

MEMORANDUM

TO: Planning, Housing and Economic Development Committee

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Worksession:** Bill 1-10, Development – Coordination, Oversight

Bill 1-10, Development – Coordination, Oversight, sponsored by Councilmembers Trachtenberg and Knapp, chairs of the Management and Fiscal Policy and Planning, Housing and Economic Development Committees, and Councilmembers Berliner and Andrews, was introduced on January 19, 2010. A public hearing was held on February 9, at which the only speakers were Assistant Chief Administrative Officer Diane Schwartz Jones, representing the County Executive, and Natalie Goldberg, representing the White Flint Community Coalition (see their testimony, ©7-10).

Summary Bill 1-10 requires the County Executive to designate an employee in the Executive's or Chief Administrative Officer's Office as development coordinator for each approved development district and each geographic area where a newly revised master or sector plan has authorized intensive new development or redevelopment. Each coordinator would perform similar management functions as then-Assistant Chief Administrative Officer Bill Mooney performed for the Silver Spring redevelopment. Each coordinator can be an existing employee; this Bill does not require the Executive to create a new position unless he decides that no current employee can perform the required functions.

Applicability In Council staff's view, this Bill would require the Executive to designate coordinators for the Clarksburg Town Center development district, which has been approved but not implemented, and for the White Flint sector under the revised sector plan. The Bill would not require a coordinator to be designated for the two existing Germantown development districts because the required County infrastructure for those districts has been largely if not entirely completed. Depending on the intensiveness of the development allowed under the final plan, a coordinator probably would be needed for the Gaithersburg West plan area. For other master and sector plans, the need for a coordinator would depend on the level of development or redevelopment allowed in the plan.

Fiscal impact: Executive testimony refers to a "potential annual cost of in excess of \$500,000". OMB assumed that up to 4 new staff members could be needed, at an annual cost of

\$504,600. See statement, ©5. In Council staff's view, that estimate assumes that Executive staff do not currently perform any development coordination duties, which is clearly not the case. In addition, much of the cost of any staff needed to coordinate the implementation of a development district could be paid for by the applicants for that district under County Code §14-6(g). **Economic impact:** None assumed by Executive. See statement, ©6. In Council staff's view, the economic impact of better County government coordination would be positive, with significant time and cost savings achievable in the development and implementation processes by both County government and the private sector.

Issues

1) Need for and role of coordinator The Executive testimony (see ©7-8) "agrees with the objective of the Bill" but questioned the scope of the coordinator's duties and instead proposed that the Planning Board be directed to produce an annual master plan implementation report which the Executive and Council would use "to inform budget and policy decisions". (The Planning Board did not comment on this proposal.)

In Council staff's view, such a report could be a useful exercise. The White Flint sector plan requires the Planning Board to submit more or less the same kind of document every 2 years as a "biennial monitoring report" for that sector plan area. But the Executive's alternative, in our view, misses the point of this Bill. We understand the coordinator's intended role to be a day-to-day function, making sure that each element of County government is aware of what it needs to do to move the approved development toward completion, just as Mr. Mooney did for the Silver Spring redevelopment. (See, e.g., letter from former Planning staff division chief Perry Berman on ©15.) Although the coordinator would help define and inform policy decisions, we see this role as primarily a management function rather than a policy-making one, as the Executive appears to view it.

Council staff recommendation: retain the scope of each coordinator as proposed in ©2, lines 10-23 and ©3, lines 33-48.

2) Monitoring and reporting The White Flint Community Coalition (see testimony, ©9-10, and followup memo, ©12-14), in supporting this Bill, would expand the coordinator's duties to include carrying out the monitoring and reporting required by the approved Sector Plan. However, the Plan assigns this function to the Planning Board. Council staff believes that the coordinator could be directed to take the lead in disseminating the Board's reports and findings to the public. If any more specificity needs to be added to the coordinator's role as "primary point of contact for residents and businesses located or that could potentially locate in that planning area and the developer of any development located in that planning area" (see ©2, lines 17-19), Council staff would rewrite the Coalition's amendment on ©14 by adding a new paragraph (4) on line 21 and renumbering the current (4):

- (4) acquire and distribute mode share measurements and other relevant data, methodology, and results for monitoring of a master or sector plan, and make that information publicly available; and;

The areas for which mode share measurements would be acquired under this formulation include sector or master plan areas where mode share assumptions for those areas were used to achieve a traffic mobility standard for a master or sector plan.

