



JUL 5 2011

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

MCPB No. 11-05
Sketch Plan No. 320110010
Project Name: Mid-Pike Plaza
Date of Hearing: January 20, 2011

RESOLUTION

WHEREAS, under Section 59-C-15.42 of the Montgomery County Code the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review sketch plan applications; and

WHEREAS, on September 21, 2010, Federal Realty Investment Trust ("Applicant"), filed an application for approval of a sketch plan for up to 1,726,642 square feet of residential and 1,716,246 square feet of non-residential development on 24.38 gross acres of land split-zoned CR3 C1.5 R2.5 H200 and CR4 C3.5 R3.5 H300, located in the northwest quadrant of Rockville Pike and Old Georgetown Road within the White Flint Sector Plan Area ("Property" or "Subject Property"); and

WHEREAS, the sketch plan application was designated Sketch Plan No. 320110010, Mid-Pike Plaza (the "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated January 10, 2011, setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, on January 20, 2011, the Planning Board held a public hearing on the Application; and

WHEREAS, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on January 20, 2011, the Planning Board voted to approve the Application, subject to certain conditions, on the motion of Commissioner Dreyfuss; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor, Commissioner Alfandre being absent.

Approved as to
Legal Sufficiency: 
M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board approves Sketch Plan No. 320110010 for up to 1,726,642 square feet of residential and 1,716,246 square feet of non-residential development on 24.38 gross acres of land split-zoned CR3 C1.5 R2.5 H200 and CR4 C3.5 R3.5 H300, including as binding elements under Section 59-15.42(b)(4)(B) the maximum density and heights, general location and extent of public use space, public benefits, and phasing program as shown on the sketch plans, subject to the conditions below and modification at Site Plan per the restrictions enumerated in section 59-C-15.42(d). This approval is subject to the following conditions and binding elements:

1. Density
 The proposed development is limited to a maximum of 1,726,642 square feet of residential development, 1,716,246 square feet of non-residential development and a total of 3,442,888 square feet of total development.

2. Height
 The proposed development is limited to a maximum height of 200 feet in the portion zoned CR3 C1.5 R2.5 H200, and 300 feet in the portion zoned CR-4 C3.5 R3.5 H300.

3. Incentive Density
 The proposed development must be constructed with the public benefits listed below, except that the Applicant may request to adjust the percentage or type of public benefits shown on the Public Benefits Table of the sketch plan during site plan review as long as the total equals at least 100 percent of the incentive density required by section 59-C-15.81. The Applicant may eliminate, add, or modify individual public benefits if the Planning Board finds that any changes continue to support the findings required by the zone.

<i>Category</i>	<i>Public Benefit</i>	<i>% Requested</i>
	Transit Proximity	33.09
Connectivity	Neighborhood Services	10.00
	Minimum Parking	6.32
	Through-Block Connection	10.00
	Public Parking	7.62

Diversity	Adaptive Buildings	4.37
	Care Center	15.00
	Dwelling Unit Mix	2.19
Design	Structured Parking	14.32
	Tower Setback	1.53
	Public Art	5.00
	Exceptional Design	6.70
Environment	BLTs	5.00
	Tree Canopy	10.00
	Vegetated Roof	4.48
Advance Dedication		3.72
Total		139.34

4. Incentive Density Implementation

At site plan, the Applicant must demonstrate delivery of sketch plan incentive density elements in a timely manner commensurate with project phasing.

5. Public Use Space

The proposed "neighborhood green" must provide a minimum of 0.55 acres non-vehicular area and 0.80 acres of total area for special events.

6. Building Lot Terminations

Prior to issuance of building permits for the first 5% of incentive density square footage, the Applicant must provide proof of purchase (or payment to the Agricultural Land Preservation Fund) for a minimum of 7.28 BLTs.

7. Moderately Priced Dwelling Units (MPDUs)

The proposed development must provide MPDUs in accordance with Chapter 25A.

