



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

MCPB
Item #
6/30/11

June 22, 2011

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Glenn Kreger, Acting Chief *GK*
Area 2 Planning Division

Shahriar Etemadi, Planning Supervisor, I-270 Corridor Team
Area 2 Planning Division

FROM: *HJ* Nkosi Yearwood, Senior Planner, I-270 Corridor Team (301.495.1332)
Area 2 Planning Division

SUBJECT: Draft White Flint Implementation Guidelines

STAFF RECOMMENDATION: Approve the Draft White Flint Implementation Guidelines with the provision that the transportation approval mechanism, Section 3, will be approved by the County Council. Section 3 will become a Council approved regulation and an appendix to the Guidelines.

BACKGROUND

The Planning Board on May 26, 2011 approved the draft White Flint Implementation Guidelines that are required to implement the Approved and Adopted (2010) White Flint Sector Plan. The Sector Plan creates a 12-month deadline after the adoption of the Sectional Map Amendment (SMA) for the development of a transportation approval mechanism and monitoring program. July 13, 2011 is the deadline for these items. The White Flint Implementation Guidelines will satisfy the Plan's requirements.

UPDATE

Since the Board last reviewed the Guidelines, the Planning Board Chair and staff have made several editorial and language changes to the Guidelines. These changes clarify and strengthen the language in the document.

The County Council's Planning, Housing, and Economic Development (PHED) Committee has taken up the proposed Subdivision Staging Policy Amendment for White Flint. The proposed amendment would replace and clarify the 2010 amendment for Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) and reflect changes made when the Council created the White Flint Special Tax District.

The Council staff and County Attorney questioned whether the Planning Board could be delegated the authority, "without further Council review, to adopt the proposed implementation guidelines because they go beyond the process and mechanics of implementing the staging allocations and also control issues of substance. Council staff concurred that this kind of delegation of authority must be more tightly limited" (Council staff memo, June 20, 2011, to the PHED Committee, p.2).

The PHED Committee voted unanimously on Monday, June 20 to approve the Council staff revision to the White Flint Subdivision Staging Amendment. The full Council will take up the amendment next month.

The revised Implementation Guidelines, which are attached, removes Section 3, Transportation Approval Mechanism, which will be put in a regulation to be approved as if under method 2.

NEXT STEPS

The final White Flint Implementation Guidelines, with the appendix, will be published when the Council approves Section 3 as a regulation.

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Attachment: Draft White Flint Implementation Guidelines

DRAFT
WHITE FLINT IMPLEMENTATION GUIDELINES

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1. Introduction

The 2010 Approved and Adopted White Flint Sector Plan is being implemented through focused coordination between public and private interests. The Plan's vision is to transform an auto-oriented development pattern into an urban center with residential and non-residential development, new amenities including parks and open spaces, and new cultural destinations and public facilities. The Plan's vision will be implemented through various actions, including zoning, taxing, and staging. These guidelines address the staging process.

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

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

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

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

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

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

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

2. Guideline Procedures

2.1. White Flint Implementation Advisory Committee

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

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

2.2. Use of Guidelines

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

2.3. Changes to Guidelines

The Sector Plan states, "A successful staging plan should be elastic enough to respond to market forces without losing the plan's vision or requiring amendments" (page 67). The biennial monitoring program established in the Plan is charged with several specific tasks, one of which is to "conduct a regular assessment of the staging plan and determine if any modifications are necessary" (page 68). The Sector Plan clearly contemplates that implementation of the staging plan will be an iterative and evolving process. However, the staging plan and these Guidelines must also remain constant enough that market actors will be able to make rational decisions based on their reasonable expectations that the implementation process is predictable.

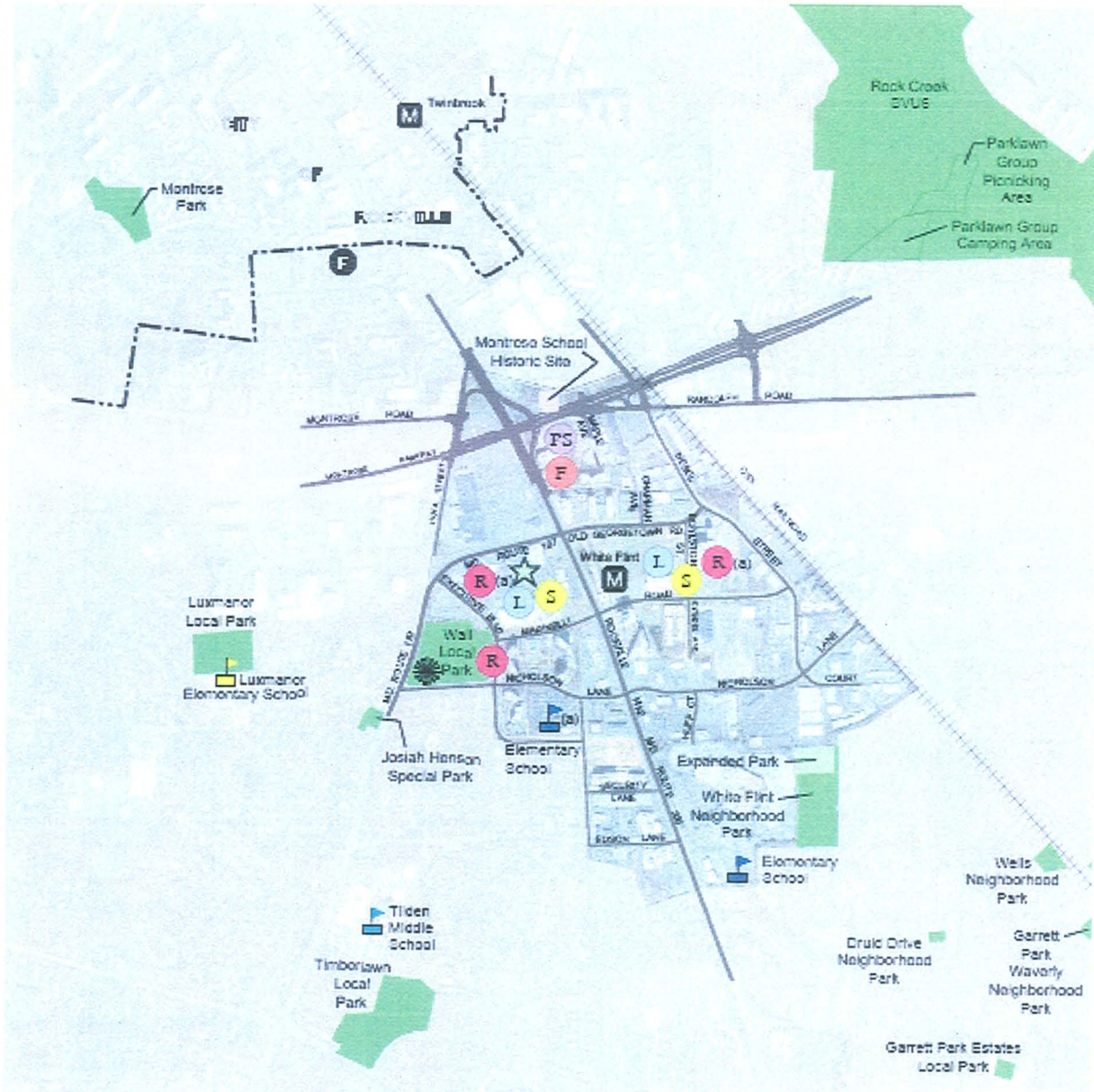
Changes to the Guidelines require Planning Board approval. Changes need to balance flexibility and certainty should be guided by the following principles:

- 1) To the extent appropriate, changes should generally take effect at the beginning of the next phase of development as set forth in the staging plan. This would mean that major changes made in Phase 1 generally should not take effect until the beginning of Phase 2. If the Board wants to change the Guidelines before the beginning of the next stage, they may consider a variety of factors, including the nature of the change, the underlying facts that justified the proposed change, and the testimony submitted by stakeholders.
- 2) The Planning Board may consider changing the Guidelines at any time if they find that events have occurred or facts have emerged that render specific Guideline provisions no longer appropriate.

