

**MEMORANDUM**

July 10, 2014

TO: Planning, Housing, and Economic Development Committee  
Government Operations and Fiscal Policy Committee

FROM: Linda McMillan, Senior Legislative Analyst *LM*  
Jacob Sesker, Senior Legislative Analyst *JS*

SUBJECT: Resolution to Approve Declaration of No Further Need: Disposition of Portion of Air Rights over Parking Lot #13 to be transferred to Maryland-National Capital Park and Planning Commission for new Regional Headquarters and County Government Offices (Wheaton Redevelopment)

Resolution to Approve Declaration of No Further Need: Disposition of Portion of Parking Lot #13 for residential and retail development (Wheaton Redevelopment)

Resolution to Approve Declaration of No Further Need: Disposition of 8787 Georgia Avenue (current Maryland-National Capital Park and Planning Commission Regional Offices) for residential and retail development (Wheaton Redevelopment)

These resolutions were introduced on June 17, 2014. The Council will hold public hearings on these dispositions just prior to this worksession; therefore this packet does not contain any public hearing testimony. Action is tentatively scheduled for July 22, 2014 but may be rescheduled based on information received at the public hearing or at the joint Committee worksession.

**Background**

On April 28, 2014 the County Council was briefed in closed session on the material terms for three property dispositions that are required in order to implement the Wheaton

Redevelopment Program which was under consideration by the County Council and was subsequently approved as a part of the FY15-20 Capital Improvements Program (©15-16). A project summary noting the development milestones and Council consideration of the Wheaton Redevelopment Program is attached at ©17-18.

Under the property disposition process, the Council has 30 days to provide the Executive with comments on the material terms of a disposition. After the comment period, the Executive must also send the Council a Declaration of No Further Need. The Council has 60 days to act on the Declaration of No Further Need or extend the time for action. After the Council approves a Declaration of No Further Need, the Executive may execute the lease.

On June 2, 2014 the County Executive forwarded Executive Order 78-14, Disposition of PLD Parking Lot #13 at 11143 Grandview Avenue, RSC 2406 Reddie Drive in Wheaton, and M-NCPPC at 8787 Georgia Avenue in Silver Spring. This is the Executive's Declaration of No Further Need for all three dispositions that must occur to enter into the General Development Agreement that has been negotiated to implement the Wheaton Redevelopment Program.

**The Executive's memo requesting approval of his Declaration of No Further Need as it applies to a portion of the air rights above County Parking Lot #13 is attached at ©1-2 and the resolution that was introduced on June 17 to approve the disposition is attached at ©3-4.**

- A portion of the air rights over Parking Lot #13 will be transferred to M-NCPPC so that an office building can be constructed. The County will maintain fee simple ownership of the land. M-NCPPC will own the air rights and the building.
- In addition to the M-NCPPC regional office, multiple County offices will be located in the building. The County may lease space under a 100 year lease agreement.
- The building will have ground level retail that will be leased and managed by the County.
- The Developer will construct underground parking beneath the Commission building for the Parking Lot District.

The resolution as introduced waives the requirement that the property must be disposed of in a fair market exchange. This disposition is part of an overall General Development Agreement and not separately valued to confirm that this disposition would be a fair market exchange.

**The Executive's memo requesting approval of his Declaration of No Further Need as it applies to a portion County Parking Lot #13 is attached at ©5-6 and the resolution that was introduced June 17 to approve the disposition is attached at ©7-8.**

- Approximately 25,000 square feet of Parking Lot #13 immediately adjacent to the new M-NCPPC building will be developed as a mixed-used residential and retail project.
- There will be approximately 230 rental units.
- At least 20% of the units will be affordable to households with incomes no greater than 50% of the area median income.
- The Developer anticipates using 4% Low Income Housing Tax Credits.

- The Developer will have a Payment in Lieu of Taxes Agreement with the County for the residential portion.
- The County will lease and manage the ground level retail for a minimum of 15 years at rates favorable to the County.

The resolution waives the requirement that the property must be disposed of in a fair market exchange as requested by the County Executive.

**The Executive’s memo requesting approval of his Declaration of No Further Need as it applies to 8787 Georgia Avenue is attached at ©9-10 and the resolution that was introduced June 17 to approve the disposition is attached at ©11-12.**

- On May 30, 2013, the Commission authorized and approved the transfer of the Commission property to the County in exchange for new Commission regional offices in Wheaton.
- On May 31, 2013, the Commission and the County entered into a MOU to provide new regional offices in Wheaton and a mixed use development with affordable housing at 8787 Georgia Avenue. As a part of its disposition process, the Commission determined that the property is not needed for park purposes.
- The negotiated term sheet requires that the deed for 8787 Georgia Avenue be placed in escrow. The deed will be transferred once the turn key office building that will be the Commission’s new regional offices is completed and the Certificate of Use and Occupancy has been issued.
- The General Development Agreement will offer the Developer the exclusive right to purchase 8787 Georgia Avenue from the County for \$17 million. The Executive states that this is a fair market transaction.
- The funds will be used to offset the cost of development of the new Commission offices.

