



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 12-115
Sketch Plan No. 320120040
Project Name: White Flint Mall Redevelopment
Date of Hearing: October 25, 2012

JAN 17 2013

RESOLUTION

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

WHEREAS, on February 15, 2012, White Flint Mall, LLLP and White Flint Associates, LLC ("Applicant"), filed an application for approval of a sketch plan for construction of a maximum of 5,220,565 square feet of development, comprising up to 2,345,280 square feet of non-residential uses, and up to 2,875,285 square feet of residential uses on 45.3 gross acres of land that is zoned: CR-4 C 3.5 R 2.0 H 250; CR-3 C 1.5 R 2.5 H 200; and CR 1.5 C 0.25 R 1.5 H 50, located in the southeastern quadrant of Rockville Pike (MD 355) and Nicholson Lane ("Property" or Subject Property") within the White Flint Sector Plan ("Master Plan") area; and

WHEREAS, the sketch plan application was designated Sketch Plan No. 320120040, White Flint Mall Redevelopment ("Sketch 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 October 12, 2012, setting forth its analysis of and recommendation for approval of the Application subject to conditions ("Staff Report"); and

WHEREAS, on October 25, 2012, 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, on October 25, 2012, the Planning Board voted to approve the Application subject to certain binding elements and conditions, on the motion of Commissioner Anderson, seconded by Commissioner Presley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Sketch Plan No. 320120040, White Flint Mall Redevelopment, for construction of a maximum of 5,220,565 square feet of development comprising up to 2,500,000 square feet of non-residential uses, and up to 3,000,000 square feet of residential uses on the Subject Property, including as binding elements under Section 59-15.43(b)(4)(B) the

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPCC Legal Department

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Date 12/20/12

maximum density and heights, general location and extent of public use space, public benefits, and phasing program as shown on the sketch plans, subject to the conditions below and modification at Site Plan per the restrictions enumerated in Section 59-C-15.43(d), subject to the following conditions: ¹

1. Density

The development is limited to a maximum total of 5,220,565 square feet of development, including a maximum of 3,000,000 square feet of residential uses and a maximum of 2,500,000 square feet of non-residential uses. The final maximum number of residential units and amount of non-residential development will be determined at preliminary plan, and subsequent site plans will establish the final amount of residential and non-residential uses allowed. Applicant must provide a minimum of 12.5 percent of the residential dwelling units as moderately priced dwelling units.

2. Height

The development is limited to the maximum heights as illustrated in the July 2, 2012 revised Sketch Plan; and in no case may they exceed the limits established by the respective zones.

3. Incentive Density

The development must be constructed with the public benefits listed below, unless modifications are made under Section 59-C-15.43(c); total points must equal at least 100 points and be chosen from at least four categories as required by Section 59-C-15.82; the requirements of Division 59-C-15 and the CR Zone Incentive Density Implementation Guidelines must be fulfilled for each public benefit provided. At site plan review, the Applicant must demonstrate how each public benefit meets the Zoning Ordinance and Guideline requirements and provide final point calculations.

1. Transit proximity;
2. Major public facilities with park dedication and school site;
3. Connectivity and Mobility achieved through public parking, advanced dedication, wayfinding, and through block connection;
4. Diversity of Uses and Activities achieved through small business opportunities;
5. Quality Building and Site Design achieved through structured parking, public art and open space, and exceptional design; and
6. Protection and Enhancement of the Natural Environment achieved through the purchase of Building Lot Terminations ("BLTs"), vegetated areas, and vegetated walls.

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

4. Public Facilities

Applicant must dedicate the park in accordance with the phasing program, and at preliminary plan review, the "Potential Elementary School Site" indicated on the Sketch Plan must be conveyed in whole or part, as determined by the Planning Board under the Adequate Public Facilities findings required by the Subdivision Regulations, Chapter 50 and the provisions of the CR Zone.

5. Public Use Space

The five public use spaces (central plaza, gateway plaza, north and south gateway plazas and neighborhood plaza) must be provided approximately as illustrated in the Sketch Plan, and finalized by subsequent site plans.

