

April 20, 2010

Action

MEMORANDUM

TO: County Council

FROM: ^{Go} Glenn Orlin, Deputy Council Staff Director
_{MS} Michael Faden, Senior Legislative Attorney

SUBJECT: **Action:** resolution to amend 2009-2011 Growth Policy: White Flint Metro Station Policy Area

As an outcome of its consideration of the White Flint Sector Plan, the Planning, Housing, and Economic Development (PHED) Committee recommended an amendment to the 2009-2011 Growth Policy to address three issues relating to staging the plan:

- Expand the boundary of the White Flint Metro Station Policy Area (MSPA) so that it coincides with the White Flint Sector Plan boundary. By doing this, the North Bethesda Road Code Urban Area would also shrink somewhat.
- Exempt any proposed development located in the White Flint Metro Station Policy Area from Policy Area Mobility Review.
- Exempt any proposed development located in the White Flint Metro Station Policy Area from Local Area Transportation Review (LATR) if the development will be required to provide substantial funds to a new development district or a new impact tax district to finance master-planned public improvements in that Policy Area.

The amendment (including maps) shown on ©1-5 reflects the PHED Committee's recommendation. It was introduced on March 16 and received a public hearing on March 23. As the law requires, the Executive was given an opportunity to comment but declined, noting that the Executive branch submitted comments during the Council's deliberations on the Sector Plan and does not have additional comments at this time.

Issues

1) Boundary. This is a reprise of the issue discussed during deliberations on the 2009-2011 Growth Policy. The Planning Board recommended that the MSPA be expanded to the Sector Plan boundary, increasing its land area from about 10 million sf to 18.3 million sf. Currently, 5 consequences flow from including an area in an MSPA:

- The intersections in an MSPA have a LATR standard of 1,800 Critical Lane Volume, which allows more congestion than in the surrounding policy area. In this case, the LATR standard for the surrounding North Bethesda Policy Area is 1,550 CLV.
- Under the Growth Policy, the Alternative Review Procedure for MSPAs and the new alternative for certain mixed-use developments with higher energy efficiency would be options for some new developments.
- The transportation impact tax rate is half that in the surrounding policy area.
- Street improvements are built to “urban” standards under the County road construction code, generally requiring narrower lanes and more pedestrian-friendly design than in the surrounding policy area. In this case the point is moot, since the area north of the White Flint MSPA is in the North Bethesda Road Code Urban Area.
- In certain zones, certain developers must produce workforce housing. This would change if the Council enacts pending Bill 4-10 and Zoning Text Amendment 10-01, both scheduled for action today.

Five years ago, in worksessions on the 2005-2007 Growth Policy, the Council tentatively approved expanding the policy area to nearly the same boundary now proposed. However, when the Council ultimately decided not to adopt that Growth Policy, the boundary remained the same.

Federal Realty Investment Trust, the Holladay Corporation, and Action Committee for Transit recommended expanding the boundary to match the Sector Plan boundary. The County Executive, the Garrett Park Estates-White Flint Park Citizens’ Association, and the Coalition for Kensington Communities opposed its expansion. Opponents noted that the LATR standard for the Rockville Pike intersections at Security Lane and Edson Lane would be raised from 1,550 CLV to 1,800 CLV, meaning that every intersection on the Pike between the Beltway and the Rockville City boundary would have an 1,800 CLV standard.

The map on ©6 shows the current boundary. While the other 9 MSPAs include substantial land between ¼-mile and ½-mile of the station, with several MSPAs having some land even beyond ½ mile, the existing White Flint MSPA is much smaller. An apples-to-apples way to compare MSPA’s is to compute what proportion of each is within ½-mile of its Metro Station:

<i>Metro Station Policy Area (MSPA)</i>	<i>Portion of MSPA within ½-mile of Metro Station</i>
White Flint (current)	99.65%
Twinbrook	99.02%
Friendship Heights	98.29%
Glenmont	96.20%
Wheaton CBD	92.42%
Grosvenor	88.49%
Silver Spring CBD	85.03%
White Flint (PHED recommendation)	84.95%
Rockville Town Center	79.73%
Bethesda CBD	74.14%
Shady Grove	71.43%

Councilmembers Knapp and Floreen (and Council staff) concur with the Planning Board to expand the White Flint MSPA to its Sector Plan boundary (also shown on ©7). Expanding the boundary to that of the Sector Plan would make it more consistent with the size of the other MSPA's. Adopting the Sector Plan boundary would bring White Flint near the middle of the range in terms of the percentage of its area with a ½-mile of a Metro station: 7th of 10. Its percentage would be about midway between the highest (Twinbrook) and lowest (Shady Grove).

Councilmember Elrich recommends expanding the boundary to a somewhat smaller area so that less area beyond a ½-mile radius is included (see alternative on ©8). The area is the same as the Sector Plan, except that it would cut out the properties south of Edson Lane in the NoBe District and the Nicholson Court properties in the White Flint Mall District. With this boundary, the portion of the White Flint MSPA within ½-mile of the Metro Station would be about 95%. The intersection standards would be the same as under the Sector Plan boundary.

2) **PAMR** As drafted by Council staff, this amendment (see first underlined paragraph on ©2) would exempt any proposed development located in the White Flint MSPA from the Policy Area Mobility Review (PAMR) test in the Growth Policy. While this exemption reflects the Committee's intent, the Planning Board and several other commenters pointed out that, if it takes effect immediately, it would leave a regulatory vacuum until the White Flint infrastructure financing program is put into effect and made a condition of preliminary subdivision plan approval. In that case, early-bird applicants would avoid the current PAMR mitigation requirement for North Bethesda, which is 35% of peak period trips.

Council legal staff concurs with the County Civic Federation (see testimony, ©24) that this kind of regulatory vacuum – no applicable adequate public facilities test – likely would violate the underlying adequate public facilities law, County Code §50-35(k), which requires some sort of APF test (which could be minimal, but not non-existent) before the Planning Board approves a subdivision plan.

To preclude this result and any challenge to an approved subdivision plan based on it, **Council staff recommends that the PAMR paragraph on ©2 be amended as follows:**

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 [[elsewhere]] that is not exempt under this paragraph.

3) **LATR** Likewise, the Local Area Transportation Review (LATR) amendment (see second underlined paragraph on ©2) has the same problem, but to a lesser degree, as the Planning Board noted (see Board recommendation on ©9). We recommend amending this amendment to firmly close this loophole.

In our April 6 memo we had recommended a third amendment requiring a Comprehensive LATR (CLATR) before each of the Sector Plan's three stages and that the improvements that the Planning Board identified as necessary be completed before the next stage. This recommendation has been met with significant opposition from development representatives because it introduces a level of uncertainty that their developments can proceed as planned, even though they would be paying substantial funds throughout as part of a yet-to-be-determined financing plan. On the other hand, many individuals from surrounding neighborhoods have expressed strong support for this recommendation, which was developed in response to issues raised by the municipalities of Rockville and Garrett Park and civic commenters (see testimony, ©14-17, 24-29).

We understand the value of providing the developers more certainty, and so we are now proposing a compromise: to delete the third amendment, but to revise the second amendment. **Council staff recommends that the LATR paragraph on ©2 be amended as follows:**

Any proposed development located in the White Flint Metro Station Policy Area is exempt from Local Area Transportation Review if the development, as a condition of approval of a preliminary plan of subdivision, will be required to provide substantial funds to a new development district, [[or]] a new impact tax or special taxing district, or another comprehensive financing mechanism, as its share to finance [[master-planned public]] specified transportation improvements [[in]] for that Policy Area, including all necessary transportation improvements in and around that Policy Area that the Planning Board identifies in each Comprehensive Local Area Transportation Review or comparable analysis that the Board is required to perform by the adopted Sector Plan. However, the traffic impact of any development in [[that]] the White Flint Metro Station Policy Area must be considered in any Local Area Transportation Review calculation for any development [[elsewhere]] that is not exempt under this paragraph.

This amendment would require that improvements identified by the CLATR as being needed—whether they are located inside the Sector Plan or beyond it—must be included in the financing plan. As has been discussed by the Council, the financing plan will have three “buckets” of projects to be funded: those by the County and/or State, those by the financing mechanism, and those that will be built by individual developments. Which improvements will be included in which bucket will be determined as part of the financing plan over the next year. Although the CLATR will be updated biennially thereafter (as required by the Sector Plan), it is likely that each CLATR will modify the “buckets” only slightly, thus providing sufficient certainty for the development industry.

By including necessary transportation improvements beyond the Sector Plan boundary in the financing plan, neighboring communities will have much more assurance that intersections such as Old Georgetown Road/Tuckerman Lane, Montrose Road/Tildenwood Drive, Knowles Avenue/Summit Avenue, and Rockville Pike/Strathmore Avenue will not become over-congested due to the White Flint development, since the funding responsibility will have been identified ahead of time in the financing plan.