**The Executive is recommending the Council approve the disposition of 8787 Georgia Avenue even though the County does not currently own the property. The property disposition process applies to real property “owned or controlled” by the County. The County Attorney believes that the escrow agreement is sufficient to constitute control. The County will not be able to execute the General Development Agreement that has been negotiated unless the Council approves this disposition as the negotiated GDA gives the developer the right to purchase 8787 Georgia Avenue once the new Commission building is complete.**

**Attached to this packet**

**Circle**

Memo from CE – Disposition of PLD Lot #13 air rights to M-NCPPC – June 2, 2014

1-2

Resolution to Approve Disposition of PLD Lot #13 air rights to M-NCPPC – introduced June 17, 2014

3-4

<b>Attached to this packet</b>	<b>Circle</b>
Memo from CE – Disposition of portion of PLD Lot #13 for residential and retail development - June 2, 2014	5-6
Resolution to Approve Disposition of portion of PLD Lot #13 for residential and retail development - introduced June 17, 2014	7-8
Memo from CE – Disposition of 8787 Georgia Avenue (current M-NCPPC Regional Offices) – June 2, 2014	9-10
Resolution to Approve Disposition of 8787 Georgia Avenue (current M-NCPPC Regional Offices – introduced June 17, 2014	11-12
Executive Order 78-14, Disposition of PLD Parking Lot #13 at 11143 Grandview Avenue, RSC 2406 Reddie Drive in Wheaton, and M-NCPPC at 8787 Georgia Avenue in Silver Spring	13-14
Wheaton Redevelopment Program approved FY15-20 PDF	15-16
Summary – Project Background	17-18

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OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

June 2, 2014

TO: Craig Rice  
Council President

FROM: Isiah Leggett   
County Executive

SUBJECT: Executive Order 78-14, Disposition of a portion of Parking Lot District Lot #13 located in Wheaton, Maryland to Maryland-National Capital Park and Planning Commission through air rights

On April 28, 2014, the Department of Transportation (DOT) provided the material terms for the disposition of a portion of the air rights over Montgomery County Parking Lot District Lot #13 by transferring it to the Maryland-National Capital Park and Planning Commission (Commission) so that an office building (Commission Building) can be constructed. The County will maintain fee simple ownership of the land and the Commission will own the air rights and the new Commission Building. As required under Section 11B-45 of the Montgomery County Code, the County Executive must issue an Executive Order declaring that the property under County ownership is no longer needed for public use.

In addition to the various public meetings held by the proposed Developer and DOT with the community, it is my understanding that the County Council has scheduled a public hearing for July 8, 2014 to allow public comment and further vetting of the Wheaton Redevelopment Plan which includes the proposed disposition of the air rights and a ground lease related to this property. I am now submitting this Declaration of No Further Need to obtain Council approval to dispose of a portion of the air rights over Lot #13 so that negotiations with the Developer for a General Development Agreement (GDA) can be completed and the Wheaton Redevelopment Project can commence.

As you will recall from the Material Terms submitted to the Council in April, the agreement between the County and the Commission will require the County to transfer the air rights for a portion of Lot #13 to the Commission. The air rights will be transferred by the County to the Commission to provide space to locate the Commission's headquarters as part of the redevelopment project but the County will retain fee simple ownership of the land. In addition to the Commission regional offices, there will be multiple County offices co-located in the Commission Building.

Craig Rice  
June 2, 2014  
Page 2

The Term Sheet between the County and the Commission provides the County with the opportunity to lease space from the Commission under a 100 year lease agreement. The County Agencies that will be co-located with the Commission will provide services that relate to planning and development, will create opportunities to streamline services, and will benefit the community by their location in the same building. In addition, the Regional Service Center Offices will be located in the new Commission Building as replacement space for facilities lost through the development of the Town Square/Plaza surrounding the Commission Building. Finally, the Commission Building will include ground level retail space that will be leased and managed by the County to ensure that my redevelopment plan to bring activity and services to the Wheaton Community after business hours will be accomplished.

Attached please find Executive Order 78-14 which has been published in the May *County Register* to give notice of my intent to proceed with the disposition of a portion of the air rights to Parking Lot District Lot #13 by declaring that these property interests are no longer needed for public use.