- 3) The Planning Board should consider the Implementation Guidelines in conjunction with their review of the biennial monitoring report or other periodic assessments. However, the Planning Board may revise the Implementation Guidelines before the biennial report.

3. Community Facilities and Amenities

The Sector Plan recommends several community or public facilities that will support the transformation of White Flint into an urban center. Public facilities will be owned and operated by a public agency, such as the Department of Public Libraries. Public amenities are elements, such as public use space and art, which are provided by property owners during the redevelopment process (see Map 1).



Map 1

Map 48 on page 58 of the White Flint Sector Plan shows the recommended public facilities.

Most of these public facilities are recommended in the core area of the Plan area, the Metro East and Metro West districts. Metro West consists of three blocks, including Wall Park, the Conference Center and Holladay, while Metro East consists of two blocks: North Bethesda Center and the Sterling. The facilities in Metro East and Metro West will create a civic presence and destination within the core area of the Sector Plan. These facilities will be provided either by the public or private sector, or a public-private partnership.

District Specific Facilities

The public library, satellite regional services center, civic green and recreation center are recommended for either Metro West or Metro East districts. The civic green is only recommended for the Metro West district.

Large properties in the Metro West and Metro East districts, such as North Bethesda Conference Center and LCOR North Bethesda Center, provide the best opportunity to accommodate either the satellite regional services center or the library since both properties can accommodate additional development in the long-term. However, LCOR has a significant amount of approved but not yet built development, and therefore may not proffer major public facilities in the short term. In addition, there are smaller properties in both districts where redevelopment opportunities for mixed-use development are limited in the near term.

Property Specific Facilities

Fire, rescue and emergency medical services, an elementary school, and a recreation center are located on specific properties in the Plan. The fire, rescue and emergency medical services site is specifically identified for the State Highway Administration property east of Rockville Pike and immediately north of the Forum Condominium in the Maple Avenue District. The police sub-station is associated with the fire station.

Wall Local Park, at the intersection of Nicholson Lane and Executive Boulevard, is recommended as the preferred site for the recreation center. Alternatively, the recreation center can be located on other properties in Metro West and Metro East. The southern portion of White Flint Mall is designated as the preferred site for the elementary school, while the Luttrell property, north of Executive Boulevard and west of Woodglen Drive, is the alternative school site location.

Co-Location of Public Facilities

The co-location of public facilities, such as the satellite regional services center and library, provide operational and service efficiencies. Moreover, since the cost of acquiring land for new facilities is expensive, co-location is an efficient strategy.

Non-Recommended Sites

During the life of the Sector Plan, a property owner in any district may propose the location of a public facility on a site not recommended for that facility in the Plan. If this occurs, the Planning Board must determine, according to Section 59-C-15.61 of the CR Zone, that the site plan is

consistent with the objective of the Sector Plan. A similar finding is included in the Subdivision Ordinance, Section 50-35 (l), which establishes a consistency finding for preliminary plans.

3.1. Public Amenities

A farmers' market, public art, child daycare centers, and undergrounding of utilities are some of the amenities (page 66 of the Plan) that will contribute to the livability of White Flint. These amenities are not owned or operated by a public agency. Some of these amenities, such as public art and streetscape, will be provided through private redevelopment. The White Flint Sector Plan Implementation Advisory Committee should identify whether any additional amenity projects are necessary, and provide the status of amenities identified in the Sector Plan during its reports to the Planning Board.

3.2. Commercial Residential (CR) Zone Incentives

Payment In Lieu: Public Use Space and Amenities

Developers in White Flint are encouraged to provide required public use space and amenities on-site. However, the CR Zone also allows a developer to satisfy all or a portion of the on-site public use space requirement by implementing a public use space improvement off-site, subject to Planning Board approval. Implementing public park or public use space improvements within or near an applicable plan area is one way to meet the public use space requirement. Developers have the option of making a payment for the total amount or a portion of the design, construction, installation, and/or operation of an off-site public use space. Any development that uses the payment-in-lieu option should address the priority projects listed on page 66 of the Sector Plan. Any project chosen from the priority projects must be fully funded before other priority projects are chosen. Some of the amenities, such as public art, are eligible for incentive density under the optional method of development in the CR Zone.

Major Public Facilities

Major public facilities are often funded by the public sector (see Section 4.3). The CR Zone also establishes incentives for developers to provide major public facilities, such as an urban park and a library. The Sector Plan states that "public facilities should be provided in conjunction with private land development, including dedication of land for public use in order to reduce the costs to the public" (page 67). Land for the civic green may be secured through dedication, if there is an assemblage of properties on the Conference Center Block, or purchased through public acquisition.

Property developers can receive incentive density, up to 70 points, if a site or floor area of a facility is conveyed or built for a public agency, community association, or nonprofit organization. Additionally, a developer can make a payment for a major public facility that is accepted for use and/or operation by an appropriate public agency or nonprofit organization. Developers are encouraged to use the CR Zone's incentives to provide either land area or floor area in a mixed-use building for a major public facility. Further, the White Flint Implementation Advisory Committee, during its review and comment on new development, should advocate for new facilities via the incentives in the zone.

3.3 Capital Improvements Program (CIP)

Under Section 302 of the County's Charter, the County Executive must submit a CIP to the Council every other year. Section 302 states that:

The capital improvements program shall include a statement of the objectives of capital programs and the relationship of capital programs to the County's long-range development plans; shall recommend capital projects and a construction schedule; and shall provide an estimate of costs, a statement of anticipated revenue sources, and an estimate of the impact of the program on County revenues and the operating budget. The capital improvements program shall, to the extent authorized by law, include all capital projects and programs of all agencies for which the County sets tax rates or approves budgets or programs.

Public facilities that are funded by the public sector are programmed in the CIP and are reflected in a Project Description Form (PDF). The County may create a capital project for public facilities in White Flint. This would allow property owners to provide suitable contributions towards a public facility through a public-private partnership.

A property owner may provide for a small facility, such as the satellite regional services center, on the ground floor or second floor of a mixed-use building. If this occurs, the County needs to operate the facility.

3.4 Public Facilities and Amenities Assessment

The Planning Department will prepare biennial monitoring reports that document the status of the facilities indicated on the Existing and Proposed Community Facilities (Map 1). The report should state when, where, and who is expected to deliver the public facility. The Implementation Advisory Committee should monitor how many amenities are implemented, programmed or planned.

For any public facility that is not in the County's CIP, that is incorporated in new development, or that is provided for via a payment by spring 2020 (10 years after the Plan adoption), the Implementation Advisory Committee should alert the Planning Board and County Council that the facility has not been included in the CIP or as part of a private development. The Sector Plan recommends that "proposed civic uses, intended to create vitality within the urban core, are built and constructed early in the life of the Plan" (page 67).

Opportunities may arise to reduce costs of the public facilities by entering into a public-private partnership on a site not recommended by the Plan. In that case, the Implementation Advisory Committee should advise the staff and the Board if such a site meets the Plan's goals and objectives. If it does, the Board may accept the revised location as consistent with the Sector Plan. The Planning Board must find that the location furthers the Plan's recommendations and objectives, which are some of the findings in the CR Zone.

4. Completing Phasing Prerequisites

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

Planning staff may not prepare a recommendation to move from Phase 1 to Phase 2 without a written statement from the County Executive that the Executive branch agencies find that all prerequisites for moving from Phase 1 to Phase 2 have been met.

4.1. Transportation Facilities

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

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

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

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

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

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

The Planning Board should consider these prerequisites to be met when all referenced improvements within a one-quarter mile radius of the existing Metrorail station portal (as defined for the purposes of sketch plan review) are fully funded for construction within the first six years

of a CIP or Consolidated Transportation Program (CTP). The exceptions to this rule (as indicated by the word “substantially” in the Plan text) are that the following improvements are not necessarily expected to be implemented during Phase 1:

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

The next prerequisite involves planning for Rockville Pike implementation.