3) Point of contact Council staff agrees with the Coalition that the coordinator should be the “point of contact” for residents of the surrounding area as well as those located in the master plan area. To make this clarification, we would insert on ©2, line 18, after in: or near.

4) Specificity Civic activist Max Bronstein (see letter, ©11) questioned whether certain terms in this Bill, such as “intensive”, should be defined more precisely. Because the coordinator requirement could be applied to various master plans and development districts in various parts of the County, Council staff would advise against adopting a numerical standard as Mr. Bronstein proposed.

Mr. Bronstein also suggested that this Bill include penalties for noncompliance and specific financing standards. In our view, those are substantive provisions that more appropriately belong in the underlying master plan or development district resolutions.

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Bill No. 1-10
Concerning: Development -
Coordination, Oversight
Revised: 1-13-10 Draft No. 2.1
Introduced: January 19, 2010
Expires: July 19, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Trachtenberg, Knapp, Berliner and Andrews

AN ACT to:

- (1) provide further coordination and oversight of master-planned development;
- (2) provide further coordination and oversight of development districts; and
- (3) generally amend the law governing coordination of development.

By amending

Montgomery County Code
Chapter 2, Administration
Section 2-25
Chapter 14, Development Districts
Section 14-16

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:

Sec. 1. Section 2-25 is amended as follows:

2-25. Planning implementation.

* * *

(c) Coordination of master-planned development. The Executive must designate an employee in the Office of the Executive or the Office of the Chief Administrative Officer as the development coordinator for each planning area for which a newly revised master or sector plan has authorized intensive new development or redevelopment. Among other duties, the Coordinator must:

- (1) coordinate the financing and development of County infrastructure in that planning area;
- (2) advise the Executive, the Council, the Chief Administrative Officer, County Department heads, the Planning Board, and any other appropriate government agency, of any action needed to expedite the financing and development of County infrastructure in that planning area;
- (3) serve as primary point of contact for residents and businesses located or that could potentially locate in that planning area and the developer of any development located in that planning area;
and
- (4) take or recommend any other action needed to assure that County infrastructure keeps pace with private development in that planning area.

Sec. 2. Section 14-16 is amended as follows:

14-16. Administration of district; Termination.

* * *

(d) The Executive must designate an employee in the Office of the

28 Executive or the Office of the Chief Administrative Officer as the
 29 Development District Coordinator for each development district for
 30 which the Council has adopted a resolution declaring its intent to create
 31 a development district under Section 14-6. Among other duties, the
 32 Coordinator must:

33 (1) coordinate the preparation of the Fiscal Report for the
 34 development district as required by Section 14-8;

35 (2) coordinate the financing and development of County
 36 infrastructure in that development district;

37 (3) advise the Executive, the Council, the Chief Administrative
 38 Officer, County Department heads, the Planning Board, and any
 39 other appropriate government agency, of any action needed to
 40 expedite the financing and development of County infrastructure
 41 in that development district;

42 (4) serve as primary point of contact for residents and businesses
 43 located or that could potentially locate in that development
 44 district and the developer of any development located in that
 45 development district; and

46 (5) take or recommend any other action needed to assure that County
 47 infrastructure keeps pace with private development in that
 48 development district.

49 (e) The Executive must report to the Council not later than January 15 and
 50 July 15 of each year on the progress made during the preceding 6
 51 months, and the significant steps to be taken during the following 6
 52 months, regarding each development district for which the Council has
 53 adopted a resolution under Section 14-6.