I hope this information is helpful. If you have any questions, please feel free to contact me directly or speak with Al Roshdieh at 240-777-7175 or at [Al.Roshdieh@montgomerycountymd.gov](mailto:Al.Roshdieh@montgomerycountymd.gov).

IL:rbp

Attachment

Resolution No. \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Action: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Approval of Declaration of No Further Need: Disposition of Portion of Air Rights over Montgomery County Parking Lot #13 to be Transferred to the Maryland-National Capital Park and Planning Commission for New Headquarters and County Government Offices (Wheaton Redevelopment)

**Background**

1. Montgomery County Code §11B-45 requires the Council to approve a Declaration of No Further Need before the Executive can dispose of real property that has more than nominal value. Prior to seeking Council approval of a Declaration of No Further Need, the Executive must:
  - (a) submit all material terms of the proposed disposition and any appraisal the Executive relied on in setting the property's market value to the Council; and
  - (b) publish a declaration in the County Register and post a notice on the County website that the County has no further need for the property.

If the Council, by resolution, approves the Executive's Declaration of No Further Need, the Executive may dispose of the property for fair market value. The Council may waive the requirement for a full market value disposition.

2. On April 25, 2014 the County Council received a summary of the material terms for a proposed General Development Agreement that would implement the Wheaton Redevelopment Program. The material terms were reviewed with the joint Planning, Housing and Economic Development and Government Operations and Fiscal Policy Committee in closed session on April 28, 2014.
3. On June 2, 2014 the Executive transmitted Executive Order 78-14, Disposition of PLD Parking Lot #13 at 11143 Grandview Avenue, RSC 2406 Reedie Drive in Wheaton and M-NCPPC at 8787 Georgia Avenue in Silver Spring. Executive

Order 78-14 was published in the County Register on May 1, 2014. The Executive declared that there is no further need for a portion of the air rights over Parking Lot #13 at 11143 Grandview Avenue that is needed for the new Maryland-National Capital Park and Planning Commission Regional Headquarters, the portion of 11143 Grandview Avenue that is needed for a mixed-use project with affordable housing, and, once it is deeded to the County, 8787 Georgia Avenue. The Executive directed the Department of Transportation to take all steps necessary to dispose of the land in the manner described in the Executive Order.

4. On May 22, 2014, the Council approved the FY 2015-2020 Capital Improvements Program and FY 2015 Capital Budget for the Montgomery County Government. Included in the Capital Improvements Program is the Wheaton Redevelopment Program which, as described, requires the dispositions proposed in Executive Order 78-14.
5. A public hearing was held on July 15, 2014.

#### ACTION

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

The Declaration of No Further Need for the portion of the air rights over Montgomery County Parking Lot #13 at 11143 Grandview Avenue in Wheaton is approved. The Executive may dispose of the property in the manner described in Executive Order 78-14 and the summary of material terms provided to the County Council. The Council waives the requirement that the property must be disposed of in a fair market exchange.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council



OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

June 2, 2014

TO: Craig Rice  
Council President

FROM: Isiah Leggett   
County Executive

SUBJECT: Executive Order 78-14, Disposition of 25,000 square feet of Parking Lot District Lot #13 in fee simple

On April 28, 2014, the Department of Transportation (DOT) provided the material terms for the disposition of a small portion of the Montgomery County Parking Lot District Lot #13 (Lot #13), approximately 25,000 square feet by transfer in fee simple to a private developer. As required under Section 11B-45 of the Montgomery County Code, the County Executive must issue an Executive Order declaring that the property under County control is no longer needed for public use.

In addition to the various public meetings held by the proposed Developer and DOT with the Community, it is my understanding that the County Council has scheduled a public hearing for July 8, 2014 to allow public comment and further vetting of the Wheaton Redevelopment Plan which includes the proposed disposition of this property. I am now submitting this Declaration of No Further Need to obtain Council approval to dispose of this small piece of property so that negotiation of the General Development Agreement (GDA) between the County and the Developer can be concluded and the public and private projects included in the Wheaton Redevelopment Plan can commence.

As you will recall from the Material Terms submitted to the Council in April, under the redevelopment proposal, a portion of Lot #13 will be used for the new Commission Building and a smaller portion of Lot #13 (approximately 25,000 square feet), immediately adjacent to the new Commission Building, will be developed as a mixed-use project that will include approximately 230 rental units with at least 20% of those units designated as affordable to households whose income is no greater than 50% of the area median income. The Developer anticipates obtaining financing that will include 4% Low Income Housing Tax Credits, and a Payment In Lieu of Taxes Agreement from the County ("PILOT"), on the residential portion of the mixed-use project to assist with constructing as much affordable housing as possible. The mixed-use project will also include ground level retail space that the County will lease and manage for a minimum term of fifteen years and at rates favorable to the County.