4) Partnership amendment In its testimony (see ©22-23), the White Flint Partnership proposed an amendment to further allocate staging capacity in the White Flint Policy Area. As far as staff knows, this amendment has not been reviewed by the Planning Board, Executive staff, or any other stakeholder or community representative. The amendment is also complex and confusingly drafted, and purports to regulate the issuance of building permits, which is done under County Code Chapter 8 rather than the Growth Policy. For all these reasons, Council staff concluded that this amendment is premature at this point in the process. **Council staff recommendation: do not adopt this amendment. The staging allocation issue should be reviewed in the context of a later Growth Policy amendment after the White Flint financing plan is approved.**

This packet contains:	<u>Circle #</u>
Growth Policy amendment	1
Planning Board recommendation	9
Selected hearing testimony	
Town of Garrett Park	14
City of Rockville	16
White Flint Partnership	22
County Civic Federation	24
White Flint Community Coalition	26
Garrett Park Estates-White Flint Park Citizens' Ass'n	28
Perry Berman	30

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Resolution No. _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Planning, Housing, and Economic Development Committee

SUBJECT: Amendment to County Growth Policy regarding the White Flint Metro Station Policy Area

BACKGROUND

1. Under County Code §33A-15(h), the County Council may amend an adopted County Growth Policy by resolution after notifying certain agencies and holding a public hearing.
2. A public hearing was held on this resolution on March 23, 2010.
3. This amendment is necessary to implement staging of the approved White Flint Sector Plan.

ACTION

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

The 2009-2011 County Growth Policy, as adopted by Resolution 16-1187, is amended as follows:

* * *

Guidelines for Transportation Facilities

* * *

TP2.2.1 Geographic Areas

In conducting Policy Area Mobility Reviews, each Metro station policy area is included in its larger parent policy area, so that:

- the Bethesda CBD, Friendship Heights, and Bethesda-Chevy Chase policy areas are treated as a single policy area;
- the Grosvenor, White Flint, Twinbrook, and North Bethesda policy areas are treated as a single policy area;

- the Rockville Town Center and Rockville City policy areas are treated as a single policy area;
- the Shady Grove and Derwood policy areas are treated as a single policy area;
- the Silver Spring CBD and Silver Spring-Takoma Park policy areas are treated as a single policy area; and
- the Wheaton CBD, Glenmont, and Kensington-Wheaton policy areas are treated as a single policy area.

The Rural East policy area consists of all area east of I-270 that is not located in another planning area. The Rural West policy area consists of all area west of I-270 that is not located in another planning area.

Any proposed development located in the White Flint Metro Station Policy Area is exempt from Policy Area Mobility Review. However, the traffic impact of any development in that Policy Area must be considered in any Policy Area Mobility Review calculation for any development elsewhere.

* * *

TL2 Metro Station Policy Area LATR Standards

In each Metro Station Policy Area, the Planning Board, in consultation with the Department of Transportation, must prepare performance evaluation criteria for its Local Area Transportation Review. These criteria must be used to accomplish: (a) safety for pedestrians and vehicles; (b) access to buildings and sites; and (c) traffic flow within the vicinity, at levels which are tolerable in an urban situation. The County Executive also must publish a Silver Spring Traffic Management Program after receiving public comment and a recommendation from the Planning Board. This program must list those actions to be taken by government to maintain traffic flow at tolerable levels in the Silver Spring CBD and protect the surrounding residential area.

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 a new development district or a 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.

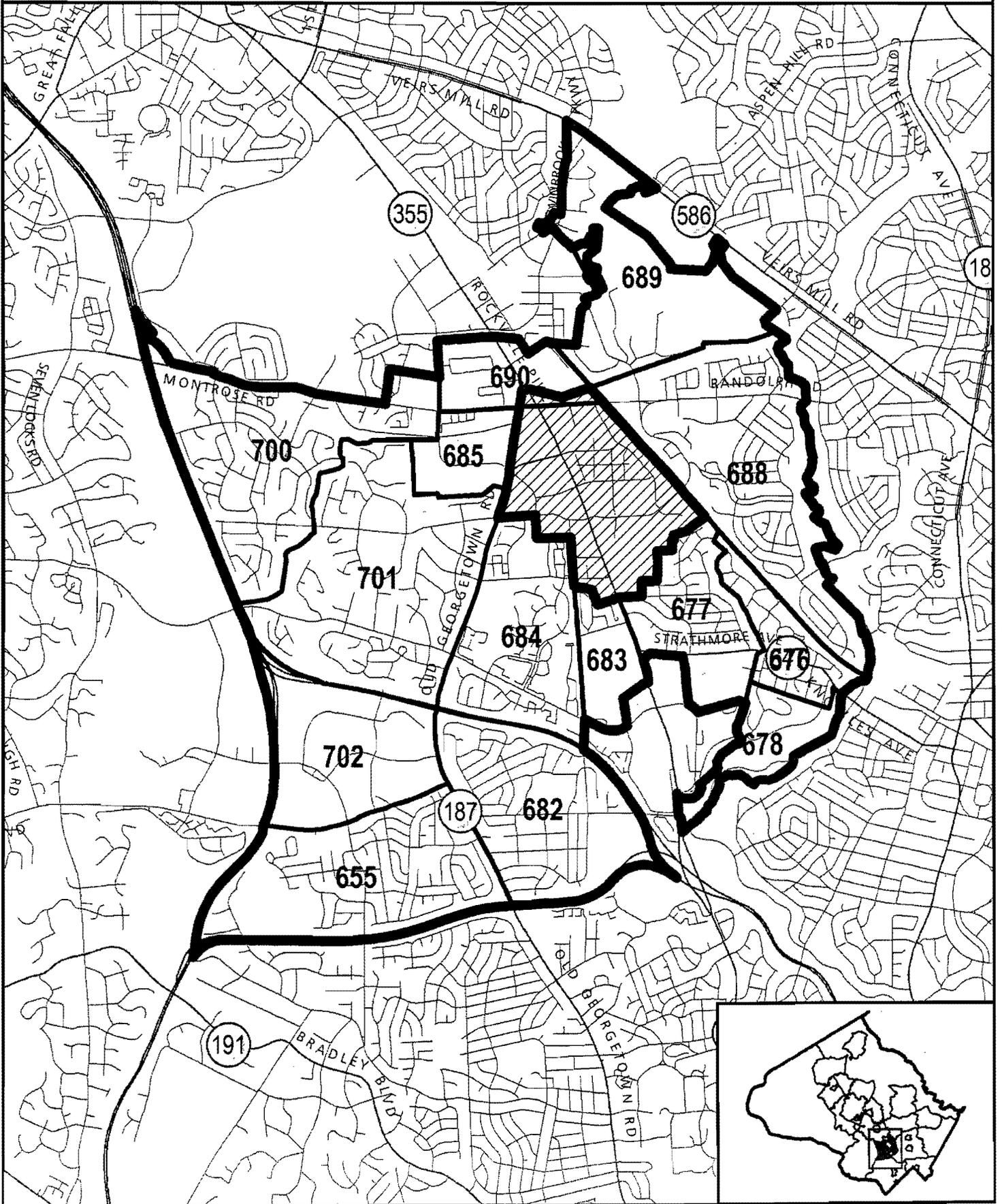
* * *

Replace Map 19, "North Bethesda Policy Area," with a new Map 19, attached.
Replace Map 33, "White Flint Metro Station Policy Area," with a new Map 33, attached.
Replace Map 35, "North Bethesda Road Code Urban Area," with a new Map 35, attached.

This is a correct copy of Council action.