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

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

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

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

The final prerequisite addresses housing needs:

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

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

4.2. Mode Share Goals

Mode share goals are to be determined based on annual employee surveys conducted by the North Bethesda TMD (the same process as used in Bethesda CBD staging in 2004) and annual surveys of selected residential properties. Relevant survey information includes journey-to-work mode share for employees (NADMS-E) arriving to their workplace in the White Flint Sector Plan Area during the AM peak period (6:30 a.m. to 9:30 a.m.) and journey-to-work (or school) mode share for employees leaving their residence (NADMS-R) in the White Flint Sector Plan area during the same AM peak period. The overall White Flint Sector Plan area mode share (NADMS) is the weighted average of NADMS-R and NADMS-E. For instance, if at the time of an annual survey, there are:

- 34,000 employees working in the White Flint Sector Plan Area with an NADMS-E of 30 percent

- 4,000 employed residents of the White Flint Sector Plan area with an NADMS-R of 45 percent
- Then the NADMS is $(34,000*30\% + 4,000*45\%) / (34,000 + 4,000) = 31.58$ percent

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

The NADMS-E will be the weighted average of responses for the full week of the survey. The Phase 1 requirement is a 34.00 percent NADMS. A calculated combination of NADMS-E and NADMS-R of 33.99 percent would not meet the NADMS requirement; a result of 34.01 percent would meet the NADMS requirement.

The staff must consider the variability inherent in survey results in developing the recommendation to move to another phase (i.e., if four consecutive annual surveys during Phase 1 showed NADMS results of 27 percent, 26 percent, 28 percent, and 35 percent, any consideration to move to Phase 2 in the fifth year should be accompanied by analyses of independent indicators of changes in mode share behavior).

5. Biennial Monitoring Program

The Biennial Report will be developed during the spring of each odd-numbered year, to be incorporated with biennial status reports that help inform development of the Executive's biennial CIP during the following autumn.

5.1. Development Approval

The Planning Board on January 20, 2011 approved three sketch plans: North Bethesda Market II, Mid-Pike Plaza, and North Bethesda Gateway. These plans total 2.944 million square feet of non-residential development and 3,266 dwelling units. This amount of development is more than the total permitted in the first stage of development established in the Sector Plan. Accordingly, Staging Allocation Approvals will not be granted for this full amount in Stage 1.

Most new development will be approved via a sketch plan, which is required in the Commercial Residential (CR) Zone. A sketch plan is a conceptual plan that illustrates the general development pattern of a project, including streets, building heights, pedestrian network, parks and open space, public facilities or amenities, and sustainable features. It is required for optional method development. After sketch plan approval by the Planning Board, the next review will be either preliminary plan or site plan review.

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

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

5.2. Status of New Facilities

Public facilities will be provided either through the County's Capital Improvements Program (CIP), an Amenity Fund, or a development dedication of land or building square footage for a facility. As of spring 2011, no public facilities are included in the County Executive's CIP and no sketch plans have been approved for any public facility.

5.3. CIP and Subdivision Staging Policy

The biennial monitoring report (produced during the summer of odd-numbered years) will include a section describing any recommended amendments to existing Project Description Forms (PDF) or new PDFs to be added to the subsequent biennial CIP (developed for public hearing in the spring of even-numbered years). This section will also describe whether any changes to the Subdivision Staging Policy are needed, a particularly important element considering that the development of the Subdivision Staging Policy and these guidelines in 2011 cannot anticipate the full range of circumstances that will arise. The Planning Board may consider changes to the Subdivision Staging Policy at any time (they need not wait for a biennial review), but must consider the performance of the Subdivision Staging Policy at the time of the biennial review.

5.4 Comprehensive Local Area Transportation Review

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

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

The CLATR will consider the following scenarios:

- existing conditions
- a ten-year to fifteen-year development horizon (rounded to the nearest five years, consistent with the philosophy in the Executive's TPAR report) considering:
 - approved development within the White Flint Sector Plan area, consisting of pipeline development not subject to staging plus approved sketch plans (as adjusted by sketch plan property owner representations of the amount of sketch plan development expected to be built by the horizon year)
 - the latest round of cooperative forecasts submitted by the Planning Department to Metropolitan Washington Council of Government (MWCOG) for the rest of Montgomery County, including the municipalities

- the latest round of cooperative forecasts approved by MWCOG for the rest of the region
- the latest Constrained Long-Range Transportation Plan (CLRP) transportation network approved by MWCOG for the rest of the region
- additional projects in Montgomery County if approved by the County Council as part of the Subdivision Staging Policy/CIP process
- local infrastructure programmed by the State, County, or special taxing district for the specified horizon year.

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

5.5. Changes to Staging Plan

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

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APPENDIX

1. Implementing Legislation
 - Sector Plan Sectional Map Amendment
 - Special Taxing District
 - Subdivision Staging Policy
2. Staging Allocation Request Form

APPENDIX 1: IMPLEMENTING LEGISLATION

Resolution No.: 16-1427
Introduced: July 13, 2010
Adopted: July 13, 2010

**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: White Flint Sectional Map Amendment (G-889)

OPINION

Sectional Map Amendment G-889 was filed by the Maryland-National Capital Park and Planning Commission and is a comprehensive rezoning application for the purpose of implementing the zoning recommendations contained in the Approved and Adopted White Flint Sector Plan. The SMA application covers approximately 430 acres. The area proposed for reclassification consists of approximately 265 acres proposed for new zoning classifications. The remaining acreage is to be reconfirmed as currently zoned.

The District Council approved the White Flint Sector Plan on March 23, 2010. The Sector Plan sets forth the specific land use and zoning objectives for the development of the White Flint area and was subject to extensive and detailed review by the District Council. Following the transmittal of the fiscal impact analysis of the White Flint Sector Plan by the County Executive, the District Council held public hearings on October 20 and 22, 2009 wherein testimony was received from interested parties.

Sectional Map Amendment (SMA) G-889 was filed on May 14, 2010 by the Montgomery County Planning Board to implement the specific zoning recommendations of the White Flint Sector Plan. The Council held a public hearing on the SMA for the White Flint Sector Plan on May 18, 2010. The Planning, Housing, and Economic Development (PHED) Committee held a worksession on the SMA on June 28, 2010 and presented its recommendations to the County Council on July 13, 2010.

The Council considered the comments of one property owner in support of the SMA, two requests for changes from property owners, and one recommended change from the Planning Board. Federal Realty Investment Trust (FRIT) expressed concern that the acreage for their property in the SMA (all of SMA Index Area 3 and the portion of SMA Index Area 2 not owned by the State Highway Administration) is less than the size of their property as calculated by surveys prepared by FRIT engineers. Planning Department staff have indicated that their

estimate of acreage is only an estimate and that they would defer to detailed engineering surveys for a more precise calculation of acreage, provided that the boundaries of the area are the same as shown in the SMA. In approving the Zoning Maps, the District Council is approving the boundary lines, not an acreage amount.

The Council considered the request of Leonard Greenberg and the Rockville Pike Partnership to change their zoning from the Sector Plan recommended Commercial-Residential-4, C-3.5, R-3.5, H-300, to CR-4, C-4, R-3.5, H-300, which would enable them to build the entire property as a commercial development, instead of requiring mixed-use development to achieve the total density. The Council saw no reason to deviate from the Sector Plan recommended zoning for this property and the Sector Plan policy of requiring each CR property to have a mix of uses to obtain the full density.

Finally, the Council considered the request of the Mr. Morrison to rezone his property to the Residential Townhouse (RT) zone. The RT zone may be applied by Local Map Amendment or by Sectional Map Amendment only if the property owner requests the change in zoning as part of the SMA process. The Planning Board received a letter from Mr. Morrison, owner of Outlot A, Parcel N388 in the Hillery Way Block, requesting the change to the RT zone **after** they submitted the SMA to the Council. Planning Department staff indicated that had the letter been received earlier, they would have had no substantive reason to deny the request. **Since the rezoning was recommended in the Sector Plan, the Committee believes the SMA should be revised to allow this rezoning.**

The Council considered the Sectional Map Amendment at a worksession held on July 13, 2010. The Council supported the Sectional Map Amendment with the amendment set forth in this opinion. The Council finds that Sectional Map Amendment Application G-889 is necessary to implement the land use and development policies expressed in the Approved and Adopted White Flint Sector Plan.

The evidence of record for Sectional Map Amendment G-889 consists of all record materials compiled in connection with the County Council public hearings on the Planning Board Draft of the White Flint Sector Plan, dated October 20 and 22, 2009, and all record materials compiled in connection with the public hearing held by the Council on May 18, 2010 on Sectional Map Amendment G-889.