6. Building Lot Terminations ("BLTs")

The Applicant must provide proof of purchase and/or payment for the required 10.58 BLTs, or 3.52 BLTs per phase, prior to the release of the first building permit for core and shell construction.

7. Moderately Priced Dwelling Units ("MPDUs")

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

8. Environment

At preliminary and site plan review, the Applicant must complete the following:

- a. Implement stormwater management strategies with Environmental Site Design methods to the maximum extent practicable;
- b. Comply with Forest Conservation Law and the Planning Board's Environmental Guidelines; and
- c. Demonstrate at site plan how the landscape plan will contribute to achieving the Master Plan tree canopy goal of 20 percent.

9. Transportation

At preliminary and site plan review, the Applicant must address the following issues:

- a. 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 District ("TMD") and assist in achieving and maintaining the non-auto driver mode share goals recommended in the Master Plan. The Traffic Mitigation Agreement must be executed prior to release of any building permits.
- b. Provide a 6-foot-wide right-of-way dedication along Rockville Pike.
- c. The final extent, delineation and alignment of any private rights-of-way will be determined at the time of preliminary plan. Easements for private streets must be approved by the Planning Board and MCDOT, and must include, at a minimum, provision for the following:

- 1) Public easements must be granted along all these master-planned roads as approved by MCDOT and the Montgomery County Department of Permitting Services (“DPS”) for connectivity and consistency with the Master Plan.
 - 2) Master-planned roadways B-4, B-7 and B-17, and the east-west and north-south Local Streets, must comply with the County’s Road Code standards for similar public roads, as well as the Master Plan, and the Master Plan’s Urban Design Guidelines.
 - 3) Installation of public utilities must be permitted within the public easement.
 - 4) These master-planned roads must not be closed for any reason unless approved by MCDOT.
 - 5) Public easements must be volumetric to accommodate uses above and below the designated easement area.
 - 6) Public easements must grant the County the right to construct and install appropriate traffic control devices, If not required to be installed by the Applicant.
 - 7) Maintenance and Liability Agreements for each easement area must be entered into between the Applicant and MCDOT. These Agreements must identify the Applicant’s responsibility to maintain all the improvements within the easement areas in good fashion and in accordance with applicable laws and regulations.
- d. Submit documentation to support proposing wider rights-of-way for business streets B-5 and B-17, instead of the master-plan recommended rights-of-way.
- e. Provide bicycle parking spaces, as required by the Zoning Ordinance, based on the final approved densities and uses.
- f. Issues detailed in the MCDOT letter dated October 5, 2012.

10. Phasing Program

The Applicant must construct the development in accordance with the phasing program approved by the Planning Board at preliminary plan, unless a modification is subsequently approved by the Planning Board at site plan.

11. Future Coordination for Preliminary and Site Plan

In additional to any other requirements of Chapter 50, Subdivision Regulations, and Chapter 59, Zoning Ordinance, at the time of preliminary and site plan review, the Applicant must address the following issues:

- a. The dedication or reservation of the elementary school site.
- b. Undergrounding of wet and dry utilities and Montgomery County Fire and Rescue access details.
- c. Consideration of ways to improve the central public use space and minimize shadows on public use spaces.
- d. Develop a Placemaking and Amenity Plan that shows the anticipated amenities and landscaping for each phase of the development. The Placemaking and Amenity Plan should address streetscape details, including furniture and street trees; art work; lighting and other items that will be developed for the public use spaces; and public and private streets.
- e. Implement the recreation loop extensions per the Master Plan recommendations.
- f. The Applicant must submit a record plat for each phase of this development that provides specific details for all public and private streets and lots.
- g. The Applicant must coordinate with the Washington Metropolitan Area Transit Authority ("WMATA") regarding the use of the WMATA tunnel easement along Rockville Pike.
- h. The Applicant must comply with the White Flint Urban District requirements, if established by Montgomery County Council.
- i. Public art program review by the Public Arts Trust Steering Committee.
- j. Compliance with the Planning Board's Recreation Guidelines.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record and all applicable elements of Section 59-C-15.43(c), the Planning Board finds that as conditioned herein the elements of the Sketch Plan are appropriate in concept and appropriate for further review at site plan. Specifically, the Planning Board FINDS the Sketch Plan:

1. *Meets the objectives, general requirements, and standards of Division 59-C-15:*

- a. The Sketch Plan meets the objectives of Section 59-C-15.2 quoted below; specifically, the development as approved will:

- i. "Implement the policy recommendations of the applicable master and sector plans" by providing residential and non-residential development, a new street network, bikeway network, and public facilities recommended in the Master Plan.
 - ii. "Target opportunities for redevelopment of single-use areas and surface parking lots with a mix of uses" by redeveloping a commercial shopping mall, an office building, and surface parking with a high intensity mixed use residential and non-residential development and below grade parking.
 - iii. "Reduce dependence on the automobile by encouraging development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities" by providing a reduced amount of parking for the development; by providing different housing types with high-rise and mid-rise residential development; by integrating bikeways into the development; and by incorporating an expanded park and a new school site into the development.
 - iv. "Allow a mix of uses, densities, and building heights appropriate to various contexts to ensure compatible relationships with adjoining neighborhoods" by developing residential and non-residential uses and densities that are allowed in the CR zone; designing with higher building heights of up to 250 feet along Rockville Pike and the central portion of the development; and reducing the heights adjacent to the existing single-family residential community and park.
 - v. "Allow an appropriate balance of employment and housing opportunities" by providing a majority of the development as residential, while providing office and retail development and a hotel as encouraged by the Master Plan.
 - vi. "Provision of public benefits that will support and accommodate density above the standard method limit" as more specifically set forth in finding no. 5 herein, meeting the requirements of the Zoning Ordinance and standards of the Implementation Guidelines.
- b. The Sketch Plan meets the general requirements of Section 59-C-15.6 as follows:
- i. *Section 15-C-15.61 – Master Plan and Design Guidelines Conformance.* The Sketch Plan:
 - Redevelops a commercial shopping mall, an office building, and surface parking into new, vertical, residential and non-residential

- development; providing new public amenities and facilities, including the park and school site, and new public use spaces (page 47).
 - Creates building heights that are taller along Rockville Pike and the central area, while transitioning to lower heights adjacent to the existing single-family residential community (page 47).
 - Provides a pedestrian promenade along Rockville Pike and bikeways (pages 18 & 56).
 - Establishes walkable blocks and street network throughout the development (pages 10 & 47).
 - ii. *Section 15-C-15.62 – Bicycle Parking Spaces and Commuter Shower/Change Facility.* The Sketch Plan provides at least the minimum required number of bicycle parking spaces for residents and visitors and non-residential spaces to be determined by the final unit count approved with the site plan.
 - iii. *Section 15-C-15.63 – Parking.* The Sketch Plan provides parking spaces between the minimum required and maximum allowed, to be determined by the final unit count for residents and visitors and non-residential spaces approved with the site plan.
 - iv. *Section 15-C-15.64 – Development Standards.* The Sketch Plan meets the development standards of Section 59-C-15.7, as shown in the Data Table below:

Project Data Table

Development Program		
Gross Tract Area		
Zone 1: CR-3 C 1.5 R 2.5 H 200	NA	1,329,553 sq. ft.
Zone 2: CR-3 C 1.5 R 2.5 H 200	NA	1,329,553 sq. ft.
Density		
Zone 1	815,680 sq. ft.	
Zone 2	815,680 sq. ft.	
Zone 3	661,753 sq. ft.	
Non-residential (C)		
Zone 2	1,994,329 sq. ft.	
Zone 3	110,292 sq. ft.	
TOTAL	2,818,341 sq. ft.	2,500,000 sq. ft.