8. Phasing Program

Unless a modification is approved by the Planning Board during site plan review, the Applicant must construct the proposed development in accordance with the phasing program enumerated in the Application.

9. Future Coordination for Preliminary and Site Plan

The following must be addressed as part of the process of the preliminary or site plan applications, as applicable:

- a. Request for waiver of standard truncation for all applicable intersections.
- b. Site details, recreation facility exhibits, and detailed development program and inspection schedules.
- c. Public art program reviewed by the Public Arts Trust Steering Committee.
- d. Considerations for preliminary and site plan reviews outlined in the findings of this resolution.
- e. Issues enumerated in the letter from the Montgomery County Department of Transportation, dated January 4, 2011 and obtaining necessary approvals or modifications to said letter prior to the hearing on any preliminary plan.
- f. Specifics of the public benefits proposed to achieve the incentive density.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record and all applicable elements of § 59-C-15.42, the Montgomery County Planning Board finds that, as conditioned herein, the elements of the sketch plan specified in Section 59-C-15.42(c) of the zoning ordinance are appropriate in concept and appropriate for further review at site plan. Specifically, the Planning Board finds that as shown in the sketch plan:

1. *The plan: (a) meets the requirements and standards of this Division; (b) will further the objectives of the applicable master or sector plan; and (c) will provide more efficient and effective development of the site than the standard method of development;*

The subject site is located within the White Flint Sector Plan area and is split-zoned CR3.0 C1.5 R2.5 H200 and CR4.0 C3.5 R3.5 H300. The proposed development will be built under the optional method of development with uses permitted in the CR zones.

(a) Requirements and standards of the Division:

The objectives of the CR zones enumerated in section 59-C-15.2 are to:

- Implement the policy recommendations of applicable master and sector plans;

- Target opportunities for redevelopment of single-use areas and surface parking lots with a mix of uses;
- Reduce dependence on the automobile by encouraging development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities;
- Encourage an appropriate balance of employment and housing opportunities and compatible relationships with adjoining neighborhoods;
- Establish the maximum density and building height for each zone, while retaining appropriate development flexibility within those limits; and
- Standardize optional method developments by establishing minimum requirements for the provision of the public benefits that will support and accommodate density above the standard method of development.

The proposed development satisfies these objectives by:

- Furthering the policy recommendations of the White Flint Sector Plan, as detailed in (b) below;
- Replacing a strip-mall development and excessive surface parking with a high-density, mixed use project;
- Integrating housing, commercial services, employment uses, public facilities and amenities within less than ½ mile of metro service and numerous parks, trails, and services;
- Providing a balance of commercial and residential uses appropriate for this area of the core of White Flint;
- Meeting the density and building height limits for the zones with a flexible response to protect and enhance open spaces, pedestrian comfort, and views; and
- Providing public benefits per the ordinance and guideline criteria to create an environment sufficiently able to accommodate density above the standard method density allowed.

The general requirements of the CR zones enumerated in section 59-C-15.6 of the ordinance are met as the following list illustrates.

- The project conforms to the sector plan and design guidelines as detailed in (b) below;
- The streetscapes along each frontage will be improved per the sector plan and design guidelines as finalized by each site plan;
- Allowances for space for bicycle parking and shower facilities, which will be finalized by each site plan, are provided; and

- As the data table below shows, parking will be provided above the minimum required and below the maximum allowed.

The development standards of the CR zones enumerated in section 59-C-15.7 are met as detailed in the data table below.