For these reasons, and because to grant this application will aid in the accomplishment of a coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District, this application will be GRANTED.

Action

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

1. Application No. G-889, Maryland-National Capital Park and Planning Commission, Applicants for the Sectional Map Amendment covering the area of the White Flint Sector Plan consisting of approximately 430 acres, more or less, is GRANTED. Approximately 265 acres are rezoned as a result of this action. The remaining acreage is to be reconfirmed as currently zoned.
2. The following areas are reclassified as part of this action, consistent with the recommendations in the White Flint Sector Plan.

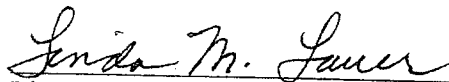
Table 1: Parcels to be Rezoned

Area #	Existing Zoning	Proposed Zoning	Acres
1	C-2	CR-2 C-1.5 R-0.75 H-100'	1.8
2	C-2	CR-3 C-1.5 R-2.5 H-200'	22.5
3	C-2	CR-4 C-3.5 R-3.5 H-300'	5.5
4	C-2,R-90,O-M	CR-3 C-1.5 R-2.5 H-70'	3.6
5	TS-R,C-2	CR-4 C-2.0 R-3.5 H-250'	11.3
6	C-2,TS-R	CR-4 C-3.5 R-3.5 H-300'	12.5
7	R-90,C-2	CR-3 C-2.5 R-1.5 H-200'	5.6
8	R-H,C-2,I-4	CR-3 C-1.5 R-2.5 H-200'	19.7
9	I-4	CR-3 C-1.5 R-2.5 H-200'	9.3
10	TS-M	CR-4 C-3.5 R-3.5 H-300'	12.1
11	TS-M,R-90	CR-4 C-2.0 R-3.5 H-250'	15.6
12	TS-M,I-1	CR-3 C-1.5 R-2.5 H-250'	4.4
13	I-1	CR-3 C-1.5 R-2.5 H-200'	2.1
14	TS-M,C-2	CR-4 C-3.5 R-3.5 H-300'	5.4
15	TS-M,C-2	CR-4 C-3.5 R-3.5 H-300'	8.7
16	TS-M,C-2	CR-4 C-2.0 R-3.5 H-250'	3.6
17	C-2,I-1	CR-3 C-1.5 R-2.5 H-200'	18.9
18	C-2	CR-3 C-1.5 R-2.5 H-100'	3.8
19	R-90	CR-3 C-1.5 R-2.5 H-200'	4.6
20	R-90	CR-3 C-1.5 R-2.5 H-100'	1.7
21	C-2	CR-3 C-1.5 R-2.5 H-150'	0.6
22	C-2	CR-4 C-3.5 R-3.5 H-300'	3.7
23	C-2	CR-4 C-3.5 R-2.0 H-250'	10.8
24	C-2	CR-3 C-1.5 R-2.5 H-200'	44.2
25	C-2,R-90	CR-2.5 C-1.25 R-2.0 H-70'	4.8
26	R-90	CR-1.5 C-0.25 R-1.5 H-50'	2.6
27	TS-M	CR-3 C-1.5 R-2.5 H-100'	1.4
28	TS-M	CR-4 C-3.5 R-3.5 H-300'	3.0
29	C-O	CR-4 C-3.5 R-3.5 H-150'	1.1
30	C-O	CR-4 C-3.5 R-3.5 H-250'	1.4
31	C-O	CR-3 C-2.5 R-1.5 H-150'	2.8
32	O-M	CR-2.5 C-2.0 R-1.25 H-150'	2.6
33	O-M	CR-1.25 C-1.0 R-0.75 H-100'	1.1
34	C-2,R-90	CR-1.0 C-0.75 R-0.5 H-50'	1.4
35	R-90	RT-12.5	2.0
36	C-2	CR-0.5 C-0.25 R-0.25 H-50'	0.7
37	C-T	CR-1.5 C-0.25 R-1.5 H-50'	7.8
Total Change Acres:			264.7

Table 2: Locations for Zoning Line Adjustments

Corrective SMA Designation	Parcel I.D.	Notes
Item A	Parcel 614	Existing zoning map shows this property as a right-of-way and with no zoning classification. Research in the land records indicated that the property is privately owned, is not a public right-of-way and zoning classification should be indicated.
Item B	Parcel 736	The outline of the Local Map Amendment granted for PD-9 zoning obscured the property lines.
Item C	Parcel N269	Existing zoning map shows this project as right-of-way with no zoning classification. Research in the land records indicates that the property is owned by SHA, but it is not a public right-of-way and, therefore, the zoning classification should be shown.

This is a correct copy of Council action.


 Linda M. Lauer, Clerk of the Council

Bill No. 50-10
Concerning: Special Taxing District -
White Flint - Creation
Revised: 11-30-10 Draft No. 5
Introduced: October 5, 2010
Enacted: November 30, 2010
Executive: December 9, 2010
Effective: March 10, 2011
Sunset Date: None
Ch. 52, Laws of Mont. Co. 2010

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) establish a White Flint Special Taxing District;
- (2) authorize the levy of an *ad valorem* property tax to fund certain transportation infrastructure improvements;
- (3) authorize the issuance of a certain type of bond to finance certain transportation infrastructure improvements;
- (4) generally authorize a White Flint Special Taxing District; and
- (5) generally amend or supplement the laws governing the use of infrastructure financing districts and similar funding mechanisms.

By adding

Montgomery County Code
Chapter 68C, White Flint Special Taxing District

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Chapter 68C is added as follows:**

2 **Chapter 68C. White Flint Special Taxing District.**

3 **68C-1. Definitions.**

4 For purposes of this Chapter, the following terms have the meanings indicated:

5 *Bond* means a special obligation or revenue bond, note, or other similar
6 instrument issued by the County that will be repaid from revenue
7 generated by ad valorem taxes levied under this Chapter.

8 *Cost* means the cost of:

- 9 (1) the construction, reconstruction, and renovation of any
10 transportation infrastructure improvement, including the
11 acquisition of any land, structure, real or personal property, right,
12 right-of-way, franchise, or easement, to provide a transportation
13 infrastructure improvement for the District;
- 14 (2) all machinery and equipment needed to expand or enhance a
15 transportation infrastructure improvement for the District;
- 16 (3) financing charges and debt service related to a transportation
17 infrastructure improvement for the District, whether the charge or
18 debt service is incurred before, during, or after construction of the
19 transportation infrastructure improvement, including the cost of
20 issuance, redemption premium (if any), and replenishment of
21 debt service reserve funds for any bond that finances a
22 transportation infrastructure improvement for the District;
- 23 (4) reserves for principal and interest, the cost of bond insurance, and
24 any other type of financial guarantee, including any credit or
25 liquidity enhancement, related to a transportation infrastructure
26 improvement for the District;

- 27 (5) architectural, engineering, financial, and legal services related to
- 28 providing a transportation infrastructure improvement for the
- 29 District;
- 30 (6) any plan, specification, study, survey, or estimate of costs and
- 31 revenues related to providing a transportation infrastructure
- 32 improvement for the District;
- 33 (7) any administrative expense incurred by the County necessary or
- 34 incident to determining whether to finance or implement a
- 35 transportation infrastructure improvement for the District; and
- 36 (8) any other expense incurred by the County necessary or incident
- 37 to building, acquiring, or financing a transportation infrastructure
- 38 improvement for the District.