Craig Rice  
June 2, 2014  
Page 2

The residential development will provide much needed affordable housing for the Wheaton Community and the ground level retail space will ensure that my redevelopment plan to bring activity and services to the Wheaton Community after business hours will be accomplished. This portion of Lot #13 will be disposed in fee simple to the Developer. In order to make the construction of this mixed-use project financially viable, including 20% of the units affordable to residents at rental rates far lower than required under the MPDU law and the lease to the County of ground level retail at favorable rates, I am requesting a waiver of the requirement that the disposition of this 25,000 square foot parcel of land be for fair market value.

Attached please find Executive Order 78-14 which has been published in the *May County Register* to give notice of my intent to proceed with the disposition of the referenced 25,000 square foot portion of Lot #13 by declaring that this property is no longer needed for public use.

I hope this information is helpful. If you have any questions, please feel free to contact me directly or speak with Al Roshdieh at 240-777-7175 or at [Al.Roshdieh@montgomerycountymd.gov](mailto:Al.Roshdieh@montgomerycountymd.gov).

IL:rbp

Attachment

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Resolution No. \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Action: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Approval of Declaration of No Further Need: Disposition of a Portion of Montgomery County Parking Lot #13 for Residential and Retail Development (Wheaton Redevelopment)

**Background**

1. Montgomery County Code §11B-45 requires the Council to approve a Declaration of No Further Need before the Executive can dispose of real property that has more than nominal value. Prior to seeking Council approval of a Declaration of No Further Need, the Executive must:
  - (a) submit all material terms of the proposed disposition and any appraisal the Executive relied on in setting the property's market value to the Council; and
  - (b) publish a declaration in the County Register and post a notice on the County website that the County has no further need for the property.

If the Council, by resolution, approves the Executive's Declaration of No Further Need, the Executive may dispose of the property for fair market value. The Council may waive the requirement for a full market value disposition.

2. On April 25, 2014 the County Council received a summary of the material terms for a proposed General Development Agreement that would implement the Wheaton Redevelopment Program. The material terms were reviewed with the joint Planning, Housing and Economic Development and Government Operations and Fiscal Policy Committee in closed session on April 28, 2014.
3. On June 2, 2014 the Executive transmitted Executive Order 78-14, Disposition of PLD Parking Lot #13 at 11143 Grandview Avenue, RSC 2406 Reddie Drive in Wheaton and M-NCPPC at 8787 Georgia Avenue in Silver Spring. Executive Order 78-14 was published in the County Register on May 1, 2014. The

Executive declared that there is no further need for a portion of the air rights over Parking Lot #13 at 11143 Grandview Avenue that is needed for the new Maryland-National Capital Park and Planning Commission Regional Headquarters, the portion of 11143 Grandview Avenue that is needed for a mixed-use project with affordable housing, and, once it is deeded to the County, 8787 Georgia Avenue. The Executive directed the Department of Transportation to take all steps necessary to dispose of the land in the manner described in the Executive Order.

4. On May 22, 2014, the Council approved the FY 2015-2020 Capital Improvements Program and FY 2015 Capital Budget for the Montgomery County Government. Included in the Capital Improvements Program is the Wheaton Redevelopment Program which, as described, requires the dispositions proposed in Executive Order 78-14.
5. A public hearing was held on July 15, 2014.

#### ACTION

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

The Declaration of No Further Need for the portion of 11143 Grandview Avenue that is needed for a mixed-use project with affordable housing is approved. The Executive may dispose of the property in the manner described in Executive Order 78-14 and the summary of material terms provided to the County Council. The Council waives the requirement that the property must be disposed of in a fair market exchange.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council



OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

June 2, 2014

TO: Craig Rice  
Council President

FROM: Isiah Leggett  
County Executive

SUBJECT: Executive Order 78-14, Disposition of the Maryland-National Capital Park and Planning Commission Regional Office, located at 8787 Georgia Avenue, Silver Spring, Maryland

On April 28, 2014, the Department of Transportation (DOT) provided the material terms for the disposition of the Maryland-National Capital Park and Planning Commission (Commission) regional office located at 8787 Georgia Avenue in Silver Spring, Maryland. This property will be disposed of in fee simple as part of the transaction that includes the development of a Commission office building in Wheaton, Maryland at the current location of Montgomery County Parking Lot District lot #13. As required under Section 11B-45 of the Montgomery County Code, the County Executive must issue an Executive Order declaring that the property under County control is no longer needed for public use.

