekday morning peak period (7:00 to 9:00 a.m.) and 727 peak-hour trips during the evening peak period (4:00 to 6:00 p.m.).
 - Satisfy the Local Area Transportation Review (LATR) component of the APF test by paying the development approval payment (DAP) under the ARP for Metro Station Policy Areas provision of the FY 01 Annual Growth Policy. To satisfy LATR, the DAP collected by the County could be used as follows:

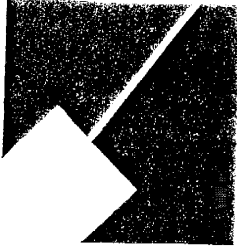
- A. Contribute to the Montgomery County Capital Improvements Program (CIP) Project No. 509995, Conference Center Intersection Improvements. The project funds are for intersection improvements required to satisfy the conditions of Zoning Case No. G-745 by County Council in their Resolution No. 13-1411 on August 4, 1998, for the Montgomery County Conference Center.
 1. Montrose Road - Randolph Road and Rockville Pike (MD 355): Construct a right-turn lane and second left-turn lane on eastbound Montrose Road.
 2. Montrose Road and East Jefferson Street: Construct a second southbound right-turn lane on East Jefferson Street and a second eastbound left-turn lane on Montrose Road.
 3. Old Georgetown Road and Rockville Pike: Modify the westbound approach of Old Georgetown Road to retain the median and permit through and left-turn movements.
- Under ARP for Metro Station Policy Areas, enter into an agreement with the Montgomery County Department of Public Works and Transportation (DPWT) and the Planning Board to participate in the North Bethesda Transportation Management District (TMD). Participation includes appointing an employee transportation coordinator who would assist in disseminating information on transportation programs and services and participating in the annual employee survey. Coordination is needed to assist the North Bethesda TMD in achieving and maintaining the traffic mitigation goal of the *North Bethesda/Garrett Park Master Plan*.
- Limit the site access along northbound Rockville Pike as required by the Maryland State Highway Administration (SHA) to the following:
 - A. Right-turn-in and right-turn-out movements for delivery and service vehicles.
 - B. Right-turn-in only movements for passenger vehicles to the parking garage.
- Use the existing deceleration lane along northbound Rockville Pike to the site's right-turn-in access per SHA requirements.
- Limit the three-site accesses along Old Georgetown Road as required by DPWT as follows:
 - a. An access on Old Georgetown Road closest to the intersection with Rockville Pike:
 1. Limiting the access to right-turn-in and right-turn-out only for passenger vehicles and trucks serving the commercial and residential land uses.
 2. For transit vehicles including shuttle buses only, limit the access to right-turn-in, right-turn-out, and left-turn-in serving commercial land uses along Rockville Pike. Construct the median along Old Georgetown Road approaching Rockville Pike with a depression of the same construction material at the left-turn-in access. Provide the appropriate traffic control signs to prohibit all other passenger vehicles and trucks from turning left from eastbound Old Georgetown Road into the site.

The applicant should participate with DPWT in currently developing plans for the intersection of Old Georgetown Road and Rockville Pike to permit through and left-turn movements from westbound Old Georgetown Road, which are now prohibited. The proposed full-movement access closest to the intersection with Rockville Pike would not be permitted by DPWT because of conflicting turning movements with the queue of westbound through and left-turn movements, the intent to

include a median on Old Georgetown Road, and the close proximity of the proposed access to Rockville Pike. This Old Georgetown Road access should be prohibited now and after the additional traffic anticipated with the yet-to-be-filed-planned development at the White Flint Metrorail Station. Refer to DPWT letters dated October 31, 2000 and April 12, 2001 (attached).

- b. One full-movement shared access from Old Georgetown Road serving the high-rise apartments and short-term parking area.
 - c. One full-movement shared access from Old Georgetown Road serving the high-rise apartments and Forum Condominiums.
- Provide a Class I bikeway along Rockville Pike.
- (3) Compliance with conditions of approval of MCDPS storm water management letter
 - (4) Access and improvements as required by MDSHA, prior to the issuance of access permit
 - (5) All roads and right of ways shown on the approved preliminary plan shall be dedicated by the applicant, to the full width mandated by the North Bethesda Sector Plan, unless otherwise delineated on the preliminary plan
 - (6) Final location of buildings, on site parking, site circulation and sidewalks to be approved at site plan
 - (7) No clearing, grading, or recording of plats prior to site plan approval
 - (8) A lighting and landscaping plan must be submitted as part of the site plan application
 - (9) This Preliminary Plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed
 - (10) The Adequate Public Facility (APF) Review for this preliminary plan will remain valid for sixty-one (61) months from the date of the Planning Board opinion
 - (11) Necessary easements

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: May 21, 2001
SITE PLAN REVIEW #: 8-01017
PROJECT NAME: White Flint Place

Action: Approval subject to conditions. Motion was made by Commissioner Bryant, seconded by Commissioner Holmes, with a vote of 5-0, Commissioners Bryant, Perdue, Hussmann, Holmes and Wellington voting for.

The date of this written opinion is May 21, 2001, (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before June 20, 2001 (which is thirty days from the date of this written opinion. If no administrative appeal is timely filed, this Site Plan shall remain valid for as long as Preliminary Plan #1-01039 is valid, as provided in Section 59-D-3.8. Once the property is recorded, this Site Plan shall remain valid until the expiration of the project's APFO approval, as provided in Section 59-D-3.8.