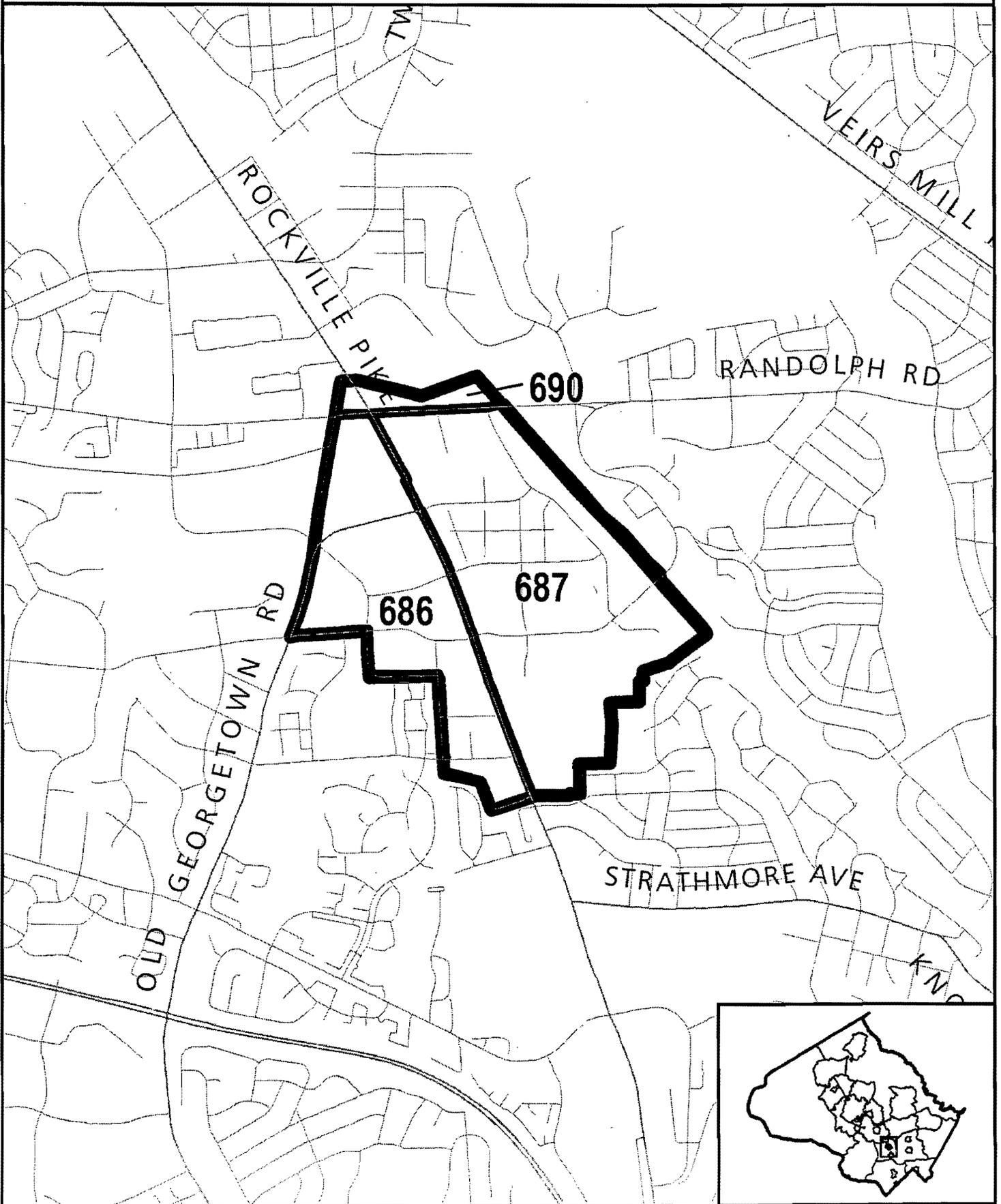
North Bethesda Policy Area with Traffic Zones