39 District means the White Flint Special Taxing District created under
 40 Section 68C-2.

41 Transportation infrastructure improvement means:

- 42 (1) the construction, rehabilitation, or reconstruction of a road, street,
- 43 or highway that serves the District, including any:
- 44 (A) right-of-way;
- 45 (B) roadway surface;
- 46 (C) roadway subgrade or shoulder;
- 47 (D) median divider;
- 48 (E) drainage facility or structure, including any related
- 49 stormwater management facility or structure;
- 50 (F) roadway cut or fill;
- 51 (G) guardrail;
- 52 (H) bridge;
- 53 (I) highway grade separation structure;

- 54 (J) tunnel;
- 55 (K) overpass, underpass, or interchange;
- 56 (L) entrance plaza, approach, or other structure that is an
- 57 integral part of a street, road, or highway;
- 58 (M) bicycle or walking path;
- 59 (N) designated bus lane;
- 60 (O) sidewalk or pedestrian plaza;
- 61 (P) streetscaping and related infrastructure; including placing
- 62 utilities underground; and
- 63 (Q) other property acquired to construct, operate, or use a road,
- 64 street, or highway; and
- 65 (2) a transit facility that serves the needs of the District, including
- 66 any:
- 67 (A) track;
- 68 (B) right-of-way;
- 69 (C) bridge;
- 70 (D) tunnel;
- 71 (E) subway;
- 72 (F) rolling stock;
- 73 (G) station or terminal;
- 74 (H) parking area;
- 75 (I) related equipment, fixture, building, structure, or other real
- 76 or personal property; and
- 77 (J) service intended for use in connection with the operation
- 78 of a transit facility, including rail, bus, motor vehicle, or
- 79 other mode of transportation.

80 **68C-2. Creation; Boundaries.**

- 81 (a) The White Flint Special Taxing District is coterminous with the
 82 approved and adopted White Flint Sector Plan area.
- 83 (b) The following properties, identified by street address, are not included
 84 in the District: 5411 McGrath Boulevard, 5440 Marinelli Road, 5801
 85 Nicholson Lane, 11700 Old Georgetown Road, 11701 Old Georgetown
 86 Road, 11750 Old Georgetown Road, 11800 Old Georgetown Road,
 87 11801 Rockville Pike, 5800 Nicholson Lane, 5802 Nicholson Lane,
 88 5809 Nicholson Lane, 5440 Marinelli Road, 5503 Edson Lane, 5505
 89 Edson Lane, 5507 Edson Lane, 5509 Edson Lane, 11201 Woodglen
 90 Drive, 11203 Woodglen Drive, 11205 Woodglen Drive, 11207
 91 Woodglen Drive, 11209 Woodglen Drive, 11351 Woodglen Drive,
 92 11418 Rockville Pike, 11200-11219 Edson Park Place, 11222 Edson
 93 Park Place, 11224 Edson Park Place, 11226 Edson Park Place, 11228
 94 Edson Park Place, 11230 Edson Park Place, 11232 Edson Park Place,
 95 11234 Edson Park Place, 11236 Edson Park Place, 11238 Edson Park
 96 Place, and 11240 Edson Park Place.
- 97 **68C-3. Levy of Tax; Limits.**
- 98 (a) Each tax year the County Council may levy against all the assessable
 99 real and personal property in the District a sum on each \$100 of
 100 assessable property that does not exceed an amount sufficient to cover
 101 the costs of transportation infrastructure improvements that have been
 102 identified in a Council resolution approved under Section 68C-4.
- 103 (b) Under Section 9-1302 of Article 24, Maryland Code, the limit in
 104 Charter Section 305 on levies of ad valorem taxes on real property to
 105 finance County budgets does not apply to revenue from any tax imposed
 106 under this Chapter.

- 107 (c) The tax imposed under this Chapter must be levied and collected as
 108 other County property taxes are levied and collected.
- 109 (d) The tax imposed under this Chapter has the same priority, bears the
 110 same interest and penalties, and in every respect must be treated the
 111 same as other County property taxes.
- 112 (e) Paying the tax imposed under the Chapter does not entitle any person to
 113 claim a credit against any other tax that the County imposes, including
 114 the development impact tax for transportation improvements imposed
 115 under Section 52-49 or the development impact tax for public school
 116 improvements imposed under Section 52-89.
- 117 **68C-4. Transportation Infrastructure Improvement Resolution.**
- 118 (a) After holding a public hearing, the Council may approve a resolution
 119 that lists each transportation infrastructure improvement that would be
 120 entirely or partly paid for by a tax imposed under Section 68C-3.
- 121 (b) The resolution must indicate the estimated cost, including a contingency
 122 amount, for each listed improvement.
- 123 (c) The Council may amend the resolution after holding a public hearing.
- 124 (d) The Council must present the resolution and each amended resolution to
 125 the Executive for approval or disapproval. If the Executive disapproves
 126 a resolution within 10 days after it is transmitted to the Executive and
 127 the Council readopts the resolution by a vote of 6 Councilmembers, or if
 128 the Executive does not act within 10 days after the resolution is
 129 transmitted, the resolution takes effect.
- 130 (e) Before the Council holds a public hearing under subsection (a) or (c),
 131 the Executive should transmit to the Council:

- 132 (1) a list of recommended transportation infrastructure improvements
- 133 to be entirely or partly paid for by a tax imposed under Section
- 134 68C-3;
- 135 (2) the estimated cost, including a contingency amount, for each
- 136 listed improvement; and
- 137 (3) an estimated tax rate for each tax to be imposed under Section
- 138 68C-3.

139 (f) Before the County loans or advances any funds to the District that the
 140 District is required to repay to the County, the Council must adopt a
 141 [[financing]] repayment plan in a resolution under this Section, or as
 142 part of an approved Capital Improvements Program resolution, that
 143 specifies:

- 144 (1) each transportation infrastructure improvement for which funds
- 145 would be advanced;
- 146 (2) the amount of funds advanced which the District must repay;
- 147 (3) the [[amount]] expected rate of interest, if any, the District must
- 148 repay;
- 149 (4) the time period during which the District [[must]] is expected to
- 150 repay the amount due; and
- 151 (5) [[the number and timing of installment payments, if any; and]]
- 152 [[6]] any other principal term of repayment.

153 Any [[financing]] repayment plan adopted under this subsection is
 154 binding on the District and the County, except as later modified in a
 155 Council resolution.

156 **68C-5. District Fund.**

157 (a) The Director of Finance must establish a separate fund for the proceeds
 158 collected from any tax imposed under this Chapter. The proceeds of

- 159 any tax imposed under this Chapter must be pledged to and paid into
 160 this fund.
- 161 (b) The Director of Finance must use this fund only to pay the cost of any
 162 transportation infrastructure improvement related to the District.
- 163 (c) If in any fiscal year a balance remains in the fund, the Director of
 164 Finance may use the balance to:
- 165 (1) pay the cost of any transportation infrastructure improvement for
 166 the District;
- 167 (2) create a reserve to pay the future costs of any transportation
 168 infrastructure improvement for the District;
- 169 (3) pay bond-related obligations or retire bonds then outstanding; or
- 170 (4) pay into a sinking fund required by the terms of bonds which
 171 finance the cost of any transportation infrastructure improvement
 172 for the District that may be incurred or accrue in later years.
- 173 **68C-6. Issuing Bonds.**
- 174 (a) Before the County issues any bond payable from ad valorem taxes
 175 levied under Section 68C-3, the Council must adopt a resolution
 176 authorizing the issuance of bonds that meets the requirements of this
 177 Section.
- 178 (b) Each resolution under this Section must:
- 179 (1) describe the types of transportation infrastructure improvements
 180 and related costs to be financed; and
- 181 (2) specify the maximum principal amount of bonds to be issued.
- 182 (c) Each resolution may specify, or authorize the Executive by executive
 183 order to specify:
- 184 (1) the actual principal amount of bonds to be issued;
- 185 (2) the actual rate or rates of interest for the bonds;

- 186 (3) how and on what terms the bonds must be sold;
 187 (4) how, when, and where principal of, and interest on, the bonds
 188 must be paid;
 189 (5) when the bonds may be executed, issued, and delivered;
 190 (6) the form and tenor of the bonds, and the denominations in which
 191 the bonds may be issued;
 192 (7) how any or all of the bonds may be called for redemption before
 193 their stated maturity dates;
 194 (8) the nature and size of any debt service reserve fund;
 195 (9) the pledge of other assets in and revenues from the District to pay
 196 the principal of and interest on the bonds;
 197 (10) any bond insurance or any other financial guaranty or credit or
 198 liquidity enhancement of the bonds; and
 199 (11) any other provision consistent with law that is necessary or
 200 desirable to finance any transportation infrastructure
 201 improvement that has been identified in a Council resolution
 202 approved under Section 68C-4.
 203 (d) (1) The County [[covenants]] must covenant to levy ad valorem
 204 taxes against all assessable real and personal property in the
 205 District at a rate and amount sufficient in each year when any
 206 bonds are outstanding to:
 207 (A) provide for the payment of the principal of, interest on, and
 208 redemption premium if any, on the bonds;
 209 (B) replenish any debt service reserve fund established with
 210 respect to the bonds; and
 211 (C) provide for any other purpose related to the ongoing
 212 expenses of and security for the bonds.