Project Data Table for the CR Zones		
Development Standard	Permitted/Required	Approved and Binding on the Applicant
Gross Tract Area (sf)		
Zone 1: CR3.0 C1.5 R2.5 H200	n/a n/a n/a	805,156 256,855 1,062,011
Zone 2: CR4.0 C3.5 R3.5 H300 Total		
Density (sf)		
<i>Total (CR)</i>		
Zone 1	2,415,468	n/a
Zone 2	1,027,420	n/a
Total	3,422,888	3,422,888
<i>Non-residential (C)</i>	1,207,734	n/a
Zone 1	898,992	n/a
Zone 2	2,106,726	1,716,246 maximum
Total		
<i>Residential (R)</i>	2,012,890	n/a
Zone 1	898,992	n/a
Zone 2	2,911,882	1,726,642 minimum
Total		

Building Height (feet)		
Zone 1	200	Up to 200
Zone 2	300	Up to 300
Setbacks	n/a	n/a
Parking Spaces		
Minimum Required	2,396	5,234 (approximate)
Maximum Allowed	6,546	
Proposed		
Public Use Space (%)	10	10
Residential Amenity Space (sf)	Determined at site plan based on final unit count.	

(b) The objectives of the White Flint Sector Plan:

The Mid-Pike Plaza property is in the Mid-Pike Plaza District within the Approved and Adopted (2010) *White Flint Sector Plan*. The Plan notes that “redevelopment in the district should retain its regional marketplace function and include residential and civic uses. Building heights of 300 feet should frame the corner of Rockville Pike and Old Georgetown Road. Public use space, such as an urban plaza or neighborhood green or a civic or cultural attraction, will provide reasons to gather and encourage all day activity” (p.32). Specifically for public use space, the Plan states the following: “provide a minimum one-acre public use that can be divided into smaller areas, such as urban plazas or neighborhood greens, on the Mid-Pike Plaza property” (p.33). Consistent with the Sector Plan, a new public commercial business street (B-16), recommended 80 feet right-of-way, will connect Rockville Pike to Hoya Street. And, realigned Executive Boulevard (B-15), between Old Georgetown Road and B-16, is a commercial business street with a 70 right-of-way.

The proposed sketch plan is consistent with the objectives of the White Flint Sector Plan with respect to:

Density and Building Height

The proposed development is consistent with the Sector Plan’s recommendations for the Commercial Residential (CR-4 C-3.5 R-3.5 H-300 and CR-3 C-1.5 R-2.5 H-200) zones. The highest density is located at the intersection of Old Georgetown Road and Rockville Pike.

Transportation

The sketch plan street network is consistent with the Sector Plan recommendation for public and private streets. The Sector Plan classifies B-16 as a commercial business street between Rockville Pike and Hoya Street with a right-of-way of 80 feet and B-15 with a right-of-way of 70 feet. The revised plan shows most of the street as a 70 foot cross-section with the areas near Hoya Street and MD 355 as a wider cross-section.

The Sector Plan envisions the reconstruction of Rockville Pike into an urban boulevard with improved pedestrian sidewalks, on-road bicyclist accommodation, and bus priority lanes (p.53). Rockville Pike is classified as a major highway with a 150 foot right-of-way. The right-of-way for MD 355 can be increased to 162 feet with the additional dedication placed in reservation (p.55). Montgomery County Department of Transportation has initiated a Countywide Bus Rapid Transit (BRT) Study that will inform the location of BRT along the Pike, either in the median or curb lane.

Bikeway Network

Several roads that front the property have bikeway recommendations. Old Georgetown Road, between Hoya Street and Rockville Pike, is classified as a dual bikeway: i.e., a shared use path with bike lanes (LB-2). Rockville Pike is classified as a shared use path (SP-41) and Hoya Street is also classified as a shared use path, LB-1. At site plan, these bikeways should be delineated.

Public Use Space

The submitted sketch plan illustrates several areas intended to meet the CR zone public use requirement and the Sector Plan recommendation. The sketch plan illustrates a neighborhood green and several linear promenades adjacent to Street 2 and 3.

White Flint Design Guidelines

The Approved White Flint Urban Design Guidelines provide specific recommendations for each district, including building design and public open space. The design guidelines illustrate buildings with a build-to-line instead of a setback from the property line. Regarding public use spaces, the design guidelines state that "neighborhood open spaces should be defined by surrounding building walls on at least three sides on a mid-block location" and public use spaces "should be located to reduce extended periods of shadow coverage from surrounding buildings" (p.33). Since the area south of the public street, B-16, has a southern as well as east-west sun exposure, a significant public use space in this area would receive ample sunshine throughout the year.