MAP 19



White Flint Policy Area with Traffic Zones

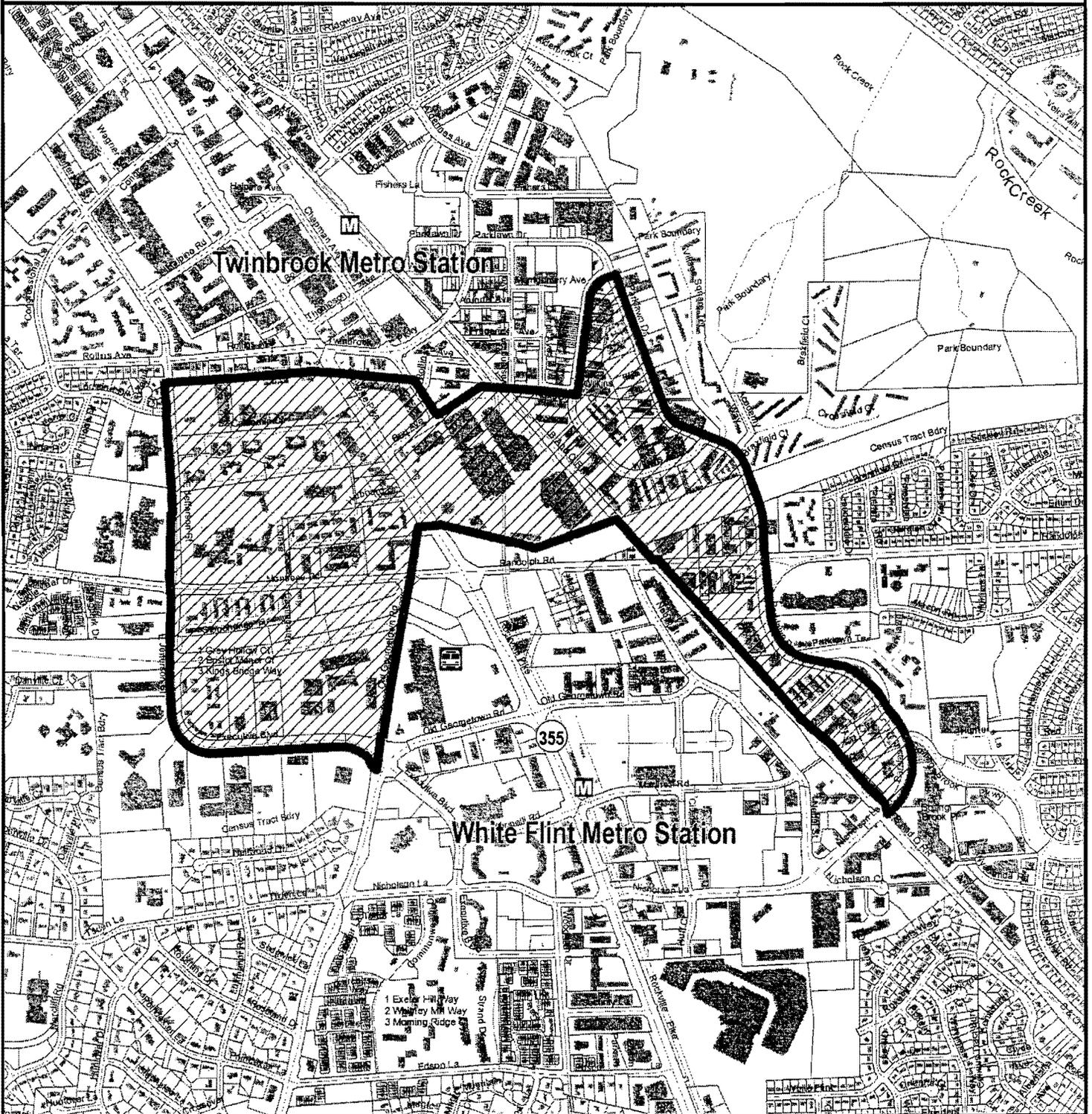
MAP 33



North Bethesda Road Code Urban Area

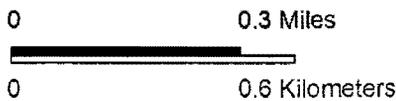
Without the 2010 White Flint MSPA

MAP 35

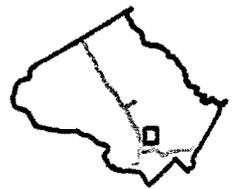


-  Metro Stations
-  MARC Stations
-  Park and Ride Lots

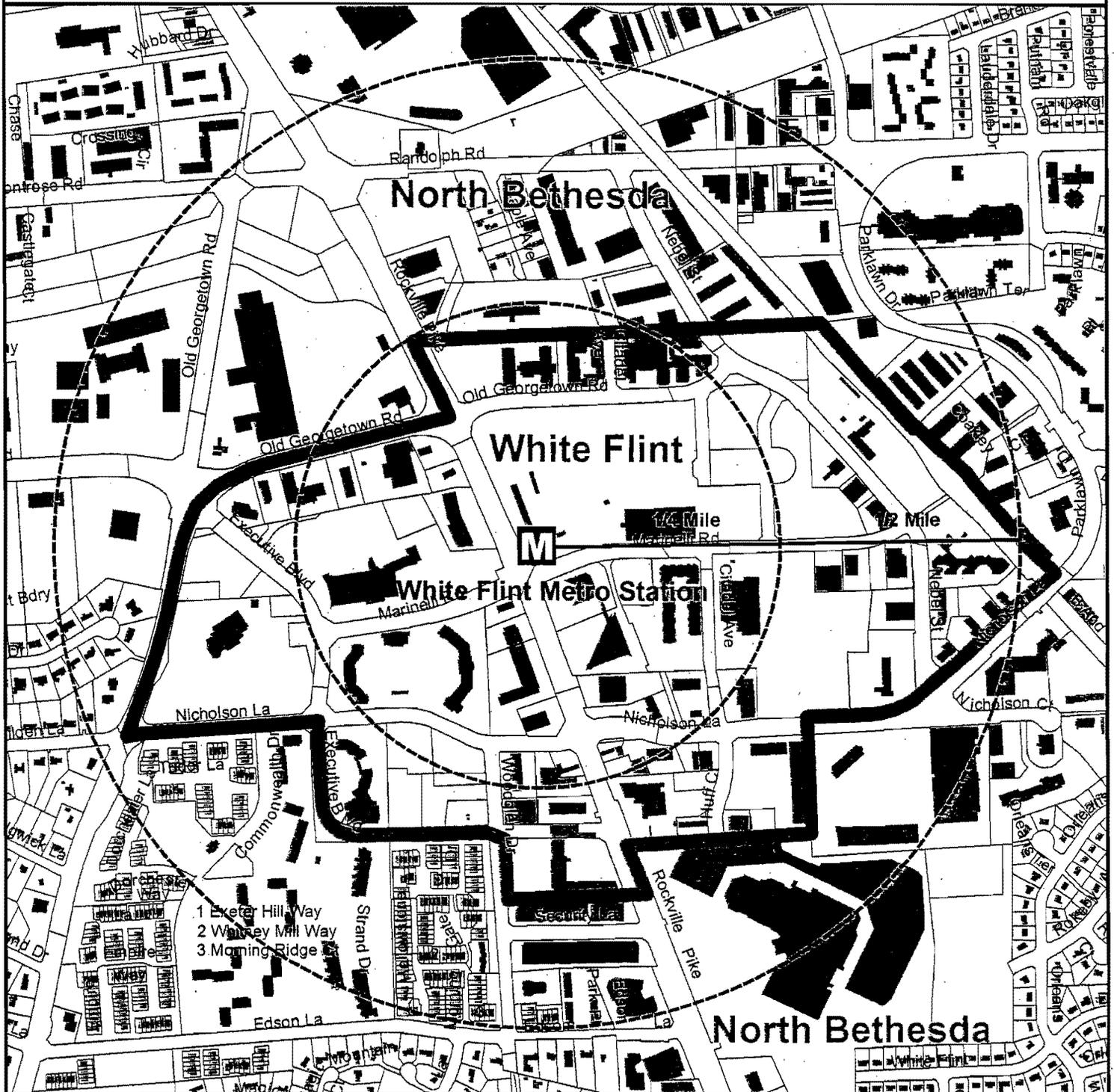
 North Bethesda Road Code Urban Area
(Without the 2010 White Flint MSPA)



Location



2003 White Flint Metro Station Policy Area



% of Policy Area within Quarter Mile of Metro Station*:

Policy Area	Total SqFt of Policy Area	SqFt of Policy Area within Quarter Mile of Metro	%
North Bethesda	230,214,264	375,079	0.16%
White Flint	10,011,140	5,097,020	50.91%

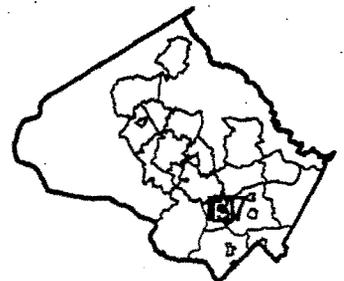
% of Policy Area within Half Mile of Metro Station*:

Policy Area	Total SqFt of Policy Area	SqFt of Policy Area within Half Mile of Metro	%
North Bethesda	230,214,264	11,915,661	5.18%
White Flint	10,011,140	9,976,382	99.65%

* Formula: (policy area within buffer/total policy area) * 100

Source: Research and Technology Center, Montgomery County Planning Department, October 2009

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White Flint Metro Station Policy Area: Current Proposal



% of Policy Area within Quarter Mile of Metro Station*:

Policy Area	Total SqFt of Policy Area	SqFt of Policy Area within Quarter Mile of Metro	%
White Flint	18,306,761	5,472,100	29.89%

% of Policy Area within Half Mile of Metro Station*:

Policy Area	Total SqFt of Policy Area	SqFt of Policy Area within Half Mile of Metro	%
North Bethesda	221,918,643	6,339,932	2.86%
White Flint	18,306,761	15,552,111	84.95%

* Formula: (policy area within buffer/total policy area) * 100



White Flint Metro Station Policy Area



% of Policy Area within Quarter Mile of Metro Station*:

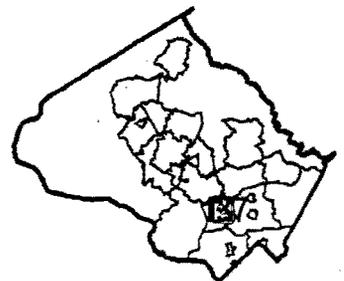
Policy Area	Total SqFt of Policy Area	SqFt of Policy Area within Quarter Mile of Metro	%
White Flint	15,934,989	5,472,100	34.34%

% of Policy Area within Half Mile of Metro Station*:

Policy Area	Total SqFt of Policy Area	SqFt of Policy Area within Half Mile of Metro	%
North Bethesda	224,290,414	6,742,957	3.01%
White Flint	15,934,989	15,149,086	95.07%

* Formula: (policy area within buffer/total policy area) * 100

Source: Research and Technology Center, Montgomery County Planning Department, October 2009



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

OFFICE OF THE CHAIRMAN

March 26, 2010

The Honorable Nancy Floreen
President
Montgomery County Council
Stella B. Werner Council Office Building
Rockville, Maryland 20850

Dear Ms. Floreen:

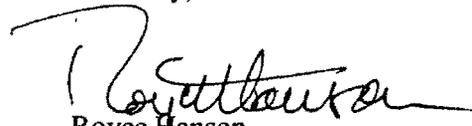
On March 25, 2010, the Planning Board reviewed the proposed White Flint amendment to the 2009-2011 Growth Policy, introduced to the County Council on March 16, 2010. As indicated in my March 22 letter to you, the Planning Board supports this amendment as one of the key administrative elements in the White Flint staging plan.

We support one text change as recommended by staff. The exemption from the Local Area Transportation Review (LATR) test described in Section TL2, should replace the term "the development will be required to" with the term "conditioned instead" to clarify that an LATR exemption is based on concurrent Planning Board conditioning to participate in an alternative funding mechanism as opposed to a broad intent of future participation (which, one might argue, has already been achieved through Sector Plan adoption):

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~~ conditioned instead to provide substantial funds to a new development district or a 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.

The staff packet is attached for your reference. We look forward to discussing this amendment with you at your worksession.

Sincerely,


Royce Hanson
Chairman



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

March 19, 2010

MCPB
ITEM # 4
March 25, 2010

MEMORANDUM

TO: Montgomery County Planning Board
VIA: Rollin Stanley, Director, Planning Department
FROM: Dan Hardy, Chief, Transportation Planning Division (301-495-4530) **DKH**
SUBJECT: Growth Policy – White Flint Amendment

STAFF RECOMMENDATION:

Support the PHED Committee Recommendation to amend the Growth Policy to be consistent with the Council's preliminary actions on the White Flint Sector Plan with one revision and three caveats:

Revision:

- Amend the text in Section TL2, replacing “the development will be required to” with “conditioned instead” to clarify that an LATR exemption is based on concurrent Planning Board conditioning to participate in an alternative funding mechanism as opposed to the intent of future participation.

Caveats:

- The proposed changes regarding APFO are desired to demonstrate commitment to the Sector Plan vision to replace PAMR and LATR with an alternative process. They are, however, somewhat vague because the replacement process has not yet been developed. We expect that an additional Growth Policy amendment will likely be developed during the next six to twelve months to clarify the White Flint “exemption” requirements described in the Council draft resolution.
- Staff recognizes that the County Council has issued direction to immediately abolish Policy Area Mobility Review (PAMR) in White Flint. Staff is concerned that this

- direction could result in reduced transportation mitigation for development that moves forward quickly, therefore increasing the cost to be borne by the replacement mechanism.
- The likelihood that development may move forward without PAMR but prior to a replacement mechanism is dependent upon the staging language in the approved Sector Plan. This memorandum is being prepared prior to the Council's action on the White Flint Sector Plan resolution, scheduled for March 23. The Sector Plan and its related Growth Policy implementation will need to continue to be integrated. We will be prepared to discuss any changes to the staff proposal that may occur based on the Council's action with the Board on March 25.

BACKGROUND

The proposed Growth Policy amendment is included as Attachment A. This amendment is needed for, and generally consistent with, the implementation section of the White Flint Sector Plan as revised and supported by Councilmember straw votes at their March 2 worksession. The Growth Policy amendment accomplishes three objectives:

- The changes to text referenced in Section TP2.2.1 on Geographic Areas would exempt any proposed development in the White Flint Policy Area from Policy Area Mobility Review (PAMR)
- The changes in Section TL2 on Metro Station Policy Area LATR Standards would exempt proposed development in the White Flint Policy Area from Local Area Transportation Review (LATR), but only if that development is required to provide substantial funds to a new development district or impact tax district as envisioned in the draft Sector Plan.
- The changes to maps referenced in Section TP2.2.1 on Geographic Areas would reconcile the White Flint Policy Area and the North Bethesda Road Code Urban Area with the White Flint Sector Plan boundary.