Zone 1	407, 840 sq.ft.	295,050 sq.ft.
Zone 3	661,753 sq.ft.	329,675 sq.ft.
Building Height		
Zone 2	200 feet	70-200 feet
Setbacks		
Parking Spaces		
Maximum Required	13, 776 parking spaces	9, 300 parking spaces
Residential Amenity Space		Determined at Site Plan

2. *Furtheres the recommendations and objectives of the Approved and Adopted (2010) White Flint Sector Plan ("Master Plan"):*

The Master Plan provides several recommendations for the White Flint Mall property. The Master Plan states that "new vertical residential and non-residential uses will transform this property. New public amenities and facilities, public uses, neighborhood greens, and an expanded road network will create walkable blocks. Using the WMATA tunnel easement as a pedestrian promenade will enhance this block and improve pedestrian access. This property could accommodate an elementary school. Development along Rockville Pike may be denser and the buildings taller than the eastern segment of the property" (p. 47).

The Sketch Plan achieves these goals by providing the densities, amenities, and circulation networks recommended. The Sketch Plan provides a location for the elementary school, but also provides an alternative with residential development if an alternative site is selected for the school.

The Sketch Plan fulfills the land use mix objective because the blocks between Nebel Street Extended and the residential community and neighborhood park reflect a greater proportion of residential than commercial uses, to allow for a gradual transition to the

more intense residential and commercial uses in the center and northern portion of the Property. (p. 47).

Density and Building Height

The highest density is located at the intersection of Rockville Pike and Executive Boulevard Extended. Building heights between 200-250 feet are along Rockville Pike; 100-200 feet within the central area of the development; and 50-70 feet adjacent to the existing residential community and neighborhood park.

Transportation

The Sketch Plan street network is consistent with the Master Plan's public and private street network. Two new public commercial business district streets, Executive Boulevard Extended (B-7) and Nebel Street Extended (B-5), both 80 foot right-of-way streets, are provided. The Sketch Plan illustrates Rockville Pike with the expanded right-of-way along with pedestrian and bikeway improvements.

The Sketch Plan also illustrates several private streets throughout the development, including White Flint Way, White Flint Path and Huff Court Extended (White Flint Boulevard). These streets are consistent with the Master Plan recommendations.

Bikeway Network

A Shared Use Path (LB-5) is recommended for Rockville Pike and a Dual Shared Use Path-Bike Lane is recommended for Nebel Street Extended (DB-13). The Sketch Plan illustrates the roadway cross-section that includes both bikeways that are recommended in the Master Plan. At preliminary plan, both bikeways will be defined.

Recreation Loop Extensions

The Sketch Plan shows recreation loop extensions for Executive Boulevard Extended and two other segments consistent with the Sector Plan recommendation. At site plan, details for the loop extensions will be defined.

Pedestrian Promenade

The Sketch Plan illustrates a pedestrian promenade along the WMATA tunnel easement, which is parallel to Rockville Pike. The Master Plan states that "promenades are designated for those streets where a distinctive streetscape lends character and importance to the pedestrian experience" and "a portion of the proposed Rockville Pike Promenade exists along the Nuclear Regulatory frontage and should be extended north and south to create a unique walking environment" (p.18). At site plan, the promenade will be delineated, including coordination with Washington Metropolitan Area Transit Authority (WMATA) to determine the tree species and other details for the promenade.

Public Use Space

The Sketch Plan shows several public use spaces that exceed the minimum percentage required for the CR zone and the Master Plan's recommendation. A large central plaza defines the core of development along with four other public use spaces, including one that is adjacent to the White Flint Neighborhood Park and another at Rockville Pike and Security Lane Extended.

Public Facilities

A public park, the expansion of White Flint Park Neighborhood Park, and a new elementary school site are recommended in the Master Plan for the Property. The Sketch Plan is conditionally approved with the park dedication and some form of conveyance of the school site to Montgomery County Public Schools as public benefits consistent with the Master Plan recommendations. The Sketch Plan shows alternative development of the school site for multi-family residential use in the event one of the alternative locations identified within the Master Plan area is selected for the school.

Environment

The Master Plan's two main environmental recommendations are the minimization of carbon emissions and creating a livable urban environment by improving air and water quality. These recommendations will be accomplished through several measures shown on the Sketch Plan including a street network with sidewalks and bikeways; minimization of parking; several buildings with green roofs; micro-bioretenion areas; street trees; and suspended pavement a network of bikeways and sidewalks; planting of trees and other vegetation; and environmental site design techniques to manage stormwater management.