In addition to the various public meetings held by the proposed Developer and DOT with the Community, it is my understanding that the County Council has scheduled a public hearing for July 8, 2014 to allow public comment and further vetting of the Wheaton Redevelopment plan which includes the proposed disposition of this property. I am now submitting this declaration of no further need to obtain Council approval to dispose of this property so that the negotiation of the General Development Agreement (GDA) between the County and the Developer can be concluded and the Wheaton Redevelopment Project can commence.

As you will recall from the Material Terms submitted to the Council in April, the GDA will offer the Developer the exclusive right to purchase the 8787 Georgia Avenue, Silver Spring Commission Regional Office property from the County for \$17,000,000, which has been established through reviews of comparable properties in Silver Spring and was found to be fair and reasonable. The funds will be used to offset the costs of development of the Commission office and the Developer will provide economic stimulus to both the Silver Spring and Wheaton transit oriented development areas of the County by providing affordable housing, retail space for leasing and revitalization to the Wheaton area. I am therefore, advising Council that this proposed disposition of property will be for fair market value.

Craig Rice  
June 2, 2014  
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The planned sale and transfer of properties will not occur until the Certificate of Use and Occupancy has been issued to the new Office Building that will be located on Lot #13 in Wheaton. While the property transfers<sup>1</sup> are slated to occur within approximately 48 months after the GDA is executed, the Developer's work on obtaining financing and development approvals for the mixed-use developments to be located on both Lot #13 (Commission Office Building) and on the Commission Property at Georgia Avenue (to be developed as a mixed use development that will include affordable and work force housing) will begin soon after the GDA is signed by the County and the Developer.

On May 30, 2013, by Resolution No. 13-05, the Commission authorized and approved the transfer of the Commission Property to the County in exchange for new Commission Regional offices in Wheaton. On May 31, 2013, the County and the Commission entered into a Memorandum of Understanding ("MOU") that serves as the basis of the County's and the Commission's agreement to move forward with redevelopment in Wheaton that will provide new Commission regional offices and a mixed use development with affordable housing in Silver Spring at 8787 Georgia Avenue. Additionally, the Commission approved the transfer of 8787 Georgia Avenue to the County and determined, as part of their disposition of property process, that the property was not needed for park purposes under Section 17-205 of the Land Use Article of the Annotated Code of Maryland. The County and the Commission have developed a plan to provide for the transfer and sale of the Commission property that will ensure the authority of the County to make the Commission property available for sale to the Developer once the terms of the GDA have been met and the property can be disposed by the County to the Developer. The negotiated Term Sheet between the County and the Commission requires that the deed for 8787 Georgia Avenue be placed into escrow under the conditions of an escrow agreement that sets forth the circumstances and timing under which the Commission properties will transfer to the County.<sup>2</sup>

Attached please find Executive Order 78-14 which has been published in the May *County Register* to give notice of my intent to proceed with the disposition of the Commission Regional Office at 8787 Georgia Avenue, Silver Spring by declaring that this parcel is no longer needed for public use.

I hope this information is helpful. If you have any questions, please feel free to contact me directly or speak with Al Roshdieh at 240-777-7175 or at [Al.Roshdieh@montgomerycountymd.gov](mailto:Al.Roshdieh@montgomerycountymd.gov).

IL:rbp

Attachment

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<sup>1</sup> The property referred to in this reference is the Turn Key Office building that will become the new Commission regional office that will be transferred to the Commission, and the 8787 Georgia Avenue property that will be transferred to the Developer once the new Commission office is completed.

<sup>2</sup> The Term Sheet has been approved by the Commission. The escrow agreement and transfer of deeds into the escrow account will occur within the next 30 days.

Resolution No. \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Action: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Approval of Declaration of No Further Need: Disposition of 8787 Georgia Avenue (current Maryland-National Capital Park and Planning Commission Regional Offices) (Wheaton Redevelopment)

**Background**

1. Montgomery County Code §11B-45 requires the Council to approve a Declaration of No Further Need before the Executive can dispose of real property that has more than nominal value. Prior to seeking Council approval of a Declaration of No Further Need, the Executive must:
  - (a) submit all material terms of the proposed disposition and any appraisal the Executive relied on in setting the property's market value to the Council; and
  - (b) publish a declaration in the County Register and post a notice on the County website that the County has no further need for the property.

If the Council, by resolution, approves the Executive's Declaration of No Further Need, the Executive may dispose of the property for fair market value. The Council may waive the requirement for a full market value disposition.

