



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JUN 10 2016

MCPB No. 16-001
 Preliminary Plan No. 120160080
 Saul Centers White Flint West
 Date of Hearing: June 2, 2016

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on October 20, 2015, Metro Pike Center LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision to consolidate three existing lots into two, for up to 740,000 square feet of residential uses for up to 655 dwelling units, and up to 204,000 square feet of non-residential uses, and a private road on approximately 5.48 acres of land in the CR 4.0: C 3.5, R 3.5, H 300 Zone, located in the southwest quadrant of the intersection of Rockville Pike and Marinelli Road at 11520, 11560, and 11564 Rockville Pike ("Subject Property"), in the *2010 White Flint Sector Plan* ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120160080, Saul Centers White Flint West ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated May 23, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 2, 2016, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120160080 to consolidate three lots into two for up to 740,000

Approved as to
 Legal Sufficiency:

Christina Sout 5/25/16

8787 Georgia Avenue, N.W., Suite 100, Washington, D.C. 20012 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

square feet of residential uses for up to 655 dwelling units, and up to 204,000 square feet of non-residential uses, and a private road, subject to the following conditions:¹

- 1) This Preliminary Plan is limited to two (2) lots for a maximum of 740,000 square feet of residential development for up to 655 dwelling units, of which a minimum of 12.5% must be Moderately-Priced Dwelling Units (MPDUs), and up to 204,000 square feet of non-residential uses.
- 2) Prior to Site Plan approval for Parcel B and/or Phase II, the Applicant must amend the Preliminary Plan to address dedications, lotting, and phasing as shown on the Preliminary Plan.
- 3) The Applicant must comply with the conditions of approval of the Preliminary Forest Conservation Plan No. 120160080 and variance request:
 - a. The Final Forest Conservation Plans must be consistent with the Preliminary Forest Conservation Plan.
 - b. Prior to issuance of the final Use and Occupancy permit, the Applicant must plant three 4-inch caliper native shade trees as mitigation for the removal of protected specimen trees with the timing specified by the Site Plan. All mitigation trees must be located at least 5 feet outside of any stormwater management areas, and outside of the public right-of-way.
- 4) The Applicant must submit a noise analysis to be reviewed for uses associated with each subsequent site plan.
- 5) The Applicant must participate in the White Flint Special Taxing District, and make the required special taxing district payment, which will constitute APFO approval for transportation.
- 6) The Applicant must provide Private Road A, subject to the following conditions:
 - a. The Private Road must be shown as a 48-foot-wide Private Road Easement, or Staff approved equivalent, on the record plat within the proposed lot (Parcel A). The terms of the Easement must include design, construction, operations and maintenance of the Private Road, which is subject to approval by the M-NCPPC Office of General Counsel and must, at a minimum, meet the conditions specified by the subsequent Site Plan and be recorded in the Land Records with the Liber and Folio referenced on the record plat.
 - b. The Private Road must be designed and constructed according to the Montgomery County Road Code Standard MC-2005.01 per the modified

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

typical section specified by the subsequent Site Plan. Prior to recordation of the plat, the Applicant must provide certification to MCDPS by a structural engineer that the Private Road has been designed to these specifications.