- 213 (2) The County further [[covenants]] must covenant, when any bond
 214 is outstanding, to enforce the collection of all ad valorem taxes
 215 under this Chapter as provided by applicable law.
- 216 (e) All proceeds received from any issuance of bonds must be applied
 217 solely towards costs of the transportation infrastructure improvements
 218 listed in the resolution adopted under Section 68C-4, including the cost
 219 of issuing bonds and payment of the principal of, interest on, and
 220 redemption premium if any, on the bonds.
- 221 (f) The bonds issued under this Chapter:
- 222 (1) are special obligations of the County and do not constitute a
 223 general obligation debt of the County or a pledge of the County's
 224 full faith and credit or the County's general taxing power;
- 225 (2) may be sold in any manner, either at public or private sale, and on
 226 terms as the Executive approves;
- 227 (3) are not subject to Sections 10 and 11 of Article 31, Maryland
 228 Code; and
- 229 (4) must be treated as securities to the same extent as bonds issued
 230 under Section 9-1301 of Article 24, Maryland Code.
- 231 (g) To the extent provided by law, the bonds, their transfer, the interest
 232 payable on them, and any income derived from them, including any
 233 profit realized on their sale or exchange, must be exempt at all times
 234 from every kind and nature of taxation by the State of Maryland and any
 235 county or municipality in Maryland.
- 236 (h) The bonds must be payable from the fund required under Section 68C-5
 237 and any other asset or revenue of the District pledged toward their
 238 payment. When any bond is outstanding, the monies in the fund are
 239 pledged to pay the costs of any transportation infrastructure

240 improvement funded entirely or partly by the proceeds of the bonds,
241 including the costs of issuing the bonds and payment of the principal of,
242 interest on, and redemption premium if any, on the bonds. In addition
243 to ad valorem taxes, the bonds may be secured by any other asset in or
244 revenue generated in the District.

245 (i) Any ad valorem tax imposed under this Chapter must not be accelerated
246 because of any bond default.

247 **68C-7. Expiration of district.**

248 Any special taxing district created under this Chapter expires by operation of
249 law 30 days after the cost of all transportation infrastructure improvements identified
250 in a Council resolution approved under Section 68C-4, including all outstanding
251 bonds and cash advances made by the County, have been paid.

252 *Approved:*

253 *Nancy Floreen* 12/11/10
Nancy Floreen, President, County Council Date

254 *Approved:*

255 *Isiah Leggett* 12/9/10
Isiah Leggett, County Executive Date

256

257 *This is a correct copy of Council action.*

258 *Linda M. Lauer* 12/10/10
Linda M. Lauer, Clerk of the Council Date

Resolution No.: 16-1570
Introduced: October 5, 2010
Adopted: November 30, 2010

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council President at the Request of the County Executive

SUBJECT: White Flint Sector Plan Implementation Strategy and Infrastructure
Improvement List

Background

1. On March 23, 2010, the County Council, sitting as the District Council, adopted the White Flint Sector Plan, which approved a long range vision of transforming the Sector Plan area into a pedestrian-friendly transit-oriented urban setting.
2. The White Flint Sector Plan envisions conversion of Rockville Pike (MD Route 355) into a walkable boulevard with bus rapid transit along with road networks to the west and east of Rockville Pike that will provide effective alternatives to the highly congested Rockville Pike and connected blocks for development and connectivity.
3. The Plan's focus on access to Metro transit and redevelopment of the extensively built environment make White Flint a priority smart growth area.
4. The White Flint Sector Plan Area is expected to be a leading economic engine for the County.
5. To provide greater assurance of achieving this vision, the Plan identified a need for a public financing mechanism to fund a portion of the transportation infrastructure. This public financing mechanism anticipates assessments against property or other means of revenue generation and is intended to replace payments that projects redeveloping in the plan area would have to pay under current adequate public facilities requirements for local area transportation and policy area mobility reviews (LATR and PAMR).
6. The Council enacted Bill 50-10, creating the White Flint Special Taxing District to raise revenues to fund certain transportation improvements. The White Flint Special Taxing District will provide greater assurances of reliable and consistent revenue generation and materially greater funds for transportation improvements than would be anticipated from combined payments under otherwise applicable transportation development impositions, including LATR, PAMR, and transportation impact taxes.

7. The Council pursued certain goals in enacting Bill 50-10, including (a) creating a mechanism that will produce a reliable and consistent source of funds to secure debt service and pay for specific transportation infrastructure items; (b) imposing a manageable and sustainable payment for transportation infrastructure associated with new development in the White Flint Sector Plan area without unduly burdening property owners; and (c) setting and maintaining a tax rate that will allow development and businesses in White Flint to be competitive in attracting businesses to the area.
8. County Code Chapter 68C, enacted in Bill 50-10, establishes the White Flint Special Taxing District, authorizes the levy of an ad valorem tax to fund transportation infrastructure improvements in the District, and authorizes the issuance of bonds to finance the transportation infrastructure improvements.
9. Chapter 68C-4 requires a resolution that lists each transportation infrastructure improvement that is to be paid for by the District special tax, and the estimated costs of each improvement, which must include a contingency amount.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

To comply with the requirements of Chapter 68C and to successfully implement the White Flint Sector Plan, the Council takes the following steps and adopts the following implementation strategy to maximize acceptable growth in the Plan area and, to move from Stage 1 to Stages 2 and 3 of development envisioned in the Plan.

1. The County's goal is that the White Flint Special Taxing District special tax rate must not exceed 10% of the total tax rate for the District, except that the rate must be sufficient to pay debt service on any bonds that are already outstanding.
2. If the revenues from the special tax at the level in the preceding paragraph are not sufficient to afford additional infrastructure improvements as are necessary and ready for implementation to execute the White Flint Sector Plan, the County Executive, before recommending any increase to the tax rate above the level in the preceding paragraph, must consider alternative approaches, including the timing and scope of each infrastructure item and the structure of the financing plan to pay for it, and alternative revenue sources.
3. Without limiting the specificity of the preceding paragraph, before issuing debt secured by or intended to be paid by the White Flint Special Taxing District, the County Executive must carry out a feasibility or other study to assess whether repaying the debt will require a district tax rate that will exceed the 10% policy goal. If this analysis concludes that a rate higher than the 10% policy goal would be

required, the Council intends that either (a) the debt will not be issued at that time; or (b) the County will manage the debt issuance or repayment in a manner that will have the White Flint Special Taxing District rate stay within the 10% policy goal.

4. For the tax year that began on July 1, 2010, the total base real property tax rate in the White Flint Special Taxing District is \$1.027 per \$100 of assessed value.
5. For the tax year that begins on July 1, 2011, the rate of the White Flint Special Taxing District special tax is estimated to be \$0.103 per \$100 of assessed value. The Council will set the actual Special Taxing District tax rate when it sets other property tax rates in May 2011.
6. The specific transportation infrastructure improvements that will be financed by the White Flint Special Taxing District are listed in Exhibit A, along with an estimated cost for each improvement, including a contingency amount. The District will remain responsible for the actual cost of each designated infrastructure improvement, including any future cost increase.
7. If a gap results between the White Flint Special Taxing District revenue generation and the aggregate cost of those transportation projects to be funded by District revenues, and to assure adherence to the 10% policy rate goal and the prompt building of necessary infrastructure in the Sector Plan area, the Council policy is that, to promptly implement the Sector Plan, the Capital Improvements Program for this area will include forward funding or advance funds to design and build the following:
 - (a) that portion of Market Street from Old Georgetown Road to Woodglenn Road, including a bike lane;
 - (b) realignment of Executive Boulevard from Marinelli Road to MD Route 187;
 - (c) the redesign of Rockville Pike (these 3 items collectively may be referred to as "forward-funded items"); and
 - (d) up to \$15 million for other items assigned to the District in Plan stages 1 and 2.

Any forward funding or advance payment must be structured so that it does not count under applicable spending affordability guidelines.