2. On April 25, 2014 the County Council received a summary of the material terms for a proposed General Development Agreement that would implement the Wheaton Redevelopment Program. The material terms were reviewed with the joint Planning, Housing and Economic Development and Government Operations and Fiscal Policy Committee in closed session on April 28, 2014.
3. On June 2, 2014 the Executive transmitted Executive Order 78-14, Disposition of PLD Parking Lot #13 at 11143 Grandview Avenue, RSC 2406 Reddie Drive in Wheaton and M-NCPPC at 8787 Georgia Avenue in Silver Spring. Executive Order 78-14 was published in the County Register on May 1, 2014. The

Executive declared that there is no further need for a portion of the air rights over Parking Lot #13 at 11143 Grandview Avenue that is needed for the new Maryland-National Capital Park and Planning Commission Regional Headquarters, the portion of 11143 Grandview Avenue that is needed for a mixed-use project with affordable housing, and, once it is deeded to the County, 8787 Georgia Avenue. The Executive directed the Department of Transportation to take all steps necessary to dispose of the land in the manner described in the Executive Order.

4. On May 22, 2014, the Council approved the FY 2015-2020 Capital Improvements Program and FY 2015 Capital Budget for the Montgomery County Government. Included in the Capital Improvements Program is the Wheaton Redevelopment Program which, as described, requires the dispositions proposed in Executive Order 78-14.
5. A public hearing was held on July 15, 2014.

#### ACTION

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

The Declaration of No Further Need for 8787 Georgia Avenue in Silver Spring is approved. The Executive may dispose of the property, once it is deeded to the County, in the manner described in Executive Order 78-14 and the summary of material terms provided to the County Council. The property must be disposed of in a fair market exchange.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council



# MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject: Disposition of PLD Parking Lot #13 at 11143 Grandview Avenue, RSC 2406 Reedie Drive in Wheaton and M-NCPPC at 8787 Georgia Avenue in Silver Spring.	Executive Order No. 78-14	Subject Suffix ORE
Department: Department of Transportation	Department No. ORE	Effective Date 4/28/14

## BACKGROUND

**WHEREAS**, a reuse recommendation was made by the Division of Parking Management, Department of Transportation ("DOT") regarding the Wheaton and Silver Spring Redevelopment Project ("Project") which includes the Parking Lot District's Parking Lot # 13 located at 11143 Grandview Avenue (the "Wheaton Triangle Property"). The reuse recommendation also includes a property currently owned by the Maryland-National Capital Park and Planning Commission M-NCPPC ("Commission") located at 8787 Georgia Avenue Silver Spring ("Commission Property"). The Commission property has been determined to no longer be needed for park purposes under Section 17-205 of the Land Use Article of the Annotated Code of Maryland and approved for transfer to the County on May 30, 2013 in Resolution No 13-05; and

**WHEREAS**, in accordance with the reuse recommendation, DOT issued a Request for Proposal ("RFP") in June 2013 seeking proposals from developers interested in the Project, including designing and developing a government office building, town square, public parking garage, and privately owned mixed-use residential projects in Wheaton and Silver Spring; and

**WHEREAS**, under the RFP, a portion of the Wheaton Triangle Properties will be used to construct a new office building to house the Commission's headquarters ("Headquarters") and, in exchange for the construction and transfer of the Headquarters and the transfer of the air rights for the Headquarters by the County to the Commission, the Commission agrees to transfer the Commission Property to the County; and

**WHEREAS**, the County's and the Commission's agreements concerning the construction of the Headquarters, transfer of air rights to the Headquarters and transfer of the Commission Property to the County will be memorialized in a binding agreement ("Commission Agreement"); and

**WHEREAS**, the Wheaton and Silver Spring Redevelopment Project is consistent with the County's objectives of increased density, mixed-use projects with appropriate levels of affordable housing; and

**WHEREAS**, Stonebridge-Carras and Buzzuto ("Developer") was selected as the developer partner under the RFP and the County intends to enter into a General Development Agreement ("Agreement") with Developer for project and enter into a procurement contract with the Developer for the construction of the Headquarters; and

**WHEREAS**, the terms of the Agreement and the Commission Agreement will memorialize the disposition of a portion of the Wheaton Triangle Properties and the Commission Property by providing for the construction and transfer of the Headquarters, and the air rights to the Headquarters, to the Commission in exchange for the Commission transferring the Commission Property to the County; the transfer of a portion of 11143 Grandview



# MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject: Disposition of PLD Parking Lot #13 at 11143 Grandview Avenue, RSC 2406 Reddie Drive in Wheaton and M-NCPPC at 8787 Georgia Avenue in Silver Spring.	Executive Order No. 78-14	Subject Suffix ORE
Department: Department of Transportation	Department No. ORE	Effective Date 4/28/14

Drive for the Developer's privately-owned mixed use development project in Wheaton; and, upon the County's receipt of the deed to the Commission Property, the transfer of the Commission Property to the Developer for a privately-owned mixed use development project in Silver Spring; and