54 [(d)] (f) * * *

LEGISLATIVE REQUEST REPORT

Bill 1-10

Development –Coordination, Oversight

DESCRIPTION: Requires the County Executive to designate an employee in the Executive's or Chief Administrative Officer's Office as development coordinator for each approved development district and each geographic area where a newly revised master or sector plan has authorized intensive new development or redevelopment.

PROBLEM: Suboptimal coordination of County infrastructure financing and provision in some intensive development areas.

GOALS AND OBJECTIVES: To coordinate the financing and development of County infrastructure for each development district and each planning area where a newly revised master or sector plan has authorized intensive new development or redevelopment.

COORDINATION: County Executive, Planning Board

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Michael Faden, Senior Legislative Attorney, 240-777-7905

APPLICATION WITHIN MUNICIPALITIES: Applies only if a municipality is located in a development district or does not have its own planning authority.

PENALTIES: Not applicable

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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

MEMORANDUM

Joseph F. Beach
Director

February 8, 2010

TO: Nancy Floreen, President, County Council
FROM: Joseph F. Beach, Director 
SUBJECT: Council Bill 1-10, Development – Coordination, Oversight

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The proposed bill requires the County Executive to designate an employee in the Executive's or Chief Administrative Officer's Office as development coordinator; to coordinate the financing and development of County infrastructure, for each approved development district and each geographic area where a newly revised master or sector plan has authorized intensive new development or redevelopment.

FISCAL AND ECONOMIC SUMMARY

While the authority to execute the responsibilities outlined in the legislation are unclear, and may in fact reside with other bodies (e.g., the County Council and Planning Board), the resources required to implement those aspects of the subject legislation appropriate for the Executive Branch will depend on the complexity and magnitude of the development and redevelopment authorized under newly approved master plans and sector plans, as well as the development districts approved by the County Council. Whether existing staff could be reassigned or new staff is required, will depend on the level of development or redevelopment envisioned in each master or sector plan, and the capacity of existing staff to perform the required development coordination duties with their other responsibilities. The following additional staff may be necessary to carry out the responsibilities identified in Council Bill 1-10:

Manager I	\$162,310
Senior Planning Specialist	\$107,870
Senior Financial Specialist	\$107,870
Manager III	<u>\$126,550</u>
Total Fiscal Impact	\$504,600

This estimate includes salary, benefits, and related operating costs.

Office of the Director

Nancy Floreen, President, County Council
February 8, 2010
Page 2

While the subject legislation is intended to expedite the pace of County infrastructure development, it does not directly change the size or scope of such development. Therefore, it does not have an economic impact.

The following contributed to and concurred with this analysis: Bryan Hunt, Office of Management and Budget; Sonetta Neufville and Diane Jones, Offices of the County Executive; and Michael Coveyou, Department of Finance.

JFB:bh

c: Kathleen Boucher, Assistant Chief Administrative Officer
Marc Hansen, Acting Director, Office of the County Attorney
Dee Gonzalez, Offices of the County Executive
Diane Schwartz Jones, Assistant Chief Administrative Officer
Jennifer Barrett, Director, Department of Finance
Michael Coveyou, Department of Finance
John Cuff, Office of Management and Budget

TESTIMONY OF COUNTY EXECUTIVE ISIAH LEGGETT

ON BILL 1-10, DEVELOPMENT – COORDINATION, OVERSIGHT

Good afternoon. My name is Diane Schwartz Jones and I am pleased to provide testimony on behalf of County Executive Isiah Leggett on Bill 1-10, Development – Coordination, Oversight. Bill 1-10 requires the designation of one or more employees as “development coordinator” for each area of the County in which newly or recently revised master plans call for “intensive new development or redevelopment.”

The County Executive agrees with the objective of the Bill to coordinate the financing and development of infrastructure in areas with newly revised sector plans. It should be noted that Executive departments balance many competing needs in their budget preparations and are mindful of the needs of both existing and developing communities in planning areas throughout the County. The County Executive and the County Council have historically worked together to establish transportation priorities and will continue to do so.