The amendment was introduced on March 12 with a Council public hearing on the amendment scheduled for March 23 at 1:30 PM. The Council staff memorandum introducing the amendment notes that the Planning Board comments are requested within two weeks to keep the Sector Plan implementation process moving expeditiously. Staff is briefing the Planning Board at the March 18 roundtable discussion and will hold discuss our comments with the Planning Board on March 25.

STAFF ANALYSIS

Staff supports the changes to the geographic areas as described in the draft amendment. Staff proposes one change to the proposed text relating to APFO.

For reference, the first three sections of the Growth Policy (Resolution 16-1187, included as Attachment B) cover transportation adequacy matters and are organized as follows:

- Section TP describes Transportation Policy area requirements
- Section TL describes Transportation Local area requirements

- Section TA describes Transportation Alternative review requirements. Current examples include the Alternative Review Procedure for Metro Station Policy Areas, multi-phased projects, corporate headquarter facilities, and strategic economic development projects.

Staff concurs with the proposal to amend Section TP and TL, but more work is needed on the replacement process for White Flint. Typically, we would expect this replacement process to be described in Section TA. We believe an amendment to Section TA that references the pertinent aspects of the ultimate implementation mechanisms (i.e., the “White Flint Development District” or the “White Flint Special Taxing District”) will be needed within the next 12 months to provide clarity.

Issue 1: Clarify Growth Policy Status of New Development District or Impact Tax District

To improve clarity to the extent possible in the interim, we recommend the following edits to the proposed changes in Section TL2 covering Local Area Transportation Review (our deletions in ~~strikeout~~ text and additions indicated in double-underlined text):

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~~ conditioned instead to provide substantial funds to a new development district or a 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.

The staff concern on this point is one of the timing between the Sector Plan adoption expected March 23 and the implementation decisions required during the next six to twelve months. We certainly want the Growth Policy to demonstrate the commitment to move from the current Adequate Public Facilities Ordinance (APFO) process to an alternative process that is more coordinated and streamlined. However, we will not know what that process is for another six to twelve months. The PHED Committee supported the Planning Board Draft of the Sector Plan (with minor revisions) that retains the following schedule:

- Creation of any public entities or financing mechanisms within 6 months of Plan adoption, and
- Development of a transportation approval mechanism within 12 months of Plan adoption.

This serial process and the Council staff draft Growth Policy amendment both recognize that a fair and equitable replacement for LATR and PAMR cannot be finalized until the replacement financing process has been finalized. For instance, if a new development district process increases taxes or fees, then LATR/PAMR has to be removed to incent participation in the new process.

However, it’s equally true that some alternative needs to be in place for property owners who may elect (depending on the process proposed) not to participate in the new process, either because they choose to move forward in advance of the process implementation or because the process allows participant self-selection.

One option would be to reference new, but as yet unwritten, text for Section TA of the Growth Policy that would make more explicit our expectation that the Growth Policy will be amended again once the financing mechanism is in place in order for development to proceed under the new language proposed in Section TL2. However, we appreciate the PHED Committee direction to move forward with Growth Policy amendments now, leaving open flexibility for future implementation decisions to occur with or without subsequent Growth Policy amendments.

The concern prompting our proposed revision has to do with the tense of the text changes. An applicant might argue that LATR should be abolished at the moment of Sector Plan adoption, because the intent of the Sector Plan is that all applicants “will be required to provide substantial funds for a new development district or impact tax district”. Similarly, the terms “new development district” and “new impact tax district” in the development district language are not timeless; they require contextual understanding of the date of the Growth Policy amendment.

As previously described, we expect that a future Growth Policy amendment that specifies and cross-references the name of the development district or impact tax district will ultimately be implemented. Our proposed change, from future tense to present tense and from a general requirement to a specific Planning Board condition in lieu of LATR, will minimize confusion in the interim.

Issue #2: Should PAMR Be Retained Until New Development District or Impact Tax District Develops?

The staff concern with PAMR is the same as for with LATR. It is possible that some property owners in White Flint will neither choose to, nor be required to, participate in the alternative development district or impact tax district. Furthermore, if the new process, for any reason, does not materialize in a timely manner, then development can move forward without PAMR but before an alternative funding mechanism is created. The result would be that the County would not benefit from PAMR mitigation resources for those development approvals in the interim.

Staff remains committed to the alternative implementation mechanism, but notes that the Council’s direction in this case is removing the existing mitigation process before its replacement is even defined, much less put in place. While we believe the direction to immediately revoke PAMR in White Flint is primarily symbolic, its effect, if any, would be to incent development to move forward quickly prior to the implementation of a replacement mechanism. Should any development be approved in this window between the revocation of PAMR and the implementation of its replacement, the effect would be to slightly increase the cost of transportation mitigation to be borne by the replacement process.

Conversely, however, the argument can be made that immediate removal of the PAMR income stream, however small, provides the public sector (the Executive Branch, our Department, and the County Council) the incentive to meet the staging deadlines we expect to see approved in the Sector Plan. For this reason we do not oppose the removal of PAMR at this time but merely draw attention to the timing concern.

Written testimony of the
Town of Garrett Park

Regarding
Proposed Growth Policy Amendment

March 23, 2010

Good afternoon; I am Chris Keller, Mayor of the Town of Garrett Park. I appreciate the opportunity to offer the views of the Town of Garrett Park on the proposed amendments to the Growth Policy. As you know, Garrett Park is a 111-year old independent municipality that is listed on the National Register of Historic Places and is located on either side of Strathmore Avenue, Maryland Route 547, very near White Flint. Strathmore Avenue already operates at a borderline-failure traffic volume at many hours of the day. As we have testified before, we have considerable concern that, unless channeled by intelligent growth policies, development will exacerbate an already-tenuous traffic situation and lead to gridlock.

We appreciate the responsiveness of the County Council in listening to community voices as you have worked through the White Flint Sector Plan. We remain concerned, however, that the proposed amendment to the Growth Policy, by relaxing reasonable constraints based on quantifiable measures, will lead to unacceptable levels of traffic congestion.

We agree with the position taken by the White Flint Community Coalition; we share the concerns expressed by our neighbors in Garrett Park Estates/White Flint Park and in Parkwood: we oppose the proposal to exclude White Flint from PAMR or LATR traffic analyses (or both) - it is not necessary and is certainly not smart growth. The County needs these measures in place to assure that development is balanced and will not have a negative impact on the quality of life of nearby communities and residents.

We join our neighbors in strongly urging the Council not to look at White Flint development in a vacuum by freeing only that area from County-wide standards in the Growth Policy. We all recognize that expansion of the Naval Medical Center will affect traffic on Rockville Pike. If the Council exempts White Flint from PAMR, you have essentially failed to recognize that Rockville Pike is a major north-south corridor connecting several development areas, with significant east-west crossings that directly impact residential areas.

In addition, the Growth Policy amendment exempts White Flint from LATR and does not propose any alternative. LATR (or a similar measure) is necessary to evaluate the impact of new development in White Flint on both existing intersections within the Sector and those

immediately outside of it, including Rockville Pike and Strathmore Avenue. The proposed amendment before you would allow increased congestion to intolerable levels.

Last year we testified to our understanding that the basic intent of a Growth Policy is to establish County-wide standards. The proposed Growth Policy amendment, however, would single out White Flint as an area where those standards would be relaxed. We remain strongly of the opinion that converting the Growth Policy from an ordinance designed primarily for intelligent County-wide development constraints to a document promoting specific development goals at particular locations represents a fundamental shift in the intent of the policy.

Montgomery County has an enviable and largely well-deserved reputation for enlightened and far-sighted land use planning. It would be a pity to both squander that distinction and endanger established neighborhoods by approval of policies that do not foster rational planning

Conclusion. The residents of Garrett Park share the well-founded concerns of their neighbors about a sharp rise in traffic congestion, noise, pollution, and other threats to our quality of life if development at White Flint is not rationally controlled. This morning, you passed a Sector Plan that seeks to address many of those concerns. We are now concerned that community protections will be undermined by changes to the Growth Policy. Our opposition to those changes arises out of long experience, careful study, and research. We fully appreciate that, to preserve the fruits of the County's thoughtful planning (the Agricultural Reserve, an enviable system of parks, the 'wedges and corridors' initiative and other steps to preserve open space), greater density around mass transit stations is a worthwhile and useful device. It is essential, however, that such development and its attendant traffic not outstrip the ability of infrastructure to sustain it, or destroy the essential character of existing neighborhoods. Residents have every bit as much of a vested interest in the success of carefully-planned growth – we stand to benefit from some of it. But it must not be purchased at the expense of the very qualities that attract and hold residents to Montgomery County.