**WHEREAS**, the County's transfers of a portion of the Wheaton Triangle Property and of the Commission Property to the Developer will not consummate until a Use and Occupancy permit is issued for the Headquarters; and

**WHEREAS**, the County Executive or his designee has considered the reuse recommendations and has determined that there is no further public need for the air rights on the Wheaton Triangle Properties for the Commission's new headquarters, the portion of 11143 Grandview Avenue to be used by the Developer for a mixed-use project, or to 8787 Georgia Avenue once the property is deeded from the Commission to the County; and

**WHEREAS**, as required under §11B-45 of the Montgomery County Code, the County Executive must issue an Executive Order declaring that County owned or controlled real property is no longer needed for public use.

### ACTION

In consideration of the above recitals, the County Executive declares that there is no further public need for the portion of the air rights on 11143 Grandview Avenue needed for the Commission's headquarters, the portion of the fee simple ownership of 11143 Grandview Avenue needed for the mixed-use project with affordable housing, and, once it is deeded by the Commission to the County, for the fee simple ownership of 8787 Georgia Avenue, and hereby directs the Department of Transportation to take all steps necessary to dispose of the land in the manner described in this Executive Order.

Approved as to Form and Legality  
Office of the County Attorney

By: Walter L. Auer  
Date: 4-28-14

APPROVED

Ramona Bell-Pearson  
Ramona Bell-Pearson  
Assistant Chief Administrative Officer

Distribution:  
County Council  
County Attorney  
Department of General Services

## Wheaton Redevelopment Program (P150401)

Category	General Government	Date Last Modified	4/21/14
Sub Category	Economic Development	Required Adequate Public Facility	No
Administering Agency	Transportation (AAGE30)	Relocation Impact	None
Planning Area	Kensington-Wheaton	Status	Planning Stage

	Total	Thru FY13	Est FY14	Total 6 Years	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	Beyond 6 Yrs
<b>EXPENDITURE SCHEDULE (\$000s)</b>											
Planning, Design and Supervision	13,039	4,229	1,627	7,183	2,000	2,300	1,440	1,443	0	0	0
Land	1,010	1,010	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	10,559	1,346	0	9,213	3,750	2,044	3,419	0	0	0	0
Construction	111,481	585	73	110,803	0	7,210	58,372	35,309	9,912	0	0
Other	7,778	136	175	7,467	475	0	300	5,500	1,192	0	0
<b>Total</b>	<b>143,847</b>	<b>7,306</b>	<b>1,875</b>	<b>134,666</b>	<b>6,225</b>	<b>11,554</b>	<b>63,531</b>	<b>42,252</b>	<b>11,104</b>	<b>0</b>	<b>0</b>

	Total	Thru FY13	Est FY14	Total 6 Years	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	Beyond 6 Yrs
<b>FUNDING SCHEDULE (\$000s)</b>											
Contributions	862	0	0	862	0	862	0	0	0	0	0
Current Revenue: General	1,300	650	325	325	325	0	0	0	0	0	0
Federal Aid	418	417	1	0	0	0	0	0	0	0	0
G.O. Bonds	71,668	0	1,373	70,295	3,019	5,636	33,502	22,281	5,855	0	0
Long-Term Financing	63,009	0	0	63,009	2,708	5,054	30,029	19,971	5,249	0	0
PAYGO	5,740	5,739	1	0	0	0	0	0	0	0	0
State Aid	850	500	175	175	175	0	0	0	0	0	0
<b>Total</b>	<b>143,847</b>	<b>7,306</b>	<b>1,875</b>	<b>134,666</b>	<b>6,225</b>	<b>11,554</b>	<b>63,531</b>	<b>42,252</b>	<b>11,104</b>	<b>0</b>	<b>0</b>

### APPROPRIATION AND EXPENDITURE DATA (000s)

Appropriation Request	FY 15	126,435
Appropriation Request Est.	FY 16	500
Supplemental Appropriation Request		0
Transfer		0
Cumulative Appropriation		10,255
Expenditure / Encumbrances		7,364
Unencumbered Balance		2,891

Date First Appropriation	FY 04
First Cost Estimate	
Current Scope	FY 15 143,847
Last FY's Cost Estimate	73,338