Bill 1-10 seems to go far beyond the role of mere coordination and implies specific budget and implementation priorities by referring to “any action needed to expedite” infrastructure in specific planning areas. It also has a potential annual cost of in excess of \$500,000.00, which could make it quite costly in actual implementation. Realistically, numerous planning areas would be covered by Bill 1-10 including Clarksburg, White Flint, Gaithersburg West, Germantown, Twinbrook, Langley/Takoma Park, and Wheaton.

The coordinator -- or coordinators -- must, among other things, “take or recommend any other action needed to assure that County infrastructure keeps pace with private development” in covered planning areas. This is in addition to coordinating the financing and development of County infrastructure within the numerous planning areas that would fall under this provision.

This Bill places heavy responsibility upon one or more individuals who do not approve the CIP, coordinate the CIP, set transportation priorities, issue financing, approve the growth policy, or review and approve applications for development. And, even if the planning, land use, budgeting and funding responsibilities that are ascribed to this person or team of persons could be funded to effectively coordinate all of the necessary information, it still will not account for political will.

Montgomery County Code section 33A-15(c) requires as part of the Growth Policy process, that the Montgomery County Planning Board include with the Growth Policy a status report on general land use including remaining growth capacity of zoned land. Rather than embarking on a potentially expensive process of staffing a function that still will not yield the desired results given the fact that the ultimate decisions on planning, development approvals and budget lie with others, a variation of what is provided for in 33A-15(c) would help both the Executive Branch and the County Council achieve the same result.

Specifically, it would be beneficial to the Executive agencies and to the County Council to have an annual master plan implementation report from the Montgomery County Planning Board in advance of budget preparation that summarizes by planning area the amount of development authorized within a planning area, the amount of development approved through the end of the prior fiscal year, the amount of development projected for the upcoming fiscal year, and a listing of the public infrastructure believed to be necessary to support existing, approved and projected infrastructure through the next fiscal year. Given that Park and Planning is the repository of this information, it is in the best position to provide the report. This master plan implementation report would be used by both the County Executive and the County Council to inform budget and policy decisions.

Again, while County Executive Leggett supports and agrees with the objective of Bill 1-10, he is concerned that at a time that we are cutting costs significantly, implementation of this Bill would introduce a need for additional funds. Mr. Leggett also believes that there is a better, more implementable way of achieving the objective of this Bill and instead urges the Council to work with the Montgomery County Planning Board and Executive Staff to come up with a Master Plan Implementation Report that will facilitate orienting budget and policy decisions in different planning areas.

Thank you for your consideration.

THE WHITE FLINT COMMUNITY COALITION

Representing the wishes of the people of the White Flint area

11111 Jolly Way
Kensington, Md. 20895
February 9, 2010

Bill 1-10, Development - Coordination, Oversight

President Floreen, Members of the Council, I am Natalie Goldberg, testifying in behalf of the White Flint Community Coalition. We support Bill 1-10 as it applies to the White Flint Sector Plan and believe that the details of the Sector Plan, the financial requirements, and the staging constraints lend themselves to an objective coordinator within the Executive Branch.

This bill is particularly important to White Flint, where the coordination between infrastructure and development is essential,

It is critical to have a person as the key contact, overseer – the coordinator - on this huge complex redevelopment project. It is important to have someone that is not within one of the participating county departments or agencies so that parochial departmental interests do not overshadow the implementation of the sector plan.

We have several comments:

Community Involvement: This bill as written has the development coordinator identified as the primary point of contact for residents located in that planning area. While these citizens have a vested interest, those of us who live in the surrounding neighborhoods, but outside the sector, have a vested interest as well. We would like to see the community involvement concept broadened to include all citizens, especially those of us in existing residential neighborhoods adjacent to new plans.

Reporting: We would like to see the Development Coordinator carry out the monitoring program specified in the Master/Sector Plan. In particular, we desire that the Coordinator monitor the status of staging requirements of the Plan, and submit an annual, readily understandable and readily available report to the County Council on that status. The Development Coordinator should also initiate or confirm when it is appropriate to transition from one phase to another.