- c. The Private Road must also provide for other necessary improvements as required by the subsequent Site Plan, including sidewalks, bikeways, storm drainage facilities, stormwater management, street trees and street lights.
 - d. The Private Road must meet all necessary Montgomery County Department of Fire and Rescue Service (MCDFRS) requirements for emergency access.
- 7) The Applicant must dedicate (or in the case of Woodglen Drive dedicate and facilitate dedication by others) and show on the record plat(s) (with frontage dedicated with the record plat following site plan approval for each phase of development) the following dedications:
- a. Approximately 21 feet for a total right-of-way (ROW) of 81 feet from the centerline along the Property's Rockville Pike frontage in two phases as shown on the Preliminary Plan;
 - b. Approximately 5 feet for a total ROW of 45 feet from the centerline along the Property's Nicholson Lane frontage in the second phase as shown on the Preliminary Plan; and
 - c. In conjunction with dedication to be made by the adjacent property owner to the west, approximately 60 to 72 feet, in two phases, as shown on the Preliminary Plan, along Woodglen Drive Extended consisting of:
 - i. The ROW for Woodglen Drive as part of the record plat for the Woodglen Drive frontage associated with Parcel A and/or Phase I as shown on the Preliminary Plan (including ROW from the property owner to the west per previous agreement).
 - ii. The ROW for Woodglen Drive as part of the record plat for the Woodglen Drive frontage associated with Parcel B and/or Phase II as shown on the Preliminary Plan (including ROW from the property owner to the west per previous agreement).
- 8) Prior to the release of any building permit, the Applicant must enter into a Traffic Mitigation Agreement with the Planning Board and the Montgomery County Department of Transportation (MCDOT) to participate in the North Bethesda Transportation Management Organization (TMO), as required by the *White Flint Sector Plan*, to help achieve the Sector Plan's recommended non-auto driver mode share of 34%.

- 9) The Applicant must construct all protected bike lanes (cycle tracks), sidewalks, and roads as shown on the Certified Preliminary Plan according to the timing established by subsequent Site Plan approvals.
- 10) The Applicant must construct the protected bike lane (cycle track) along the Property's Nicholson Lane frontage with the final alignment, design, and timing to be determined during review of the subsequent Preliminary Plan Amendment and Site Plan(s).
- 11) The Applicant must provide a separate pedestrian and bicycle crossing of Marinelli Road on the west side of Woodglen Drive Extended within existing ROW, with final design and alignment (including whether crossing is separate) to be determined by MCDOT and the M-NCPPC Staff. Final crossing must be shown on the Certified Site Plan.
- 12) The Applicant must provide ROW truncation of at least 10 feet on the east side of Woodglen Drive at the intersection of Woodglen Drive and Marinelli Road. The Applicant must not reduce the truncation by more than 15 feet from the typical requirement of 25 feet.
- 13) The Applicant must provide ROW truncation of at least 14 feet on the south side of Marinelli Road at the intersection of Marinelli Road and Rockville Pike. The Applicant must not reduce the truncation by more than 11 feet from the typical requirement of 25 feet.
- 14) The Applicant must coordinate with MCDOT and the M-NCPPC Staff regarding Rockville Pike cross-section and the following planning efforts:
 - a. MCDOT's Capital Improvements Program (CIP) Project No. 501116, White Flint West Workaround regarding Rockville Pike cross-section between Flanders Avenue and Hubbard Drive.
 - b. The functional-master-planned Bus Rapid Transit Corridor No. 4 MD 355 South and its station near the White Flint Metrorail Station.
- 15) The Applicant must provide a 19-dock bikeshare station (52 feet by 6 feet, with an additional 6 feet of clearance) on the Subject Property and south of Private Road A, unless an alternate size bikeshare station and/or location is approved by MCDOT.
- 16) The Planning Board accepts the recommendations of the Maryland State Highway Administration (SHA) in its letter dated January 20, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which

may be amended by SHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 17)The Planning Board accepts the recommendations of the MCDOT in its letter dated May 5, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 18)Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 19)The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) – Water Resources Section in its stormwater management concept letter dated April 22, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 20)The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Service – Fire Code Enforcement Section in its letter dated February 18, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by Montgomery County provided that the amendments do not conflict with other conditions of Preliminary Plan approval.
- 21)Prior to the recordation of any plat, Site Plan No. 820160030 must be certified by the M-NCPPC Staff.
- 22)No clearing or grading of the site, or recording of plats are permitted prior to Certified Site Plan approval.
- 23)In the event that a subsequent site plan and/or site plan amendment approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration, ROW width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.