On April 19, 2001 Site Plan Review #8-01017 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

1. *The Site Plan is consistent with the approved development plan DPA-01-1;*
2. *The Site Plan meets all of the requirements of the TS-M zone. See Data Table above.*
3. *The location of the buildings and structures, the open spaces, the landscaping, and the pedestrians and vehicular circulation systems are adequate, safe, and efficient;*
4. *Each structure an use is compatible with other uses and other Site Plans and with existing and proposed adjacent development;*
5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation;*

Therefore, the Montgomery County Planning Board APPROVES Site Plan #8-01017, which consists of 248,911 gsf office, 2270 gsf café/deli, 8249 gsf restaurant, 49,129 gsf health club, 8285 gsf retail and 460-480 multifamily high-rise dwellings including 122-127 MPDU's on 4.76 acres, with the following conditions:

1. Standard Conditions dated October 10, 1995:
 - A. Submit a Site Plan Enforcement Agreement and Development Program and for review and approval prior to approval of the signature set as follows:
 - i. Development Program to include a phasing schedule as follows:
 - a. Streets tree planting must progress as street construction is completed, but no later than six months after completion of the buildings adjacent to those streets.
 - b. Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
 - c. Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
 - d. Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
 - e. Clearing and grading to correspond to the construction phasing, to minimize soil erosion. Coordination of each section of the development and roads.
 - f. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
 - ii. Site Plan Enforcement Agreement to address conditions of approval in Transportation Planning staff memo of April 12, 2001.
 - B. Signature set of site, landscape/lighting, forest conservation and sediment and erosion Control plans to include for staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
 - i. Conditions of DPS Stormwater Management Concept approval letter
 - ii. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 - iii. The development program inspection schedule.
 - C. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.
 - D. No clearing or grading prior to M-NCPPC approval of signature set of plans.
2. Applicant shall work with staff and MCDPWT to design the Rockville Pike streetscape to include a landscape panel with double row of trees between the curb and the sidewalk
3. Applicant shall work with MNCPPC staff and MCDPWT staff to design a median, adjacent to the subject site, which will accommodate the median breaks described in the Transportation Planning staff memo dated April 12, 2001 addressing the Preliminary Plan condition for the subject project. The execution of the median shall be part of the disposition of the DAP payment. The median design shall be designed to enhance the attractiveness of Old Georgetown Road.
4. Also as part of the disposition of the DAP payment, Applicant shall work with staff of MNCPPC, MCDPWT and SHA to design the improvements for the intersection of Old Georgetown Road and Rockville Pike to be equally as attractive and safe for pedestrians as for vehicles.
5. Applicant shall work with MNCPPC staff to continue the streetscape concept (paving materials, street furniture, etc.) similar to the Windsor Villa Apartments, along the full street frontage of the subject site.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is dated this 11th day of May, 2004, by and between the Donohoe Companies, Inc. ("Donohoe") and the ~~Montgomery~~ County Department of Housing and Community Affairs ("DHCA").

WHEREAS, Donohoe intends to construct a 197-unit condominium project located in the northeast quadrant of Rockville Pike and Old Georgetown Road. This project is known as the Sterling Condominium and is Phase 2B of the White Flint Place project ("Sterling Condominium" or the "Project");

WHEREAS, the Sterling Condominium is currently undergoing review by the Planning Board for site plan and preliminary plan amendments;

WHEREAS, prior to site plan approval, Donohoe and DHCA negotiated and reached agreement on a method of alternative compliance with the MPDU Law for the Project; and

WHEREAS, Donohoe and DHCA agree that because of the indivisible package of services and amenities provided to residents of the Project, these units will not be affordable to MPDU residents; therefore, an alternative compliance agreement will be entered into.

WHEREFORE, the parties agree as follows:

- A. The alternative compliance agreement will contain the following terms:
- (1) One-half of the required MPDU units (currently anticipated to be 12 units) will be provided on-site as one-bedroom units.
 - (2) The one-bedroom MPDU units will be sold for \$171,900.00.
 - (3) Donohoe will offer these units first to MPDU – qualifying households and then to households qualifying at 70% of the median income. If no qualifying households purchase the MPDU units after the 90-day marketing period, Donohoe can sell these units to the general public at the MPDU price.
 - (4) The remaining 50% of the MPDUs, which are considered to be two-bedroom units (anticipated to be 13 units) will be located off-site pursuant to DHCA's determination and in-lieu thereof Donohoe will make a cash payment to the Housing Initiative Fund of \$600,000.00 or \$46,152.00 per unit based upon 10% of the average sales price of the two-bedroom market rate units in the Project. These payments will be made in four quarterly installments of \$150,000.00 each to begin after 90% of all of the units have been sold or within one year from the date that 50% of the units are occupied, whichever occurs first.

(5) Donohoe will also make a contribution to the Housing Initiative Fund of \$92,300.00 to allow DHCA to provide additional MPDU's at another site. This payment will be made in quarterly installments of \$23,075.00 each, beginning after 90% of all the units have been sold or within one year from the date that 50% of the units are occupied, whichever occurs first.

B. The parties agree to the above conditions and understand that a formal agreement to provide moderately priced dwelling units will be entered into once the site plan and preliminary plan have been approved by the Planning Board.

IN WITNESS THEREOF the parties set their hands and seals below.

THE DONOHOE COMPANIES

MONTGOMERY COUNTY
DEPARTMENT OF COMMUNITY
AFFAIRS

By: [Signature]
Name: Stephen C. Truhly
Title: Executive Vice President
Date: May 11, 2004

By: [Signature]
Name: Elizabeth B. Davison
Title: Director
Date: 5/18/04

L&B 364677v2/01086.0006