Pedestrian Promenade

The Sketch Plan provides a promenade along Rockville Pike using the WMATA tunnel easement. The Master Plan states that "promenades are designated for those streets where a distinctive streetscape lends character and importance to the pedestrian experience" and "a portion of the proposed Rockville Pike Promenade exists along the Nuclear Regulatory frontage and should be extended north and south to create a unique walking environment" (p.18).

Recreation Loop Extensions

The Sketch Plan shows recreation loop extensions for Executive Boulevard extended and two other segments consistent with the Master Plan recommendations.

White Flint Design Guidelines

The Planning Board (2010) Approved White Flint Urban Design Guidelines provide recommendations streets, open space and building recommendation for each district in the Master Plan. The Sketch Plan achieves Design Guidelines recommendations with the provision of two mid-block connections from Rockville Pike; five public use spaces throughout the development; and transitional areas to the existing residential community. Matters requiring further review will be considered, as appropriate, during preliminary and site plan review and are addressed specifically in the conditions of approval.

3. Achieves compatible internal and external relationships between existing and proposed nearby buildings, open space, and uses;

North Bethesda Gateway (Sketch Plan No. 320110020) is approved immediately north of the Subject Property. Compatibility is achieved through the following:

- Building heights are similar with North Bethesda Gateway;
- Continuation of the Rockville Pike pedestrian promenade along the Subject Property's frontage;
- Provision of several public use spaces throughout the Sketch Plan;
- A landscape buffer between 50 to 70 feet is also provided along the southern Property boundary to ensure a compatible relationship between the existing single-family dwellings and the new development.

A neighborhood park is located to the east of the Subject Property to which this Sketch Plan is dedicating additional land.

4. Provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading;

Circulation, parking, and loading for cars, trucks, pedestrians, and bicyclists are well designed or enhanced by the Sketch Plan. Specifically, this Sketch Plan provides:

- An overall transportation and pedestrian network that links all portions of the development;
- Improved sidewalks, public use spaces and amenities for pedestrians and bicyclists;
- A comprehensive bikeways system;
- Underground locations of most parking, service and loading areas.

5. Includes public benefits that support the approved incentive density;

To achieve the incentive density for this development, the Applicant must provide public benefits from four of seven categories that must total at least 100 points. The public benefit categories the Applicant proposed and the Board approved are as follows:²

Category	Public Benefit	Points Allowed	Points Requested	Points Approved at Sketch Plan
Major Public Facility	Public Park	12	12	12
Major Public Facility	Elementary School Site	70	0	0
Connectivity and Mobility	Through block connection	20	20	14
	Advanced Dedication	30	16	16
Diversity of Uses and Activities	Small Business Opportunities	20	20	20
	Public Art	15	15	10
	Public Open Space	10	10	10
	Exceptional Design	10	10	5
	Vegetated Wall	10	10	5

² Under §59-C-15.43(c)(5), the Applicant proposed, and the Board approved an outline of public benefits that supports the requested incentive density. These public benefits will be refined at site plan review.

Requested Incentive Density Points	410	191	160
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The discussion of each of the proposed and approved public benefits below demonstrates how the Application addresses the general incentive and density considerations required by Section 59-C-15.83 to:

- a. Take into consideration “the recommendations, objectives, and priorities of the applicable master or sector plan”;
- b. Meet “the CR Zone Incentive Density Implementation Guidelines and any design guidelines adopted for the applicable master plan area”;
- c. Are appropriate for “the size and configuration of the tract”;
- d. Adequately address “the relationship of the site to adjacent properties”;
- e. Consider “the presence or lack of similar public benefits nearby”; and
- f. Provide “enhancements beyond the elements listed in the individual public benefit descriptions or criteria that increase public access to or enjoyment of the benefit” which will be developed and assessed during preliminary and site plan reviews.

Public Facilities

A public park, the expansion of White Flint Park Neighborhood Park, and a new elementary school site are recommended in the Master Plan for the Property. The Sketch Plan is conditionally approved with the park dedication and some form of conveyance of the school site to Montgomery County Public Schools as public benefits consistent with the Master Plan recommendations. The Sketch Plan shows alternative development of the school site for multi-family residential use in the event one of the alternative locations identified within the Master Plan area is selected for the school. Density is available with this Sketch Plan so that it could support the residential development shown on the four acre school site in other areas of Property.