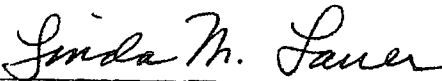
8. As used in the preceding paragraph, forward fund or advance funds means
 - (a) For items 7(a), (b), and (c), the County would include these items in the County Capital Improvements Program and fund them accordingly, and the District, subject to applicable provisions of Chapter 68C, would, on a dollar for dollar basis, without any interest accruing during the first 10 years after that Capital Improvements Program is approved, repay the County when every District improvement listed in Exhibit A has been

- funded either directly or through debt secured by the District. However, the District may repay the County earlier for any item to the extent that revenue generation exceeds the funds needed to pay for other improvements assigned to the District and no stage of development under the Sector Plan would be delayed; and
- (b) For item 7(d), the County would coordinate with planned private development and include infrastructure items necessary for that development to proceed in a timely fashion in the County Capital Improvements Program, and the District would reimburse the County for all costs incurred in connection with any advance, including interest costs.
9. The specified items subject to forward or advance funding have estimated costs shown in Exhibit A as follows:
- (a) The realignment of Executive Boulevard and Market Street from Old Georgetown Road to Woodglen Road is estimated to cost \$24.8 million, not including right-of-way which is assumed to be dedicated by affected property owners.
- (b) The redesign of Rockville Pike is estimated to cost \$7.7 million.
10. The County Executive will include the projects comprising the forward funding in his January 2011 Capital Improvements Program Amendments, with initial expenditures in fiscal years 2015, 2016, and beyond until completed.
11. Two items have been removed from District funding and must instead be paid for by County or other sources of public funds. These items are:
- (a) the second entrance to the White Flint Metro Station, which is estimated to cost \$35 million; and
- (b) the Nebel Street bike lane, which is estimated to cost \$9.2 million.
12. One item has been modified for District funding: Market Street between MD Route 355 and Station Street (bridge across White Flint Metro station), at an estimated added cost of \$5.2 million and a total cost of \$7.2 million.
13. The County Council intends that the annual joint State-County transportation priority letter would include a request to the Maryland Department of Transportation that the White Flint Sector Plan Area should receive a Transit Oriented Development designation, but also note that granting this status to the White Flint area does not mean that transportation infrastructure items in that area would supersede any other items in the priority letter.

14. The Council intends to amend the law authorizing the County transportation impact tax to create a White Flint impact tax district and to set the tax rate in that district at \$0. The Executive intends to submit a Bill to the Council to do this. The Council also intends that the transportation impact tax rate for the remaining buildings in LCOR Inc.'s North Bethesda Center development be set at \$0. This development had been approved under the former County Growth Policy's Alternative Review Procedure for Metro Station Policy Areas, under which its transportation impact tax rate is 75% of the applicable County-wide rate. This action would also be included in the transportation impact tax amendments bill.

15. The Council intends to fund, in the White Flint Special Taxing District Capital Improvements Program referred to in paragraph 10, to the extent legally allowable, personnel costs and other expenses of the development coordinator for the White Flint planning area that the Executive is required to designate under County Code §2-25(c), enacted in Council Bill 1-10. State law (including Maryland Code Article 24, §9-1302(a)(2), incorporating §9-1301(a)(3)(viii), and §9-1303(a)(2) and §9-1303(e)) authorizes funding of these costs by the District.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council

Approved:

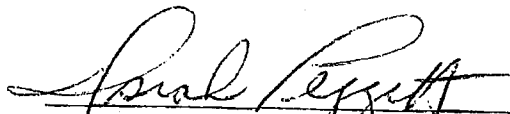

Isiah Leggett, County Executive

EXHIBIT A

WHITE FLINT SPECIAL TAXING DISTRICT
DISTRICT-FUNDED IMPROVEMENTS

Improvement Description	Estimated Cost
Old Georgetown Road (MD 187): Nicholson La./Tilden La. to Executive Blvd.	\$17,774,000
Old Georgetown Road (MD 187): Hoya St. to Rockville Pike (MD 355)	1,789,000
Hoya Street (formerly Old Old Georgetown Rd.): Executive Blvd. to Montrose Pkwy.	15,344,000
Rockville Pike (MD 355): Flanders Ave. to Hubbard Drive	66,961,000
Nicholson Lane: Old Georgetown Rd. (MD 187) to CSX tracks	12,942,000
Executive Blvd. Ext.: Marinelli Rd. to Old Georgetown Rd (MD 187)	23,500,000
Main St./Market St.: Old Georgetown Rd. (MD 187) to Executive Blvd. Extended (Bikeway)	1,713,000
Main St./Market St.: Old Georgetown Rd. (MD 187) to Executive Blvd. Ext.	4,933,000
Main St./Market St.: Executive Blvd. to Rockville Pike (MD 355)	4,661,000
Market Street from Maryland Route 355 to Station Street	7,200,000
Executive Blvd. Ext. (East): Rockville Pike (MD 355) to Nebel St. Ext. (South)	16,700,000
Nebel St. Ext. (South): Nicholson La. to Executive Blvd. Ext. (East)	8,200,000
TOTAL	181,717,000

Attachment A: Planning Board Amendment to Subdivision Staging Policy

TP2.2.1 Geographic Areas

[Any proposed development located in the White Flint Metro Station Policy Area is exempt from Policy Area Mobility Review if that development, as a condition of approval of a preliminary plan of subdivision, will be required to provide substantial funds to a new development district, new impact tax or special taxing district, or another comprehensive financing mechanism, to finance transportation improvements for that Policy Area. However, the traffic impact of any development in that Policy Area must be considered in any Policy Area Mobility Review calculation for any development that is not exempt under this paragraph.]

TL 2 Metro Station Policy Area LATR Standards

[Any proposed development located in the White Flint Metro Station Policy Area is exempt from Local Area Transportation Review if the development will be required to provide substantial funds to new development district or new impact tax district to finance master-planned public improvements in that Policy Area. However, the traffic impact of any development in that Policy Area must be considered in any Local Area Transportation Review calculation for any development elsewhere.]

TA 6 Alternative Review Procedure for the White Flint Policy Area

TA 6.1 Exemption from PAMR and LATR

Effective July 1, 2011, an applicant for APF for any development that will be built within the White Flint Special Taxing District established under County Code Chapter 68C is exempt from TP Policy Area Mobility Review and TL Local Area Transportation Review.

TA 6.2 Effect on development outside of the White Flint Special Taxing District

The traffic impact of such development within the White Flint Special Taxing District must be considered in any TP Policy Area Mobility Review or TL Local Area Transportation Review calculations for any development outside the White Flint Special Taxing District.

TA 6.3 Planning Board to establish staging allocation guidelines

The Planning Board will approve guidelines establishing the protocol for allocating staging capacity under the White Flint Sector Plan.

TA 6.4 Staging Allocation Approval

A Staging Allocation Approval is a resolution from the Planning Board granting an applicant staging capacity under the White Flint Sector Plan. The contents of a Staging Allocation Approval, the effect of a Staging Allocation Approval, and any associated protocols will be established in Planning Board guidelines.

TA 6.5 Relationship to adequate public facilities in White Flint Policy Area

An applicant within the White Flint Policy Area must obtain a Staging Allocation Approval from the Planning Board. The applicant must submit a valid Staging Allocation Approval to the Department of Permitting Services with any application for a footing to grade or core and shell building permit. A Staging Allocation Approval and an APF approval have separate validity periods, and the expiration of one does not affect the validity of the other.

TA 6.5.1 Relationship to adequate public facilities in White Flint Special Taxing District

To the extent that the Department of Permitting Services is required under law to validate adequate public facilities for transportation, the Staging Allocation Approval shall satisfy this determination in the White Flint Special Taxing District.

APPENDIX 2:
STAGING ALLOCATION REQUEST FORM



Development Applications and Regulatory Coordination Division
Montgomery County Planning Department
Maryland-National Capital Park and Planning Commission

Effective: July 13, 2011

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

www.montgomeryplanning.org

Phone 301.495.4595
Fax 301.495.1306

STAGING ALLOCATION REQUEST FORM

SAR Number	SAR _____	Lead Reviewer	_____
Date Final Application Received	_____	Planning Board Date	_____

An application will not be accepted for review unless all required information is provided. If an item requires more space, attach a separate sheet.