Environment

The Sector Plan establishes several recommendations to create an environmentally sustainable district. Minimization of carbon emissions; reduction of energy use through site design and energy-efficient buildings; improving air and water quality; and usage of environmental site design are some of the Plan's recommendations. At site plan, the applicant must demonstrate how each recommendation in the Plan will be achieved.

The following items will require further consideration during Preliminary and Site Plan review

- Orient buildings closer to the property line for Rockville Pike and Old Georgetown Road, if SHA releases the easement along MD 355. If the easement is retained, provide a detailed concept plan for MD 355 frontage that includes a double row of trees and street furnishings.
- Provide an 80-foot right-of-way for Street 1, which is classified as a public street, or demonstrate need for modification.
- Establish a primary or secondary pedestrian connection between Executive Boulevard and Hoya Street (Building 5-6 and 10-11).
- Ensure proper dedication of recommended street right-of-way for Rockville Pike, Old Georgetown Road and Hoya Street as well as internal public streets.
- Underground utilities within all public rights-of-way.
- Demonstrate how the proposal will achieve sustainability recommendations, including increased tree canopy; maximization of LEED standards; and environmental site design techniques as recommended in the Sector Plan.
- Complete Sector Plan bikeways for Rockville Pike, Old Georgetown Road and Hoya Street.
- Implement the recreation loop, as recommended in the Sector Plan and Design Guidelines, along Old Georgetown Road.

- (c) More efficient and effective development of the site than the standard method of development:

This optional method of development is more efficient and effective than the standard method of development because it provides more public benefits, places higher density in an area that can sustain growth using existing infrastructure, provides more affordable housing options, and creates a more environmentally sustainable pattern of development.

2. *The proposed building massing and height and public use and other open spaces are located and scaled to achieve compatible relationships with each other and with existing and proposed buildings and open space adjacent to the site and with adjacent communities;*

With respect to density, building height, and public use space the proposed development meets, is under the maximum standards, and exceeds the minimum standards, respectively.

The buildings and structures of the proposed development are laid out throughout the site, with the greatest densities towards the core of the metro station area, which is appropriate for the character envisioned by the sector plan. The layout shown provides easy access to the buildings from adjoining sidewalks and internalized parking. The locations of the buildings and structures provide compatible relationships internally and to buildings on confronting properties, while meeting the aesthetic standards of the area. The groundwork for the open spaces, landscaping, and site details is provided through appropriate building massing, heights, and orientation and will provide a safe and comfortable environment.

With respect to proposed open and public use spaces, the development provides a number of different outdoor areas, including promenades, pocket parks, and a larger neighborhood green. Sidewalks and through-block connections allow for visual and physical connections between these spaces and to/from the surrounding properties. This layout of interconnected open spaces and corridors will allow for a greater public benefit and compatible relationships with each other and with existing and proposed buildings and adjacent development.

The following items will require further consideration during Preliminary and Site Plan review:

The details of the proposed building and open space layout will be reviewed in greater detail with each site plan. In particular, the following objectives from the design guidelines will be analyzed more critically.

- (a) Streets (Page 10):
 - (1) Establish a hierarchical grid of streets to improve mobility;
 - (2) Underground wet and dry utilities within right-of-way limits;
 - (3) Create short blocks to expand pedestrian access and maximize building frontage;
 - (4) Transform Rockville Pike into an Urban Boulevard;
 - (5) Improve pedestrian safety at all street intersections.
 - Consider alternatives for façade articulation along the outer facing perimeter of the development, particularly along Hoya Street and Montrose Parkway.
 - Consider alternatives to eliminate the building setbacks shown along

Rockville Pike and Old Georgetown Road.