Monitoring of Mode Share: Because the balance between density and infrastructure in White Flint hinges on the mode share levels of other Master/Sector plans, extensive monitoring of mode share goals and progress reaching those goals needs to take place. We would hope that a designated development coordinator for the White Flint planning area would have sufficient

*Combining the strength of community bodies representing more than
3,200 households and 8,500 residents in or near the White Flint Sector*

Crest of Wickford Condominium Association · Garrett Park Citizens Association
Garrett Park Estates-White Flint Park Citizens' Association · Luxmanor Citizens Association
Parkwood Residents Association · The Sterling Condo HOA
Timberlawn Homeowners Association · Wickford Community Association

resources to provide the mode share monitoring of other planning areas to ensure that balance in White Flint is provided.

Cost: We believe that the funding for this position should be part of the financial planning for the Master/Sector Plan infrastructure. We have seen no cost estimates for the proposed new position and recognize the fiscal constraints facing this County.

We believe that all of our comments should apply to both Sec. 1. which amends Section 2-25 and to Sec. 2. which amends Section 14-16. We hope that the Council will give this bill serious consideration.

Thank you for the opportunity to voice our concerns.

Faden, Michael

From: susan or max [sumax@verizon.net]
Sent: Friday, February 05, 2010 11:58 AM
To: Navarro's Office, Councilmember; Berliner's Office, Councilmember; Trachtenberg's Office, Councilmember; Leventhal's Office, Councilmember; Elrich's Office, Councilmember; Knapp's Office, Councilmember; Floreen's Office, Councilmember; Andrews' Office, Councilmember; Ervin's Office, Councilmember
Cc: Faden, Michael; Ike Leggett
Subject: Bill 1-10 Development Coordination/Oversight

February 5, 2010

Dear Councilmembers:

After reading the draft of Bill 1-10 I feel that certain portions need more clarity and offer the following suggestions and comments.

Instead of having newly revised master or sector plans being a prerequisite for designation of a coordinator, it will be much more effective if a numerical value referring to the number of dwelling units as well as square feet of commercial space proposed serves as a trigger. Very large developments needing oversight can be planned for existing master/sector plans.

Along with this principle, use of words like "intensive" (line 8) leaves too much room for disagreement as to the word's meaning between affected parties, so again it is suggested that a numerical value be used as the basis for use of a coordinator. Too often legislation has been fashioned with imprecise language which has led to unnecessary litigation which is costly in time and money.

Another item that needs to be included is teeth. By that we suggest that there be meaningful penalties for non-compliance and an ability to stop construction until compliance occurs plus language that deals with insuring that infrastructure is provided in accordance with the APFO.

On line 35 there is reference to financing in a development district. Does that section mean that paying for the infrastructure there depends in any degree on tax collections from that development district? The answer should be clearly stated in the bill.

Additionally, we feel there should be provision for staff for each coordinator as it appears that the scope of dealing with large developments would be overwhelming for one person.

Sincerely,

Max Bronstein

THE WHITE FLINT COMMUNITY COALITION

Representing the wishes of the people of the White Flint area

March 31, 2010

The Honorable Mike Knapp, Chairman
Planning, Housing, and Economic Development Cmte.
Montgomery County Council
100 Maryland Ave., Rockville, MD 20850

Dear Councilmembers Knapp, Floreen, Elrich, and Trachtenberg:

The White Flint Community Coalition supports Bill No. 1-10, concerning Development Coordination and Oversight, which the PHED Committee will consider on April 5. We suggest an addition to that bill, which accompanies this letter. We propose that the Development Coordinator ("Coordinator") specified in the bill carry out several clearinghouse functions, by collecting and distributing information at a few key points in the implementation of development plans.

First, we recommend that the Coordinator compile and transmit data on mode share goals for areas outside a plan – if the related mode share assumptions were used to achieve a traffic mobility standard for that plan. This information does not seem to be centrally located or publicly available. It is vitally important that the Planning Board and advisory committee have it, to gauge progress on these goals for plans - like White Flint's - where traffic mobility is important to developers and residents alike.