Plan Name (most recently approved): _____

Approval Requested:

Planning Board Level

Staff Level

Associated with M-NCPPC Approved Plan

SAR Exemption

Building Permit Only*

No-Net Draw on Capacity

* Provide Property Tax ID _____

Development Plan Approvals Pre-Date Sector Plan Approval

Previous Plan Approvals: (enter information, if applicable)

Sketch Plan:

Number _____ Name _____

Preliminary Plan:

Number _____ Name _____

Site Plan Name:

Number _____ Name _____

Does Site Plan cover the entire Preliminary Plan property boundary? Yes No

Other Plans:

Applicant: (Owner or Owner's Designee - check applicable; written verification required if not the owner.)

Contact Person _____ Company Name _____

Street Address _____

City _____ State _____ Zip Code _____

Telephone Number _____ Fax Number _____ E-mail _____

Use page 4 to provide additional contacts' information, if desired.

Demolition Credit Plan* _____
 Number

Demolition Credit Accounting Worksheet – Dwelling Units

Existing DU Approved for Demolition
 DU

Buildings Actually Demolished**

1.									
2.	<i>Demo Permit #</i>	<i>Street #</i>	<i>Prefix</i>	<i>Street Name</i>	<i>Street Type</i>	<i>Suffix</i>	<i>Residential Sq.Ft.</i>	<i>DU</i>	
3.	<i>Demo Permit #</i>	<i>Street #</i>	<i>Prefix</i>	<i>Street Name</i>	<i>Street Type</i>	<i>Suffix</i>	<i>Residential Sq.Ft.</i>	<i>DU</i>	
4.	<i>Demo Permit #</i>	<i>Street #</i>	<i>Prefix</i>	<i>Street Name</i>	<i>Street Type</i>	<i>Suffix</i>	<i>Residential Sq.Ft.</i>	<i>DU</i>	
5.	<i>Demo Permit #</i>	<i>Street #</i>	<i>Prefix</i>	<i>Street Name</i>	<i>Street Type</i>	<i>Suffix</i>	<i>Residential Sq.Ft.</i>	<i>DU</i>	
6.	<i>Demo Permit #</i>	<i>Street #</i>	<i>Prefix</i>	<i>Street Name</i>	<i>Street Type</i>	<i>Suffix</i>	<i>Residential Sq.Ft.</i>	<i>DU</i>	
7.	<i>Demo Permit #</i>	<i>Street #</i>	<i>Prefix</i>	<i>Street Name</i>	<i>Street Type</i>	<i>Suffix</i>	<i>Residential Sq.Ft.</i>	<i>DU</i>	
	<i>Demo Permit #</i>	<i>Street #</i>	<i>Prefix</i>	<i>Street Name</i>	<i>Street Type</i>	<i>Suffix</i>	<i>Residential Sq.Ft.</i>	<i>DU</i>	
							Total Res Sq.Ft.	Total DU	

Previously Taken Demolition Credits

1.		
2.	<i>SAR Number</i>	<i>DU</i>
3.	<i>SAR Number</i>	<i>DU</i>
4.	<i>SAR Number</i>	<i>DU</i>
5.	<i>SAR Number</i>	<i>DU</i>
6.	<i>SAR Number</i>	<i>DU</i>
7.	<i>SAR Number</i>	<i>DU</i>
	<i>SAR Number</i>	<i>DU</i>
		Total DU

Remaining Balance
 Proposed Demo Credits to be taken with this SAR
 Remaining Balance should this SAR be Allocated
 DU

*If the Site Plan covers less than the Preliminary Plan boundary, use the Preliminary Plan.
 **Attach proof of demolition if credit taken.

Demolition Credit Accounting Worksheet – Non-Residential Square Feet

Existing Non-Residential Sq.Ft. Approved for Demolition

Buildings Actually Demolished**

1.								
2.	Demo Permit #	Street #	Prefix	Street Name	Street Type	Suffix		Sq.Ft.
3.	Demo Permit #	Street #	Prefix	Street Name	Street Type	Suffix		Sq.Ft.
4.	Demo Permit #	Street #	Prefix	Street Name	Street Type	Suffix		Sq.Ft.
5.	Demo Permit #	Street #	Prefix	Street Name	Street Type	Suffix		Sq.Ft.
6.	Demo Permit #	Street #	Prefix	Street Name	Street Type	Suffix		Sq.Ft.
7.	Demo Permit #	Street #	Prefix	Street Name	Street Type	Suffix		Sq.Ft.
	Demo Permit #	Street #	Prefix	Street Name	Street Type	Suffix		Sq.Ft.

Total Sq.Ft.

Previously Taken Demolition Credits

1.		
2.	SAR Number	Sq.Ft.
3.	SAR Number	Sq.Ft.
4.	SAR Number	Sq.Ft.
5.	SAR Number	Sq.Ft.
6.	SAR Number	Sq.Ft.
7.	SAR Number	Sq.Ft.
	SAR Number	Sq.Ft.

Total Sq.Ft.

Remaining Balance

Proposed Demo Credits to be taken with this SAR

Remaining Balance should this SAR be Allocated

Sq.Ft.
Sq.Ft.
Sq.Ft.

** Attach proof of demolition if credit taken.

Addresses for buildings(s) associated with the SAR

A.	Street Number	Prefix	Street Name	Street Type	Suffix
B.	Street Number	Prefix	Street Name	Street Type	Suffix
C.	Street Number	Prefix	Street Name	Street Type	Suffix
D.	Street Number	Prefix	Street Name	Street Type	Suffix
E.	Street Number	Prefix	Street Name	Street Type	Suffix

Allocation Worksheet

I. Dwelling Units

	Building A.	Building B.	Building C.	Building D.	Building E.	SAR Total
a. Requested Residential Sq.Ft.						
b. Requested DU						
c. MPDU Approved						
d. MPDU Credit						
e. Demolition Credit Applied						
f. Net Allocation						

II. Non-Residential Square Feet

	A.	B.	C.	D.	E.	SAR Total
a. Requested						
b. Demolition Credit Applied						
c. Net Allocation						

Applicant hereby acknowledges that he/she is the sole owner of the subject property, or is otherwise legally authorized to represent the owner(s) (written verification provided), that all required information for the submission of a Staging Allocation Request has been included in this application, and that to the best of his/her knowledge, information, and reasonable belief, the information and data are accurate.

Signature of Applicant(s) (Owner or Owner's Representative)

Signature

Date

Name (Type or Print)

Owner (If Applicant is a representative or contract purchaser, list owner here)

Name _____ Contact Person _____
Street Address _____
City _____ State _____ Zip Code _____
Telephone Number _____ Fax Number _____ E-mail _____

Architect

Name _____ Contact Person _____
Street Address _____
City _____ State _____ Zip Code _____
Telephone Number _____ Fax Number _____ E-mail _____

Engineer

Name _____ Contact Person _____
Street Address _____
City _____ State _____ Zip Code _____
Telephone Number _____ Fax Number _____ E-mail _____

Attorney

Name _____ Contact Person _____
Street Address _____
City _____ State _____ Zip Code _____
Telephone Number _____ Fax Number _____ E-mail _____

Other: _____

Name _____ Contact Person _____
Street Address _____
City _____ State _____ Zip Code _____
Telephone Number _____ Fax Number _____ E-mail _____

Checklist

See Submission Requirements for more details about the items below:

1. General Information
 - 1.1 Completed application form and checklist.
2. Supporting Drawings and Documents
 - 2.1 Building Location Plan Drawing
 - a. Plan base is the most recently approved development plan
 - b. Buildings included in the SAR are highlighted
 - c. Address of each building included in the SAR is noted on the plan drawing
 - 2.2 All Demolition Permits for Demolition Credit taken
 - 2.3 Photos or other evidence to verify that all buildings for which Demolition Credit Taken have been demolished
 - 2.4 Copy of the Planning Board resolution approving any plans associated with the SAR (preliminary, site, etc.)
 - 2.5 Written verification that applicant (if not the property owner) is legally authorized to submit this application on behalf of a property owner, if applicable.

No. Copies	Applicant	M-NCPPC Staff
1		
1		
1ea		
1ea		
1ea		
1		