- Consider alternatives to minimize the impact of vehicular access on designated public use spaces.
- (b) Open Space (Page 12): (1) Consolidate the space allocated to meet zoning public use space requirements in locations central to each neighborhood to create substantial urban spaces for public use ; (2) Create pedestrian priority spaces, where vehicular intrusions are kept to a minimum; (3) Provide spaces that include substantial areas for un-programmed use by residents, workers, and visitors.
- Consider consolidating all "fragments" of green area designated as public use space into more substantial areas for public use.
 - Consider alternatives to provide pedestrian connections between open spaces, particularly between spaces located along street 2 and street 3.
 - Consider making pedestrian usage central to the organization of public space on street 2.
 - Consider consolidating fragments of public use space shown along street c in a location where they could become part of the network of open spaces envisioned by the Sector Plan.
- (c) Buildings (Page 16): (1) Build-to lines that establish minimum setbacks from the right-of-way; (2) Podium heights that define the pedestrian level space; (3) Upper setbacks that distance the taller component of the structure from the podium, reducing the impact of its scale on the pedestrian space below; (4) Reduced tower floor plate sizes to reduce the structure's perceived bulk.
- Consider providing a signature building at the corner of Old Georgetown Road and Rockville Pike.
 - Consider sun orientation when adjusting the location of taller building components in close proximity to public use spaces.
 - Consider alternatives to break down the scale of the structure composed of buildings 5, 6, 10 and 11.
3. *The general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading areas are adequate, safe and efficient;*

Site Location and Vehicular Access Points

The subject development is located on the north side of Old Georgetown Road between Rockville Pike (MD 355) and Hoya Street (i.e., previously known as Old Old Georgetown Road) with Montrose Parkway along the northern property line. The vehicular access points are proposed from Old Georgetown Road, Rockville Pike, and Hoya Street. Given the relatively close proximity of the proposed access points on Hoya Street to the signalized intersections of (existing)

Montrose Parkway and (future) Old Georgetown Road, the access may be limited to right-in/right-out movements pending further study of traffic queuing and volume numbers.

Available Transit Service

Ride-On routes 5, 26, 38, 46, and 81 operate along the site's adjacent roadways. The entire subject site is within ½ mile of the White Flint Metrorail Station. These transit options provide adequate and efficient transportation choices and may be safely accessed.

Transportation Demand Management

This site is within the boundary of the North Bethesda TMD. As a new development, the Applicant must enter into a traffic mitigation agreement to participate in the North Bethesda Transportation Management District (TMD). The *White Flint Sector Plan* recommends that the TMD achieve a 34% non-auto driver mode share (NADMS) goal that consists of a 26% transit mode share, 5% ridesharing, and 8% non-automobile commuting modes of transportation.

Sector Plan Roadways and Bikeways

In accordance with the *White Flint Sector Plan* and *Countywide Bikeways Functional Master Plan*, the sector-planned roadways and bikeway that must be provided by this development are as follows:

- (a) Rockville Pike (MD 355) is designated as a major highway, M-6, with a recommended 150-foot right-of-way, reservation for 12 more feet (i.e., for a total of 162 feet), and a recommended shared use path, Local Bikeway, LB-5.
- (b) Old Georgetown Road (MD 187) is designated as a major highway, M-4, with a recommended 120-foot right-of-way and a recommended Dual Bikeway, LB-2, bike path on north side.
- (c) Hoya Street is designated as a major highway, M-4(a), with a recommended 120-foot right-of-way and a recommended shared use path, LB-1. MCDOT's Capital Improvements Program Project No. 501116, White Flint District West Transportation, includes construction of Hoya Street between Executive Boulevard and Montrose Parkway.
- (d) Montrose Parkway is designated as an arterial, A-270, with a recommended 300-foot right-of-way and a recommended shared use path, SP-50.
- (e) Public Street A is designated as a business street, B-15, with a recommended 70-foot right-of-way.
- (f) Public Street 1 is designated as a business street, B-16, with a recommended 80-foot right-of-way.