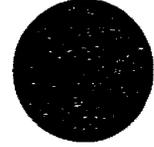
City of Rockville
111 Maryland Avenue
Rockville, Maryland
20850-2364
www.rockvillemd.gov

Mayor & Council
240-314-8280
TTY 240-314-8137
FAX 240-314-8289

March 26, 2010

The Honorable Nancy Floreen
President, Montgomery County Council
Council Office Building
100 Maryland Avenue
Rockville, Maryland, 20850

055373



have -
NANCY FLOREEN
MONTGOMERY COUNTY
COUNCIL
RECEIVED
2010 MAR 26 PM 4:00

Re: **Written Testimony from the City of Rockville on the Resolution to Amend the 2009-2011 Growth Policy: White Flint Metro Station Policy Area**

Dear President Floreen:

The purpose of this letter is to supplement testimony made on our behalf by David Levy, Chief of Long Range Planning and Redevelopment, at the Public Hearing on Monday March 22, 2010. The City of Rockville has grave concerns about the proposed amendment to the 2009-2011 Growth Policy on the White Flint Metro Station Policy Area that exempts any proposed development located within an expanded White Flint Metro Station Policy Area from Policy Area Mobility Review (PAMR), and Local Area Transportation Review (LATR), before an alternate mechanism is put in place.

On October 13, 2009 we submitted written testimony (attached) to the County Council during its comment period, as we had done on January 21, 2009 to the Planning Board during its comment period. The main points of that testimony remain relevant and are also relevant to the proposed Growth Policy amendment. In that letter we expressed our support for the County's broad growth strategy, in which growth is directed towards redevelopment areas. The White Flint area is clearly one such area and there is an opportunity to create a well-designed urban environment for pedestrians and transit users.

Some of the concerns that we expressed were addressed, for which we are appreciative. The most significant issue, however, was not fully addressed. We remain concerned about the impacts of traffic from the very large amount of projected development on areas just outside of the White Flint Sector, including Rockville, because those impacts have never been analyzed as part of the planning process.

Until now Rockville has taken some comfort from the fact that the County's Growth Policy includes mechanisms to monitor and manage the impacts of traffic at the time of project proposals, even though those mechanisms have not been perfect. We also understand that the approved White Flint Sector Plan stated the intent to create alternative mechanisms.

Rockville's position is as follows:

Montgomery County must not exempt development within the White Flint Metro Station Policy Area from PAMR or LATR until a replacement regime is in place to monitor and manage the traffic impacts of development, including the financial approach that has been discussed. The appropriate time for the amendment to the Growth Policy is when that replacement system has been developed and a smooth transition can take place. Until that time, there will be a regulatory vacuum.



MAYOR
Phyllis Marcuccio

COUNCIL
John B. Britton
Piotr Gajewski
Bridget Donnell Newton
Mark Pierzchala

CITY MANAGER
Scott Ullery

CITY CLERK
Claire F. Funkhouser

CITY ATTORNEY
Debra Yerg Daniel

Nancy Floreen, President
Montgomery County Council
3/25/10
Page 2

Please understand that Rockville is quite prepared to contemplate new approaches to transportation review. Any new system, however, must take into account the impacts not only in the policy area, but also on surrounding communities such as Rockville. We request, once again, that a thorough transportation impact evaluation be done in coordination with the Montgomery County Department of Transportation, the State Highway Administration and the City of Rockville.

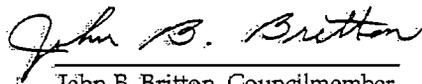
As a final point, we understand that there will be regular monitoring and review of traffic and other impacts as part of the plan. Rockville is also prepared to participate in that monitoring.

Thank you.

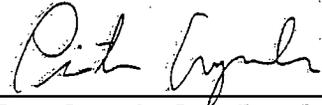
Sincerely,



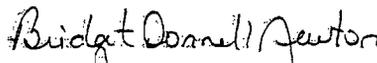
Phyllis Marcuccio, Mayor



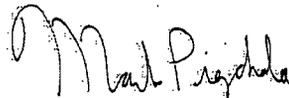
John B. Britton, Councilmember



Piotr Gajewski, Councilmember



Bridget Newton, Councilmember



Mark Pierzchala, Councilmember

cc: Isiah Leggett, Montgomery County Executive
Montgomery County Council
City of Rockville Planning Commission
Arthur Holmes, Montgomery County Director of Transportation
Royce Hanson, Chair, Montgomery County Planning Board
Rollin Stanley, Planning Director, MNCPPC
Scott Ullery, City Manager
Susan Swift, Director CPDS
Craig Simoneau, Director of Public Works
David Levy, Chief of Long Range Planning and Redevelopment
Emad Elshafei, Chief of Traffic and Transportation
Mayra Bayonet, Planner III
Ann Wallas, Planner III

Enclosure: October 13, 2009 Letter from Mayor Hoffman to President, Montgomery County Council



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 111 Maryland Avenue
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October 13, 2009

The Honorable Phil Andrews
 President, Montgomery County Council
 Council Office Building
 100 Maryland Avenue
 Rockville, Maryland 20850

Re: Written Testimony from the City of Rockville on the Draft Update to
 Montgomery County's White Flint Sector Plan

Dear President Andrews:

The purpose of this letter is to submit comments from the City of Rockville regarding the White Flint Sector Plan in advance of any decisions that the Montgomery County Council may make. As you know, the Montgomery County Planning Board approved the draft plan update in July 2009, and the County Council has scheduled the first Public Hearing on the plan for October 20, 2009. We understand that the public record will remain open until October 23, 2009.

On January 21, 2009, we submitted written testimony (attached), to the Montgomery County Planning Board during its comment period. The main points of that testimony remain relevant.

In general, Rockville supports the County's broad growth strategy, in which growth is directed toward redevelopment areas as opposed to previously undeveloped locations. The White Flint sector is clearly one of the locations where growth should be directed, and there is significant opportunity in this sector for infill development, improved urban design, and an improved environment for pedestrians and transit users.

Rockville has three areas of concern, however, that have not been addressed since January. This letter provides a summary of those concerns, which can be read in more detail in the attached letter.

Rockville Pike (MD355)

We strongly encourage that the County Council include, in the White Flint Sector plan, a street section of the Pike that is as similar as possible to the section that the City is embracing. The whole region will benefit greatly if the City and County can work together to create a grand boulevard on Rockville Pike.

We understand fully that final decisions regarding this State Highway will rest with the State Highway Administration. Nonetheless, the State will

MAYOR
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 Debra Yerg Daniel

undoubtedly wish to ensure that its road functions throughout both the County and City planning areas. It is therefore in both of our interests to work together as much as possible when we interact with the State. In that regard, the City requests that Plan language on p. 72 include the "City of Rockville" in the statement "Fund and complete the design study for Rockville Pike to be coordinated with SHA, MCDOT and M-NCPPC." We believe that the County and the City will have a higher likelihood of success in discussions with the State Highway Administration if we are negotiating and planning together, and that a better result will be produced.

We have made this point consistently in our interactions with the State regarding Rockville Pike. On July 28, 2009, the City of Rockville sent a letter (attached) to Governor O'Malley encouraging the State to embrace Councilman Berliner's proposal to create a Sustainable Transportation Corridors initiative, and to make Rockville Pike be one of the State's pilot corridors.

On July 30, when the City of Rockville was "Capital for a Day," City staff provided a tour of the corridor to the Maryland Secretary of Transportation Beverly Swaim-Staley and Maryland Secretary of Planning Rich Hall. We included key County staff on this tour and discussed the importance of both the physical transformation of the Pike, in Rockville and in White Flint, and the importance of collaboration among the State, City and County. I made these points directly to the Governor on that day.

Schools

The Draft recognizes that the 9,800 anticipated new residential units "will generate new students at each level, but primarily at the elementary school level." The City's fundamental request is that approval of such a significantly increased level of residential units be contingent on solving the issue of locating new elementary school capacity within the Walter Johnson cluster, part of which is within Rockville. The Planning Board Draft identifies various potential options, but the County Council and the School Board must select among those options to make one of them reality. Otherwise, schools that are being modernized over the next five years will find themselves quickly overcrowded again. By including construction of the school in the list of Capital Improvement Projects (Table 8 in the Draft), the County Council would show a stronger commitment. We also request that construction of the elementary school be included as part of the Staging Plan (p. 74, Table 7), to ensure that development is coordinated with the provision of public services.

With respect to projected enrollment of middle and high school students with the new development totals, we requested in our testimony to the Planning Board that the methodology be shown for the conclusion that Tilden Middle

School and Walter Johnson High School had sufficient capacity to absorb the additional growth. We appreciate that County Planning staff has, in fact, provided that information in Appendix 7, p. 188.