- 24) The Property is within the Walter Johnson High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level for the multifamily high-rise with structured parking unit rate for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
- 25) The Adequate Public Facilities (APF) validity period for the non-transportation elements of the approval for the residential uses is subject to the following phasing schedule:
Phase I – Issuance of building permits for Parcel A for 330 residential units, which must include 12.5 % MPDUs, within 84 months from the 30th day after the Resolution is mailed; and
Phase II – Issuance of building permits for Parcel B for 325 residential units, which must include 12.5% MPDUs, within 12 years from the 30th day after the Resolution is mailed.
- 26) The record plat must show necessary easements.
- 27) The Certified Preliminary Plan must contain the following note:
Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined by the Site Plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

- 1. The Preliminary Plan substantially conforms to the Sector Plan.*

The Application is in substantial conformance with the recommendations of the Sector Plan. The Property is located in the Metro West District (Block 3: Holladay) and is identified in the Sector Plan as the Holladay property, after the name of the previous property owner. The Sector Plan states that the "Wisconsin and The Grand multifamily developments reflect earlier success with high-rise residential development, while the [proposed] Holladay development along Rockville Pike represents the type of mixed-use

envisioned in this Sector Plan. There is already substantial residential development in this block and redevelopment should focus on employment and retail uses" (p.29).

Density and Building Height

The Sectional Map Amendment, approved and adopted subsequent to the Sector Plan, rezoned the Subject Property to the CR-4: C3.5, R3.5, H300 Zone. While the Sector Plan's zoning recommendations focus on employment and retail use, the Zoning Ordinance provides the flexibility for a redevelopment project to be predominantly residential in response to market demands. The Application proposes a total of 3.87 FAR on the 5.48-acre site (approximately 0.85 Non-Residential and 3.02 Residential), and 300-foot height for Building A, which are consistent with the Sector Plan's recommendation and the CR Zoning for the Property.

Transportation Network

The street network, as shown on the Preliminary Plan, is consistent with Sector Plan recommendations and the 2010 *White Flint Urban Design Guidelines* ("Design Guidelines").

Along Rockville Pike (M-6), the Sector Plan envisions the reconstruction of Rockville Pike (MD 355) into an urban boulevard with improved pedestrian sidewalks, on-road bicyclist accommodation, and bus priority lanes (p.53). Rockville Pike is designated as a six-lane divided major highway, with a recommended 162-foot wide right-of-way. The 2013 *Countywide Transit Corridors Functional Master Plan* recommends two-lane median BRT treatment for the MD 355 South Corridor within the Sector Plan area. The MCDOT and SHA will conduct future design studies for this Corridor. The Applicant is dedicating 21 feet along the Property's frontage for a total 81 feet from the centerline of Rockville Pike.

Woodglen Drive Extended along the Property frontage is designated as a two-lane business district street, B-3, with a 60-foot wide right-of-way, and a shared use path, SP-41. Along this frontage, ROW dedication of 60 to 72 feet from the opposite right-of-way line is required since the ROW widens as Woodglen Drive Extended approaches Nicholson Lane in order to align with the existing segment of Woodglen Drive south of Nicholson Lane. The Applicant is providing the 60-foot wide ROW for Woodglen Drive with dedication from the Site. The adjacent property on the west side of Woodglen Drive has already placed the required ROW in escrow, which will be used to widen Woodglen Drive Extended by this Applicant. Dedication for the northern most portion of Woodglen Drive between Marinelli Road and Private Road A will occur with Phase I of this Application. In order to permit the existing improvements on Parcel B to remain operational, dedication for the remaining Woodglen Drive will occur during a consolidation of Parcel A and Parcel B with the Site Plan(s) for Building B West and/or Building C West as part of the next phase of development. In Fall 2014, Montgomery County opened its first separated bike lane along Woodglen Drive between Nicholson

Lane and Edson Lane as a two-way bikeway along the western curb. The Applicant is required to continue this separated bike lane along Woodglen Drive as depicted on the Preliminary Plan.