(g) Public Street C, Public Streets 2, and Public Street 3 are internal streets not listed in the Sector Plan.

Dedication of the rights-of-way associated with this project will be determined during the review of the Preliminary Plan.

Transportation Adequate Public Facilities Review

In lieu of the typical Local Area Transportation Review and Policy Area Mobility Review tests, the transportation Adequate Public Facilities test is satisfied by participating in the special taxing district.

Transportation Staging

Transportation staging in the White Flint Sector Plan area replaces the LATR and PAMR requirements for Adequate Public Facilities. Specific transportation improvements are identified in the Sector Plan relative to the site and density being approved, both of which are regulated by the impact from the development on the surrounding road network. Improvements will be constructed both by the District, through taxes, and by the developer, as regulated by the phasing plan proposed by the Applicant and approved by the Planning Board. Staging for the White Flint area is tied to the amount of density approved and is regulated through site plan approvals and release of building permits.

The Staging Plan timing of new development and public facilities needs to support existing and proposed development. The objectives of the Staging Plan intend to ensure fiscal responsibility, timing and sequence, coordination with the public infrastructure and promoting a sense of place.

There are three overall phases in the White Flint Sector Plan, each of which limits the amount of non-residential and residential uses:

Staging Plan for the White Flint Sector Plan		
<i>Phase</i>	<i>Maximum residential development (units)</i>	<i>Maximum non-residential development (sf)</i>
Phase I	3,000	2 million
Phase II	3,000	2 million
Phase III	3,800	1.69 million
Total	9,800	5.69 million

Each phase within the staging plan contracts for, funds or constructs specific roadways, achieves non-auto driver mode shares and furthers housing goals for the District. The Planning Board must decide when a Phase has been completed in order to allocate density in the next phase.

The proposed development will be required to improve frontage along each of the property's existing boundaries as well as to construct the internal private streets.

The following items will require further consideration during Preliminary and Site Plan review

- (a) Submit documentation to seek approval from reviewing agencies for a right-of-way width reduction from 80 feet to 70 feet for Public Street "1", sector-planned business street B-16.
 - (b) Pay the special taxes in lieu of satisfying the transportation Adequate Public Facilities tests when the taxing district in the White Flint Sector Plan area is established.
 - (c) Provide an additional 6-foot right-of-way reservation along Rockville Pike for a sidewalk.
 - (d) Prepare and submit traffic signal warrant studies for the Rockville Pike/Street 1 and Old Georgetown Road/Street "A" intersections.
 - (e) Coordinate and gain acceptance from the Montgomery County Department of Transportation (MCDOT) regarding the adequacy of vehicular queuing along Hoya Street at the site's access point.
 - (f) Provide inverted-U bike racks in front of the main entrances to the buildings and bike lockers in the garages.
 - (g) Agree to comply with requirements of participating in the Transportation Management District.
4. *The proposed public benefits and associated requested incentive density will further the objectives of the applicable master or sector plan and the objectives of the CR zones; and*

The proposed public benefits and associated requested incentive density are appropriate for the site and the applicable CR zones, and meet the objectives of the White Flint Sector Plan.

There are a variety of benefits proposed – from 6 of the 7 categories available, and an appropriate amount of incentive density is requested for each of the benefits. As the table on page 13 of the staff report indicates, 15 public benefits are proposed with incentive density calculations that exceed the total minimum required. Further, no category sum exceeds the 30% maximum allowed except transit proximity, which is not subject to a category limit.

Final figures and adjustments are expected with each site plan, but no development may be approved if it is determined that the total minimum public benefit requirement cannot be met.

5. *The general phasing of structures, uses, public benefits, and site plans is feasible and appropriate to the scale and characteristics of the project.*

The Project's general phasing of structures, uses, public benefits, and site plans is feasible and appropriate to the scale and characteristics of the project. The proposed development consists of at least three phases as enumerated in the following table. Phasing of roads, parking, and public benefits are also proportionally appropriate to the scale and characteristics of the project as well as to ensure functional and civic accessibility and use.