Transit Proximity

The Property is between ¼ mile and 1 mile from the existing White Flint Metro Station entrance. Therefore, the Application is eligible for level one transit service incentive points. The Planning Board approves the full 24 points for this development since a majority of the Property is within ¾ mile from the Metro Station entrance.

Through block connection

The Applicant proposed 20 points for through block connections that divide the development block into smaller segments allowing for better pedestrian access and

light into a block. For example, there are two through-block connections along Rockville Pike. Since this is a basic form of urban design, the Planning Board is only approving 14 points for the first two phases of development where through block connections are more applicable.

Public Parking

The Applicant proposed 10 points for providing publicly available parking. Of the 9,300 total parking spaces; 5,781 spaces are available to the public. The Planning Board approves the requested points since publicly available parking is critical component towards the redevelopment in White Flint. Furthermore, there is no parking lot district or publicly owned parking in the Master Plan area.

Advanced Dedication

Up to 30 points may be granted for a reservation for dedication for master-planned rights-of-way in advance of a preliminary or site plan application. The Applicant proposed 16 points for advance dedication for segments of Rockville Pike, Executive Boulevard Extended and Nebel Street Extended. The Planning Board approved the proposed points since these rights-of-way are important towards creating the public street network recommended in the Master Plan. The specific dedications will be determined at preliminary plan.

Wayfinding

The Applicant proposed the maximum 10 points for a wayfinding system. The Planning Board approved 5 points since it will provide directional signage to the local park, elementary school site, bike routes, the Metro Station and future transit along Rockville Pike. At site plan, an additional 5 points may be granted for this public benefit. And given the size of the proposed development, a wayfinding system is appropriate. The final design for the system will be determined at site plan.

Small Business Opportunities

The Applicant proposed 20 points for small business opportunities. The retail component of the development is significant; therefore, small business opportunities will add diversity to the development. The Planning Board approved the 20 points because they will contribute towards supporting local services as recommended in the Master Plan (p.25). These points may be reduced at site plan based on the final number of small retail bays in the final design.

Structured Parking

The Applicant proposed 19 points for structured parking. Since most of the proposed parking is below grade, the Planning Board approved the 19 points since it creates a better overall urban design for the development.

Public Art

Up to 15 points may be granted for installing public art reviewed by the Arts and Humanities Council. The criteria for public art includes, achieving aesthetic excellence and ensuring an appropriate interaction between the art and the architectural setting in terms of scale, materials, and context. The Planning Board approved 10 points because public art defines public spaces and implements the Master Plan recommendation that "art in public places adds value to development and provides an enhanced experience for residents and visitors. New development should consider integrating art into public use space" (p.63). At site plan, an additional 5 points may be granted based on submission by the Applicant.

Public Open Space

Up to 20 points may be granted for providing open space above the minimum required by the zone. The Planning Board approved the requested 10 points because the five distinct public open spaces, including the 1.7 acre central plaza, achieve the Design Guidelines criteria for accessibility, size and design. In addition, the public open space furthers the Master Plan recommendations.

Exceptional Design

The Applicant proposed the maximum 10 points for exceptional design for building or site design with visual and function impacts that enhance the character of a setting. Creating a sense of place and enhancing the public realm in a distinct and original manner are two of the six criteria established in the Design Guidelines. The Applicant has only submitted examples of office, retail, hotel and residential developments intended for the development, and no specific buildings or square feet of development have been proposed. The Applicant indicates that at site plan, more specific exceptional design elements will be identified. The Planning Board approved 5 points at Sketch Plan, with the final points to be determined at site plan. However, an additional 5 points may be granted based on submission by the Applicant.

BLTs

Five percent of the incentive density must be obtained through the purchasing of BLTs at a rate of 1 BLT per 20,000 sq.ft. The Applicant will provide 10.58 BLTs or 3.52 BLTs per phase as required, and the Planning Board approved the 5 required points for this public benefit.