Traffic

As you know, the traffic in and near this sector is among the worst in all of Montgomery County. The Draft proposes new transportation infrastructure, but still shows significant increases compared to existing conditions. We remain concerned, as before, regarding the traffic impacts in areas just outside of the planning area, such as Rockville.

The City's core questions remain unchanged.

- What is the future Level of Service, or Congestion Level, anticipated along major corridors within and on the corridors/portals accessing the White Flint Sector?
- What are the anticipated impacts of this development on these corridors, and what is proposed to address these impacts?

The key corridors of concern include:

- a) Rockville Pike,
- b) Old Georgetown Road,
- c) Executive Boulevard,
- d) Montrose Parkway,
- e) Randolph and Nicholson Lane.

We request that, before the County Council approve a greatly increased level of development in the sector, a thorough transportation impact evaluation be done in coordination with the Montgomery County Department of Transportation, the State Highway Administration and the City of Rockville, and policies be established on such issues as critical lane volume standards and periodic assessments of traffic issues as development projects come on line. We would not want this new level of development to create unmanageable traffic for residents in and visitors to areas near the White Flint Sector, including Rockville.

Other Public Facilities

Rockville appreciates the inclusion in the Plan of a Satellite Regional Services Center of the broader Bethesda-Chevy Chase Regional Services area. The City of Rockville has recently been added to the Regional Services area, and this office will be closest to Rockville. As such, we request that the Plan language reflect the need for the office to serve an area beyond "the Plan area" (p.65), and that it include Rockville citizens and businesses.

Phil Andrews, President
Montgomery County Council
October 14, 2009
Page 4

The City also supports the Draft Plan's general recommendations regarding the provision of open space, community centers, and library services, but requests that the Plan include language requiring coordination with surrounding communities such as Rockville, to improve connectivity.

Thank you very much for the opportunity to provide these comments and testimony.

Sincerely,



Susan R. Hoffmann, Mayor
City of Rockville

Attachments

cc: Councilmember John Britton
Councilmember Piotr Gajewski
Councilmember Phyllis Marcuccio
Councilmember Anne M. Robbins
Isiah Leggett, Montgomery County Executive
Montgomery County Council
City of Rockville Planning Commission
Shirley Brandman, President, Montgomery County Board of Education
Arthur Holmes, Montgomery County Director of Transportation
Royce Hanson, Chair, Montgomery County Planning Board
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Rollin Stanley, Planning Director, MNCPPC
David Levy, Chief of Long Planning and Redevelopment
Mayra Bayonet, Planner III
Craig Simoneau, Director of Public Works
Emad Elshafei, Chief of Traffic and Transportation
Nazar Saleh, Transportation, Civil Engineer II
Glenn Kreger, MNCPPC
Dan Hardy, MNCPPC
Nkosi Yearwood, MNCPPC
Piera Weiss, MNCPPC

2

THE WHITE FLINT PARTNERSHIP

March 23, 2010

The Hon. Nancy Floreen, President
And Members of the Montgomery County Council
100 Maryland Avenue, Sixth Floor
Rockville, Maryland 20850

Re: March 23, 2010 Public Hearing – Resolution to Amend 2009-2011 Growth Policy: White Flint Metro Station Policy Area

Dear President Floreen and Councilmembers:

As you know, the White Flint Partnership ("WFP") consists of seven property owners working collectively toward the advancement of the White Flint Sector Plan. The WFP consists of Combined Properties, Federal Realty Investment Trust, The Holladay Corporation, Gables Residential, The JBG Companies, Lerner Enterprises, and The Tower Companies, who jointly own or control approximately 55% of the commercial land in White Flint. The WFP fully supports the proposed White Flint Amendment to the 2009-2011 Growth Policy that is the subject of the March 23, 2010 public hearing before the County Council and wishes to suggest an additional provision to deal with the allocation of staging policy within the White Flint Sector Plan area.

Specifically, the WFP has included an attachment with suggested language that would provide direction to the Planning Board in reviewing development plans regarding the allocation of staging capacity. The proposed language provides that a staging capacity determination would be made at the time of site plan. Further, once an applicant receives approval of a certified site plan, the applicant has 48 months to submit a completed building permit application to the Department of Permitting Services in order to retain its allocated staging capacity. The proposed language also provides a means of allowing development plans to proceed for review and approval and building permits to be issued if certain higher standards of non-auto driving mode share are committed to as part of the approval process.

The WFP believes this is a fair and equitable means of allocating capacity and encourages properties to utilize the capacity granted within a reasonable period of time or allow the capacity to be reallocated. We would encourage your inclusion of this language in the final Resolution dealing with White Flint.

Thank you for your consideration of this matter.

Best Regards,

THE WHITE FLINT PARTNERSHIP

Combined Properties
Federal Realty Investment Trust
Gables Residential
The Holladay Corporation
The JBG Companies
Lerner Enterprises
The Tower Companies

**Recommended Growth Policy Language for
Allocation of Staging Capacity in White Flint Sector Plan Area**

Staging capacity is allocated at the time of site plan application based on the number of dwelling units and/or square feet of non-residential development proposed in the application (the "Allocated Staging Capacity"). Following site plan approval, the Allocated Staging Capacity will be adjusted based on the amount of development approved in the site plan.

Following site plan approval, if adequate staging capacity is available for the project, the applicant must submit a complete building permit application to the Department of Permitting Services within 48 months of certified site plan approval or the project's Allocated Staging Capacity will expire for any portion of the site plan for which building permit applications have not been filed and the expired Allocated Staging Capacity will be placed in a staging capacity queue based on the date the site plan application was filed. No building permits for that portion of the project placed in the queue will be issued unless adequate staging ceiling capacity is available for such portion of the project based on the project's position in the queue. The Allocated Staging Capacity from the expired portion of the project will be put back into the available staging capacity in the applicable stage.

The Planning Board may accept a site plan application for review and action even if there is inadequate staging capacity for all or a portion of the Allocated Staging Capacity. Following approval of a site plan for which there is not adequate staging capacity for all or a portion of the project, the site plan will be placed in a staging queue based on the date the site plan application was filed and building permits will not be issued for the portion of the project until adequate staging capacity becomes available. Notwithstanding the above, building permits may be issued for a project for which staging capacity is inadequate if, as a condition of site plan approval, the applicant enters into an agreement with the Planning Board committing to achieve the applicable non-auto driver mode share for the next development phase for properties located within ¼ mile of an existing or planned Metro station portal or the applicable non-auto driver mode share for the next development stage minus 5% for properties located beyond ¼ mile of an existing or planned Metro station portal. For those properties with land area located both within and beyond the ¼-mile distance, the weighted average percent based on land area will be used.



March 23, 2010

5104 Elm St., Bethesda MD 20814 (301)652-6359 email - theelms518@earthlink.net

Testimony to County Council on Growth Policy Amendment Resolution re White Flint

I am Jim Humphrey, testifying on behalf of the Montgomery County Civic Federation as Chair of the Planning and Land Use Committee. At their meeting on March 17, the Federation Executive Committee members voted unanimously to oppose the proposed Growth Policy Amendment resolution for the White Flint policy area.

We believe this proposed Growth Policy Amendment is an untested and dangerous precedent which will treat development projects in the White Flint area differently from all other projects in the county. It will allow the Planning Board to approve any and all new development in this area without applying the transportation tests necessary for the Board to make a finding of adequate public facilities, which is a legal requirement before the Board approves any new preliminary plan.

Sec. 50-35(k). Adequate Public Facilities. The Planning Board must not approve a preliminary plan of subdivision unless the Board finds that public facilities will be adequate to support and service the area of the proposed subdivision. Public facilities and services to be examined for adequacy include roads and public transportation facilities, sewerage and water services, schools, police stations, firehouses, and health clinics.

The Amendment does recognize that traffic generated by new development in the White Flint area may impact a finding of adequate public facilities for projects outside this plan area. The text of the resolution states that "the traffic impact of any development in the Policy area must be considered in any Policy Area Mobility Review (and Local Area Transportation Review) calculation for any development elsewhere."

It is obvious then that the reverse is also true...that traffic coming from outside this Policy area could increase and affect the adequacy of transportation facilities within the Plan area. But this proposed scheme assumes that the White Flint area exists in a vacuum, and because the new road and transit facilities to be built are thought to be sufficient to handle traffic generated by the Plan there is no need to look at impact from outside the area. But without Local Area review, how will the Planning Board know what traffic conditions are near a proposed building site, or make the finding required by law that roads in the area are adequate to accommodate additional development?

MCCF Testimony to County Council

on Growth Policy Amendment Resolution for White Flint

March 23, 2010

Page 2.

While we may not agree, we can at least understand why this Council may opt to waive the Policy Area Mobility Review for new development in White Flint. You could decide that the Policy Area test, which might require developers pay to mitigate trips generated by new projects, is unnecessary because you intend to create a mechanism to fund significant new transportation infrastructure in the area.