Second, we recommend that the Coordinator collect and distribute certain monitoring information to the general public. This is critical information for measuring the success of a plan's implementation. As a matter of good governance, the public should have it.

Finally, we ask that the Coordinator submit any comments on Planning Board staff recommendations to transition to later phases of plans. The Coordinator will bring additional expertise and perspective to matters relating to these transitions, and the Planning Board should have any comments from the Coordinator when making the important related decisions.

These duties should not add significantly to the costs of the Development Coordinator office. The first 2 functions would be carried out only as often as plan monitoring occurs, and involve existing data. The last responsibility would occur only a few times in the life of a plan. We think the duties will greatly enhance development coordination and oversight, especially for the White Flint plan.

*Combining the strength of community bodies representing more than
3,200 households and 8,500 residents in or near the White Flint Sector*

Crest of Wickford Condominium Association · Garrett Park Citizens Association
Garrett Park Estates-White Flint Park Citizens' Association · Luxmanor Citizens Association
Parkwood Residents Association · The Sterling Condo HOA
Timberlawn Homeowners Association · Wickford Community Association

Thank you for considering our opinions.

Sincerely,

John King
On behalf of the White Flint Community Coalition

cc: Councilmember Roger Berliner
Michael Faden

White Flint Community Coalition Proposed Language for Bill 1-10

On page 2, in section 2-25(c) of the County Code-

- 1) redesignate paragraph (4) as paragraph (5);
- 2) in paragraph (3), strike "and" at the end; and
- 3) insert the following after paragraph (3):
 - (4)(A) compile current measurements of the non-auto-driver mode share (NADMS), for all policy, sector, or master plan areas where NADMS assumptions for those areas were used to achieve a traffic mobility standard for a master or sector plan, and distribute those measurements to the Planning Board and advisory committee for review during the same period as monitoring for that plan;
 - (B) collect all raw data and methodology used for, and the results of, the monitoring of a master or sector plan, and make the collected information publicly available; and
 - (C) prepare any comments in response to a Planning Board staff recommendation to transition to a later phase of a master or sector plan, which comments will be submitted to the Planning Board, County Council, and general public not later than 3 days before the Planning Board conducts its public hearing on the transition; and

Amendments to section 14-16(d) of the County Code may also be necessary.

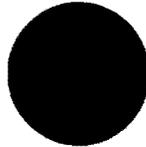
B1-10

MF

Marin, Sandra

From: Floreen's Office, Councilmember
Sent: Tuesday, February 09, 2010 12:27 PM
To: Montgomery County Council
Subject: FW: Tuesday's Public Hearing on Bill 1-10 Development - Coordination, Oversight - Item 11

054169



-----Original Message-----

From: Perry Berman [mailto:perryplanning@comcast.net]
Sent: Monday, February 08, 2010 12:56 PM
To: Andrews' Office, Councilmember; Trachtenberg's Office, Councilmember; George Leventhal; Elrich's Office, Councilmember; Knapp's Office, Councilmember; Floreen's Office, Councilmember; Navarro's Office, Councilmember; Berliner's Office, Councilmember; Ervin's Office, Councilmember
Subject: Tuesday's Public Hearing on Bill 1-10 Development - Coordination, Oversight - Item 11

Council President Nancy Floreen,
On behalf of Jack Fitzgerald, I wish to state my strong support for Bill 1-10 Development - Coordination, Oversight. This proposed legislation is essential to the success of the White Flint Plan. Silver Spring's redevelopment could not have been as successful without a development coordinator office. In the coming years, White Flint Plan's implementation program will need a focused effort from all branches of government, but the biggest responsibility will lie with County Government. White Flint needs strong leadership to carry out the plan's vision. This office is needed now.

Please place my letter in your hearing record.

Perry Berman
Office 301-854-2098
Cell 240-888-6166
Fax 410-799-0517
7910 Briarglen Drive
Elkridge, Maryland 21075

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MONTGOMERY COUNTY
COUNCIL

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