Vegetated Wall

The Applicant proposed the maximum 10 points for the installation and maintenance of a vegetated wall that covers at least 30 percent of any blank wall or parking garage that is at least 300 square feet in area and is visible from a public street or open space. The Planning Board approved 5 points for this public benefit. As illustrated in the Sketch Plan, most of the high-rise development can accommodate the vegetated walls since most of the parking is below grade. The location of these walls will be determined at site plan.

Vegetated Area

The Applicant proposed the maximum 10 points for installation of planting in a minimum of 12 inches of soil, covering at least 5,000 square feet. The Planning Board approved 5 points, with the location of these areas to be determined at site plan.

6. *Establishes a feasible and appropriate provisional phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.*³

As approved with this Sketch Plan, the development will be built over three phases. Phase one is the largest portion of the redevelopment of the Subject Property, including new streets and public use spaces with smaller amounts of development in the final two phases.

The proposed three phases include:

- *Phase I:* 1,300 residential dwelling units, 198,950 sq.ft (office), 280,350 sq.ft (hotel) and 958,000 sq.ft. (retail)
- *Phase II:* 439 residential dwelling units, 831,290 sq.ft (office), and 518,730 sq.ft. (retail)
- *Phase III:* 687 residential dwelling units and 13, 590 sq.ft (retail)

Phasing of roads, parking and public benefits are proportionally appropriate to the scale and characteristics of the relevant phase of development. The table below shows the public benefits approved with this Sketch Plan by each phase of development:

Category	Public Benefit	Points Approved	Phase I	Phase II	Phase III
Major Public Facility	Elementary school site	0	0	0	0
Connectivity	Through block	14	7	7	0

³ As conditioned, the phasing program will be approved by the Planning Board at preliminary plan, and the public benefits phasing will be considered together, as appropriate. This phasing schedule is in concept, as appropriate for Sketch Plan approval.

and Mobility	connection				
	Advanced Dedication	16	16	0	0
Diversity of Uses and Activities	Small Business Opportunities	20	13	7	0
	Public Art	10	7	0	3
	Exceptional Design	5	3	1	1
	Vegetated Wall	5	3	2	0
Requested Incentive Density Points		160	111	25	24

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

Alternatively, based on detailed review of a site plan, the Board may find that any element of the approved Sketch Plan, including a binding element, does not meet the requirements of the zone, Master or Sector Plan, or other findings necessary to approve a site plan, and deny the site plan application.

The Board's review of sketch plans is governed by Section 59-C-15.43, which provides that "in approving a sketch plan" the Board must find that certain elements of the sketch plan are "appropriate in concept and appropriate for further detailed review at site plan." Because the Board's approval of a sketch plan is in concept only and subject to further detailed review at site plan, it necessarily follows that the Board may find, based on detailed review of a site plan, that any element of a sketch plan does not meet the requirements of the zone, master or sector plan, or other requirements for site plan approval. The Board does not have the authority at the time of sketch plan to predetermine that any element of the sketch plan will satisfy all applicable requirements for site plan approval. As a practical matter it would be unwise for it to do so, due to the limited detail contained in a sketch plan and the sketch plan's unlimited validity period. If the Board were unable to require changes to binding elements at the time of site plan to ensure compliance with all code and master or sector plan requirements, the Board might have decided to approve fewer elements of the Sketch Plan as binding.

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

BE IT FURTHER RESOLVED that all elements of the plans for Sketch Plan No. 320120040, White Flint Mall Redevelopment, stamped received by M-NCPPC on July 2, 2012, are required except as modified herein; 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 JAN 17 2013 (which is the date that this Resolution is mailed to all parties of record); and

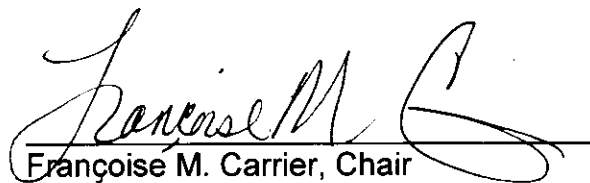
BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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

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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 Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion at its regular meeting held on Thursday, October 25, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board