But we respectfully urge you to retain the Local Area test for new development in White Flint because of its value in alerting the Planning Board to conditions on the ground in the area, and in pacing the rate of project approvals to coincide with the provision of the planned new road and transit facilities. Thank you for considering our comments.

THE WHITE FLINT COMMUNITY COALITION

Representing the wishes of the people of the White Flint area

March 23, 2010

The Honorable Nancy Floreen, President
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Dear President Floreen,

The Montgomery County Growth Policy exists to ensure facilities remain in balance with development. The White Flint amendment to the Growth Policy proposes to completely exclude White Flint from PAMR and LATR traffic analysis, rather than using the existing regulations. **This proposal is unnecessary for White Flint's redevelopment, sets a bad precedent moving forward, and will have a negative impact on quality of life** - the very thing the Growth Policy is supposed to protect.

As usually applied, the Growth Policy mandates Policy Area traffic analysis and requirements for new development. PAMR, however flawed, is especially important for the White Flint sector plan, to meet its very aggressive assumptions about traffic management. Even if PAMR and other measures enable White Flint to achieve these aggressive assumptions, the plan will still fail to maintain tolerable traffic, requiring the relative arterial mobility standard be lowered from the current 40% limit to 39%. Removing PAMR requirements (or its replacement) will lead to more congestion. **PAMR should not be removed from White Flint, but rather the 39% RAM standard the County Council noted in the White Flint Sector Plan should be codified in the Growth Policy.**

With respect to local traffic analysis under the existing Growth Policy, LATR may already be suspended for projects within development districts, allowing builders to work together to create more comprehensive plans while still requiring the Planning Board to ensure facilities adequacy throughout the development. The White Flint sector is planned to be financed through a development district, qualifying it to be excluded from LATR if built in balance. The new Comprehensive LATR will help identify and address inadequacies before they become problems. **There is no need for this amendment to remove LATR requirements from White Flint.**

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

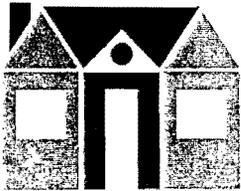
Crest of Wickford Condominium Association · Garrett Park Citizens Association
Garrett Park Estates-White Flint Park Citizens' Association · Luxmanor Citizens Association
Parkwood Residents Association · The Sterling Condo HOA
Timberlawn Homeowners Association · Wickford Community Association

The Growth Policy should be a consistent document, applicable over as broad a part of the County as possible. A policy that carves out an area from usual traffic tests establishes a bad precedent for other development areas, and will only complicate the planning department's processes over time. As many parts of the county become less suburban and development is focused along transit corridors, there is a clear need to consider how these more urban areas, many still in planning stages, will affect each other. **Alternative transportation measures and tools, of a more thoughtful, comprehensive nature, should be used rather than carving out these areas, one by one.**

The County has a legal and civic obligation to maintain a Growth Policy that provides for adequate public facilities. It has a responsibility to its citizens to monitor and mitigate traffic in and around the White Flint sector and in the County as a whole. We count on you to uphold this responsibility.

Sincerely,

John King
White Flint Community Coalition



GARRETT PARK ESTATES - WHITE FLINT PARK CITIZENS' ASSOCIATION

Natalie Goldberg
11111 Jolly Way
Kensington, MD 20895
March 23, 2010

Re: Growth Policy Amendment

President Floreen, members of the County Council. I am Natalie Goldberg representing the Garrett Park Estates - White Flint Park Citizen's Association. As you know we are located immediately south of the White Flint Sector Plan area abutting the White Flint Mall property. We have appreciated Council responsiveness to our concerns about neighborhood compatibility and transitioning to our single family homes. But our major concern - traffic - remains foremost in our minds.

We are opposed to this Growth Policy Amendment.

Eliminating PAMR, LATR, or both in White Flint compromises the Adequate Public Facilities Ordinance and does a grave disservice to those of us who live and work in the surrounding areas. To exempt White Flint from County and North Bethesda Adequate Public Facility Standards sets the Rockville Pike corridor up for unmanageable traffic congestion, especially in the short term.

We recognize that new development will contribute to the cost of infrastructure, as will the County, and as will we the taxpayers. We also recognize that the considerable economic development for White Flint will provide financial benefits to both the developer and the County. But meanwhile, we live here.

As discussions have indicated during the White Flint process, the plan gets close to adequacy only with specific mode share goals provided both within White Flint and within six other surrounding areas. None of these mode share goals deal with short term balance. For that we need the Growth Policy.

The Comprehensive Local Area Transportation Review incorporated in the Sector Plan provides for identification of inadequate infrastructure after development approval, but does not assure Council action to provide adequacy and does not even restrict subsequent development until a finding of adequacy has been made. We need the Growth Policy to assure adequacy.

LATR is needed in White Flint in order to evaluate the impact of new development in White Flint on existing intersections both within the Sector, such as Edson Lane and Rockville Pike, and immediately outside the sector, such as Rockville Pike and Strathmore Ave.

PAMR recognizes that no one area is an island unto itself. To exempt White Flint from PAMR is to fail to recognize that Rockville Pike is a major north south corridor with significant east-west crossings. We hope PAMR is temporary, but it's the only tool we have for measuring mobility at this point.

The current Growth Policy adopted in November already contains several workarounds designed to reduce the mitigation requirements in support of Smart Growth.

Section TA1, the Alternative Review Policy, satisfies PAMR and LATR by mitigating 50% of the trips attributable to the subdivision, and supporting a TMO, a provision consistent with the long term goals of the Sector Plan

Section TP3.1 Special Mitigation Standards, was just developed for urban areas such as White Flint. For a developer building 50% residential, using at least 75% of his density and meeting LEED standards, mitigation payment is reduced by 25% and funds directed primarily towards transit, another provision consistent with the goals of the Sector Plan.

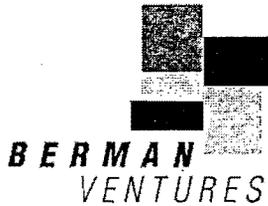
Additionally, Section TP4 Development District Participation requires that there be a list of facilities satisfying the Adequate Public Facilities Ordinance. We believe that this existing Section would satisfy the needs of the White Flint Community, if this kind of Development District is adopted, if the District includes all new development in the White Flint Sector, and if balance can be achieved through infrastructure. Until such time, we need the Growth Policy.

Lastly I would point out that our Community has consistently and repeatedly objected to expanding the Metro Station Policy Area. Doing so raises the standard for acceptable congestion in our immediate area from 1550 CLV to 1800, increasing allowable traffic by 16%. This County should be capable of managing traffic, not burying standards.

We ask, as you consider the Growth Policy Amendment, that you plan not only for our children and our grandchildren, but for those of us living here today.

Thank you.

March 23, 2010



TO: Montgomery County Council

From: Perry Berman

SUBJECT: **2009-2011 Growth Policy: White Flint Metro Station Policy Area Amendment, Public Hearing March 23, 2010 Agenda Item #13**

I am Perry Berman, speaking for Jack Fitzgerald who is the owner of two properties within the White Flint Plan. We support the proposed AGP amendment. However, there are several important details that need to be established as the Council reviews this amendment.

The White Flint Plan Staging Plan sets two million square feet of non-residential square feet and 3,000 dwelling units as the development threshold for Stage 1. However, the Plan does not set a point in the development process when these development applications are to be counted as allocated against the total by being committed to a specific project and applicant. The Plan also does not address how the capacity will be allocated other than it will be not geographic.

Use of the Preliminary Subdivision

For many years, the Subdivision Ordinance has set the approval of a Preliminary Plan of Subdivision by the Planning Board as the point where a development has obtained its AGP capacity through allocation of traffic capacity under the APF Ordinance. The Subdivision Regulations also establish a process for how long a Preliminary Plan approval is valid. The White Flint Plan is silent on these two points.

If a change is intended for clarity, we request that the AGP amendment make it clear where in the development process this occurs and how long the approvals are valid. If the time changes from that of Preliminary Plan approval, does that require a subdivision regulation amendment? I do not come to you with a solution to these problems; only the desire that you make a clear decision so that we all know the rules.

AGP Capacity Allocation

Council and Planning Board should establish a process to insure that development capacity is not absorbed by only a small number of properties. The Plan's Stage 1 capacity should not be used by only one or two projects, or be allowed to sit unused for a long period of time. The County should not allow capacity to be held and not used.

Process issues

For the issues I have identified, I suggest that Council establish a broad inclusive process of stakeholders to develop a consensus solution to these issues. This process must be open to all the interested parties, so that all will be heard and support the eventual decision. For a variety of reasons, this work should be completed as soon as possible but it must be inclusive.

Thank you for your consideration of this matter.

Perry

Perry Berman