Marinelli Road is designated as a four-lane business district street, B-6, with a 90-foot wide right-of-way, a shared use path, SP-41, on the north side, and a signed shared roadway (i.e., bike lanes without signage). While no dedication is required, Planning Staff and MCDOT reconsidered the Sector Plan's recommendation for bike facilities to ensure safety of bicyclists traveling from the separated bike lane on Woodglen Drive Extended to the White Flint Metro Station. In December 2015, the Planning Board reviewed the proposed separated bike lane network in White Flint, including Woodglen Drive Extended and Marinelli Road. This network will be incorporated into the Bicycle Master Plan that is currently in progress. On Woodglen Drive Extended, there is agreement to provide two-way separated bike lanes on the west side of the street, which will connect with the existing shared use path on the north side of Marinelli. Vehicles heading westbound on Marinelli Road will be able to make a left turn onto Woodglen Drive, but vehicles heading northbound on Woodglen Drive will be restricted to right turns only onto Marinelli Road to protect the bicyclists and pedestrians crossing Marinelli Road. On Marinelli Road, the design of the separated bike lanes depends on whether a traffic signal is provided at the intersection of Marinelli Road and Woodglen Drive Extended, which would facilitate a safe crossing for bicycling and walking. If the signal is approved, the separated bike lanes could be implemented as a two-way bikeway on the north side of the street or a paired, one-way bikeway on both sides of the street. If a traffic signal is not implemented, the separated bike lanes would be a two-way bikeway on the south side of the street.

Nicholson Lane is designated as a four-lane arterial, A-69, with the recommended 90-foot wide ROW, including bike lanes, BL-27, and the recreation loop on the south/opposite side. Dedication along Nicholson Lane will occur during a consolidation of Parcel A and Parcel B with the Site Plan(s) for Building B West and/or Building C West as part of the next phase of development. As part of the next phase of development, the Applicant is required to implement the bike facilities along the Subject Property's Nicholson Lane frontage. Currently, there is agreement to provide paired, one-way separated bike lanes on both sides of the street. However, final design will be determined at that time.

Pedestrian and Bicycle Facilities

The Applicant is required to provide the following pedestrian and bicycle improvements:

1. A 19-dock Bikeshare Station (52 feet by 6 feet area to be accompanied by an additional 6 feet of clearance) on the Subject Property south of Private Road A, unless an alternate size bikeshare station or location is approved by MCDOT;
2. The Sector-Planned recreation loop on the north side of Nicholson Lane as part of Phase II; and

3. Pedestrian and bike crossings at the intersections of Woodglen Drive Extended with Marinelli Road and Nicholson Lane.

Private Streets

Private Road A is shown as a local street in Map 46 of the Sector Plan (p.51). The Design Guidelines (p.10) note that local streets might include:

- right-of-way of 60 feet or less;
- streetscape components (sidewalk paving, tree spacing, lighting) compatible with adjoining public streets;
- alternative roadway pavement materials;
- ground floor active uses;
- character elements to distinguish between neighborhoods;
- limited on-street parking;
- roadway width to be determined once streetscape requirements are met;
- may be implemented as private streets, subject to the provisions in the Sector Plan.

Private Road A is consistent with the recommendations in the Sector Plan and Design Guidelines. The right-of-way for Private Road A will be approximately 48 feet, and will be located within a private road easement. Streetscape components are consistent and compatible with the adjoining public streets, ground floor active uses in the form of ground floor retail along the eastern half of Private Road A, and limited on-street parking (approximately four spaces on the south side of Private Road A). Applicants are typically required to create separate parcel(s) for private roads in addition to a private road easement; however, in this case, the Applicant is proposing to provide an underground parking garage that would cross lot lines that would be created by the standard requirement creating separate parcels for private roads. MCDPS has determined that an impenetrable firewall would be required to accommodate the garage if a separate parcel is also required for Private Road A, since the structure would be crossing a right-of-way line, and, in effect, would connect two separate properties by a single structure. This would render the underground garage inefficient and infeasible in this urban setting. Therefore, the Planning Board is not requiring the Applicant to create a separate parcel for Private Road A (so that the underground garage can be one continuous space without firewalls), but Private Road A must be located in a Private Road Easement granted to M-NCPPC so that it will be a public street in all its functions and rights of the public to use it.