Density per Phase			
<i>Phase</i>	<i>Commercial Density (sf)</i>	<i>Residential Density (sf)</i>	<i>Total Density (sf)</i>
1	268,200	523,942	792,142
2	356,900	562,500	919,400
Future	1,091,146	640,200	1,731,346

The correspondence between the White Flint transportation staging phasing and the development phasing will depend on other approvals and improvements. Site plans and building permits will be approved based on available capacity as determined by existing and/or funded approvals and improvements during the applicable review.

6. *Other issues.*

At the time of site plan, the Planning Board may approve changes to this sketch plan under certain circumstances. If the applicant proposes to change a condition of approval or binding element or agrees to a change proposed by another party, the proposed change must satisfy the requirements for approval of a sketch plan and site plan, including Section 59-C-15, Section 59-D-3.4, and the White Flint Sector Plan. If Planning Staff proposes to change a condition of approval or binding element, however, the Board may approve the change if necessary to ensure conformance with Section 59-C-15, Section 59-D-3.4, or the master plan. In other words, for the Board to approve an applicant-proposed change of a binding element it must find consistency with applicable standards; for the Board to approve a modification to a staff-proposed binding element that the applicant has not agreed to it must find that the proposed change is necessary to meet the site plan approval standards, including conformance with zoning and master plan requirements.

Alternatively, based on detailed review of a site plan, the Board may find that any element of the approved sketch plan, including a binding element, does not meet

the requirements of the zone, master plan, or other findings necessary to approve a site plan, and deny the site plan application.

The Board's review of sketch plans is governed by Section 59-C-15.42(c), which provides that "in approving a sketch plan" the Board must find that certain elements of the plan are "appropriate in concept and appropriate for further detailed review at site plan." Because the Board's approval of a sketch plan is in concept only and subject to further detailed review at site plan, it necessarily follows that the Board may find, based on detailed review of a site plan, that any element of a sketch plan does not meet the requirements of the zone, master plan, or other requirements of site plan approval. The Board does not have the authority at the time of sketch plan to predetermine that any element of the sketch plan will satisfy all applicable requirements for site plan approval. As a practical matter it would be unwise for it to do so, due to the limited detail contained in a sketch plan and the sketch plan's unlimited validity period. If the Board were unable to require changes to binding elements at the time of site plan to ensure compliance with all code and master plan requirements, it might have decided to approve fewer elements of this plan as binding.

Although the Board does not have the authority to provide complete certainty about the conditions of approval or binding elements of a sketch plan, this does not mean that the Board should or will require changes to an approved sketch plan without good reason. To do so would be inefficient and unfair to applicants and community members whose expectations about the future shape of development will be formed by what the Board approves in a sketch plan.

BE IT FURTHER RESOLVED that all elements of the plans for Sketch Plan No. 320110010, Mid-Pike Plaza stamped received by M-NCPPC on December 9, 2010 are required except as modified herein; and

BE IT FURTHER RESOLVED that the date of this Resolution is JUL 5 2011
(which is the date that this Resolution is mailed to all parties of record); and

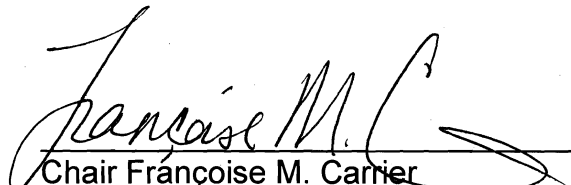
BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

RESOLUTION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Dreyfuss, seconded by Commissioner Presley, with Chair Carrier, Commissioners Dreyfuss and Presley present and voting in favor of the motion, and Vice Chair Wells-Harley, and Commissioner Alfandre absent at its regular meeting held on Thursday, June 2, 2011, in Silver Spring, Maryland.


Chair Françoise M. Carrier
Montgomery County Planning Board