Public Use

The public use spaces are consistent with the Sector Plan recommendations. The Sector Plan recommends a hierarchical public use space system in which each space contributes variety in function and setting (pg.20). The development provides an urban plaza and promenade with design elements that include public art, street furniture,

bicycle racks, planted areas, and way-finding devices to enhance the neighborhood experience of residents, workers, shoppers, and visitors.

Environment

The Sector Plan contains several recommendations to create an environmentally sustainable district. Minimization of carbon emissions; reduction of energy through site design and energy-efficient buildings; improving air and water quality; and usage of environmental site design techniques are some of the Sector Plan's recommendations. The development provides vegetated and cool roofs throughout the development along with bio-filters and stormwater vaults.

White Flint Urban Design Guidelines

The Preliminary Plan is in substantial conformance with the recommendations and objectives of the Design Guidelines, which provide specific recommendations for the Metro West and NRC districts. As shown on the Preliminary Plan, Building A West is consistent with the intent of the Design Guidelines. The Design Guidelines recommend to "locate and size taller building components to reduce the impact of their shadows on streets and public use spaces," and establish a build-to-line along Rockville Pike (p.29). Building A West is perpendicular to Rockville Pike, so it reduces shadows on Private Road A and the public use space at the intersection of Marinelli Road and Rockville Pike.

Therefore, the Preliminary Plan is in substantial conformance with the Sector Plan.

- 2. Public facilities will be adequate to support and service the subdivision.*

Available Transit Service

The following bus routes currently operate along the property's adjacent roadways:

1. Ride On routes 5, 38, & 46 and Metrobus route J5 operate along the property frontage of Rockville Pike; and
2. Ride On routes 26 and 81 operate along the property frontage of Marinelli Road.

No transit routes operate along the Property's Nicholson Lane frontage. The White Flint Metrorail Station is across Marinelli Road at its intersection with Rockville Pike.

Transportation Demand Management

This site is within the North Bethesda Transportation Management District (TMD). As a new development, the Applicant will be required to enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the North Bethesda Transportation Management Organization (TMO) and assist in achieving and maintaining the non-auto driver mode share goal of 34% recommended by the White Flint Sector Plan.

The Applicant is proposing one Bikeshare Station, and is providing the required bike parking under the CR zone. In addition, the following trip reduction measures should be considered as part of the TMAg:

1. Cooperate with the MCDOT and/or the TMO to obtain residential and non-residential tenant participation in TMD Annual Commuter Survey;
2. Provide permanent information displays in a highly used location in the lobbies of the buildings;
3. Provide space for real time transit information signs at highly-used locations;
4. Make a good faith effort to promote the Guaranteed Ride Home Program and any other emergency ride programs that are available in the region for commuters who carpool, vanpool, use transit, or other commuter options;
5. Provide carpool and vanpool parking spaces for retail employees;
6. Provide car sharing parking spaces in highly visible locations;
7. Provide electric vehicle charging stations in highly visible locations;
8. Cooperate with MCDOT and/or TMD in their implementation of marketing efforts designed to attract employees working on-site or nearby to purchase or rent housing within the subject development; and
9. Provide an annual summary report (only 1 to 2 pages) to MCDOT and/or TMO outlining the on-site traffic mitigation efforts.

Transportation Public Facilities Review

The Applicant is required to participate, and make the special taxing district payment required for the new development/impact tax district, in the White Flint Sector Plan area in lieu of satisfying the transportation APF test (i.e., the LATR and TPAR tests).

Phased Adequate Public Facilities (APF) Validity

The Applicant has requested the maximum APF Validity for the total 740,000 square feet of residential uses for up to 655 dwelling units on the Property. The Applicant has not requested a phased Validity Period, and will plat both Phase I (Parcel A) and Phase II (Parcel B) within the standard plan validity period of 60 months. Pursuant to Section 50-20(c)(3)(A)(iii) of the Subdivision Regulations, the Planning Board can make an APF determination for "no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Board at the time of approval, for any plan approved on or after April 1, 2009, but before April 1, 2017." In accordance with Sections 50-20(c)(3)(B) and 50-34(g) of the Subdivision Regulations, the Applicant has provided the required phasing plan for completion of the project to the Planning Board for its approval. To allow a validity period longer than the minimum, the Planning Board must find that the extended validity period would promote the public interest.

Applicant's Request

The Applicant requests a 12-year (144 month) APF Validity Period subject to the following phasing schedule:

Phase I – Issuance of building permits for Parcel A for 330 residential units, which must include 12.5 % MPDUs, within 84 months from the 30th day after the Resolution is mailed; and

Phase II – Issuance of building permits for Parcel B for 325 residential units, which must include 12.5% MPDUs, within 12 years from the 30th day after the Resolution is mailed.

An APF Validity Period for commercial transportation impact is not applicable because the White Flint Special Taxing District replaced the PAMR and LATR requirements. However, school capacity is still subject to a determination of APF, because schools are not covered by the White Flint Special Taxing District. The extended validity period for the residential units requested above is common and typical of a large, mixed-use multi-phased project, and is consistent with the Subdivision Regulations. Furthermore, the Applicant would like additional time for the tenants in the existing commercial building to make plans before redevelopment of the remainder of the Property during Phase II occurs. The Planning Board agrees with the Applicant that the project is a larger multi-use development that will likely require several years to achieve full build-out, and that granting additional time for the existing building on Parcel B (Phase II) is a reasonable request. The Preliminary Plan approval will allow a maximum density of up to 740,000 square feet of residential uses for up to 655 dwelling units, and up to 204,000 square feet of non-residential uses, on 5.48 gross acres of land zoned CR4.0 C3.5 R3.5 H300. Allowing the longer APF Validity period promotes the public interest by better allowing this development to implement the approved sketch plan (Sketch Plan No. 320140010) and facilitate the recommendations contained in the White Flint Sector Plan, including the transformation of automobile dependent strip mall into a pedestrian friendly, transit-oriented, mixed-use, and urban area.

The road system, open space, and public benefits of the project are site-wide, extensive, and interrelated. The Planning Board agrees that granting additional time will promote the public interest and help achieve the goals and recommendations of the Sector Plan.

Because of the Special Taxing District in White Flint, transportation is not considered as part of the request for a longer APF and/or Plan Validity. Thus, the school test becomes the only APF consideration subject to a validity period. Otherwise, an APF Validity Period would not be necessary. Since the residential units are multi-family high-rise (which typically produce a low yield of school age children), the Planning Board believes that a longer APF Validity Period would not cause a burden on capacity of the local schools.

Based on the analysis above, the Planning Board finds the extended APF Validity Period as requested is desirable to facilitate the achievement of the goals and recommendations of the Sector Plan, which promotes the public interest.

Therefore, the Planning Board approves the requested 12-year APF Validity period subject to the phasing schedule contained in this Resolution.

Other Public Facilities and Services

Except for schools, other public facilities and services are available and will be adequate to serve the development. The site is served by public water and sewer. Gas, electric, and telecommunications services are also available to serve the Property. Police stations, firehouses, and health services are currently operating within the standards set by the effective Subdivision Staging Policy. Pursuant to County Council Resolution 16-1324, adopted April 27, 2010, the Property is exempt from LATR and PAMR analysis because it is subject to payments under the White Flint Special Taxing District. The Application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS), which has determined that the Property has adequate access for emergency vehicles.

The Subject Property is within the Walter Johnson High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the multi-family unit rate for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

- 3. The size, width, shape, and orientation of the lots are appropriate for the location of the subdivision.*

The Preliminary Plan has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations in the Sector Plan, and for the type of development and use contemplated. As conditioned, the lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Sector Plan. Access and public facilities (with the exception of schools, which requires a Schools Facility Payment) will be adequate to serve the lots. The Application has been reviewed by other applicable County agencies, all of whom have recommended approval of the Preliminary Plan.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420131570) on May 29, 2013 and recertified it on June 29, 2015. The Subject Property lies in the Cabin John watershed, with no forest, streams, or associated buffers on-site. The Application is in compliance with the Environmental Guidelines.

Forest Conservation

The development is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and the Applicant has submitted a Preliminary Forest Conservation Plan (PFCP) for the entire project in conjunction with the Preliminary Plan. PFCP 120160080 covers the entire Subject Property and associated off-site disturbance, with a net tract area of 5.44 acres. The Final Forest Conservation Plans (FFCP) related to the PFCP will be phased with the associated Site Plans. FFCP 820160030 covers all disturbance associated with demolition of the existing McDonalds and a portion of the existing retail development and development of Parcel A in the northernmost portion of the Property. It will include the construction of Private Road A and a portion of the Woodglen Drive extension from Marinelli Road south to Private Road A. The net tract area for FFCP 820160030 is 2.49 acres and reflects the disturbance associated with Phase 1. The remaining 2.95 acres of tract area will be included in future phases.

Forest Conservation Variance

Section 22A-12(b) (3) of the Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal or disturbance within the tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires a variance to impact trees that: measure 30 inches or greater diameter at breast height (DBH); are part of a historic site or designated with a historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The Applicant submitted a variance request on September 24, 2015 for the impacts to one tree. The approved layout will remove one tree that is considered high priority for retention under Section 22A-12 (b) (3) of the County Forest Conservation Law.

Section 22A-21 of the County Code sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. The Planning Board has made the following determinations and findings based on the required findings that granting of the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*
Granting this variance will not confer a special privilege on the Applicant as removal of the specified tree is necessary to extend Woodglen Drive, a master-planned road.
2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*
The requested variance is not based on conditions or circumstances that are the result of actions by the Applicant. The variance is necessary due to the constraints of size, the requirements to demolish existing facilities, and the location of the existing trees on and around the Subject Property.
3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*
The requested variance is a result of the location of tree and the required extension of Woodglen Drive.
4. *Will not violate State water quality standards or cause measurable degradation in water quality.*
The Applicant will plant three 4-inch caliper native shade trees to replace the form and function of the variance tree being removed.

Mitigation for Trees Subject to the Variance Provisions

The Applicant is requesting a variance to remove one tree. The tree, #10, 39" tulip poplar, will be mitigated at a rate of 1" caliper per 4" DBH removed, using a minimum 3" caliper native shade tree. The Applicant will plant three 4-inch caliper trees which are shown on the Final Forest Conservation Plan.

County Arborist's Recommendation on the Variance

The County Arborist has reviewed the variance request and recommended approval with mitigation.

Conclusion

The Planning Board finds that the Preliminary Forest Conservation Plan meets the requirements of Chapter 22A Forest Conservation Law. Therefore, the Planning Board approves the Preliminary Forest Conservation Plan and the associated variance, with the conditions cited at the beginning of this report.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "storm water management", Section 19-20 through 19-35.*

The Department of Permitting Services (DPS) issued an approval letter for a Stormwater Management Concept on April 22, 2016. The stormwater management

concept meets the required stormwater management goals via green roof, planter boxes, roadside micro bioretention, a stormfilter including a pretreatment structure and a separate storage vault and modifications to the existing underground 48" CMP storage structure.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 10 2016 (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).

* * * * *

CERTIFICATION

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 Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, June 2, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board