### Description

This project provides for the planning, studies, design, and construction of an office building, public parking garage, and a town square on the site of Parking Lot 13 and the Mid-County Regional Services Center (RSC) in Wheaton. The project components include 1) an approximately 266,000 s.f. office building to be owned by the Maryland-National Capital Park and Planning Commission (M-NCPPC); 2) an approximately 400 space underground public parking garage to be delivered to the Wheaton Parking Lot District (PLD); and 3) a town square located on Lot 13 and the current RSC site. The new headquarters for M-NCPPC will occupy approximately 132,000 s.f. of the building, including space for a child care facility. The remainder of the building space will be used by the County for office and retail under a long-term lease agreement. The County intends to use its space for nearly 15,000 s.f. of street front retail space and move offices of the RSC, Wheaton Urban District, Department of Environmental Protection, and Department of Permitting Services to this building. After the building is delivered to M-NCPPC, the Commission will transfer the ownership of the parcels at 8787 Georgia Ave. in Silver Spring and 11200 Amherst Ave. in Wheaton to the County. The County will then transfer 8787 Georgia Ave. to the developer who will develop a privately financed mixed-use project on the site. The delivery will include air rights above the land over the parking garage for the space comprising the office building and over that portion of the land located between the building and Reddie Drive. The town square will be maintained and programmed by the RSC for the community benefit. The obligations and relationship between County Government and M-NCPPC for the project are reflected in a Memorandum of Understanding dated May 31, 2013 and will be explicitly set forth in the Binding Agreements between the parties.

This PDF also includes \$650,000 for consulting services to provide 1) a comprehensive parking study to identify potential redevelopment disruptions to the public parking supply and any related impacts of existing businesses and to identify potential mitigation options; 2) planning studies to review potential models and approaches to creating local jobs and job training opportunities prior to and during redevelopment, including relevant case examples in Montgomery County as well as innovative models from other local and national jurisdictions; and 3) a business assessment study to determine the number of businesses and the magnitude of the impact. The business assessment study is needed to support Council Bill 6-12 for the establishment of service provision and technical assistance to those small businesses adversely impacted by a County redevelopment project.

As part of the agreement, this project also includes a privately owned mixed use residential building with independent financing and significant affordable housing components.

### Location

## Wheaton Redevelopment Program (P150401)

Montgomery County Public Parking Lot 13, between Grandview Avenue and Triangle Lane; the RSC site on Reedle Drive, Wheaton; 8787 Georgia Avenue, Silver Spring; and Veterans Urban Park at 11200 Amherst Avenue, Wheaton, Maryland.

### Estimated Schedule

The project design is expected to begin in July 2014 and construction is expected to begin in the summer of 2016 with delivery of the office building in mid-2018. Demolition of the RSC site will begin as soon as the site can be vacated. The town square is planned to be completed in the fall of 2018.

### Cost Change

The cost increase is based on negotiated costs of constructing a 12 story office building that includes additional County government offices and changes to the concept design of the building and the town square based on community input.

### Justification

The Wheaton Redevelopment Program was established in 2000 with the goal of encouraging private reinvestment through targeted, complementary public investment. The complementary public investment that Wheaton most needs is investment in creating a centrally located public space and a daytime population that together will contribute to an 18-hour economy in downtown Wheaton. It is expected that this public investment will leverage private investment, some of which is already occurring in Wheaton.

Plans & Studies: Wheaton CBD and Vicinity Sector Plan (2011), State of Maryland designation as a Smart Growth and TOD site (2010), Urban Land Institute Technical Assistance Panel (2009). The International Downtown Association Advisory report (2008); Wheaton's Public Safety Audit (2004); The Wheaton Redevelopment Advisory Committee visioning process for the Wheaton core; National Mainstreet Center Planning Study (2000); WRAC activities since established in 2000.

### Fiscal Note

Minor project funding includes: 1) \$418,000 FY09 federal grant, funded through the SAFETEA-LU transportation act; 2) A developer contribution of \$861,940 from M-NCPPC Public Use Space and Amenity Fund. November 5, 2010 Planning Board Resolution, 10-149, Site Plan 820110010; and 3) \$350,000 FY14 and FY15 State aid to support facade improvements and a pilot solar-powered trash compactor program.

Non-tax supported long-term financing will be used to finance the costs for DEP and DPS facility space. Total project cost includes \$8,930,000 for Streetscape and Façade work funded through FY12.

The residential development on Lot 13 will not be funded in this PDF.

### Disclosures

A pedestrian impact analysis has been completed for this project.

The Executive asserts that this project conforms to the requirements of relevant local plans, as required by the Maryland Economic Growth, Resource Protection and Planning Act.

### Coordination

WMATA, Office of the County Attorney, M-NCPPC, Westfield Mall, Community Associations and Residents, Private developers, Department of General Services, Department of Transportation, Department of Environmental Protection, Department of Permitting Services, Department of Housing and Community Affairs, Mid-County Regional Service Center, and State of Maryland.

## PROJECT BACKGROUND

- January 2012: The Executive proposed a \$42.0 million for the Wheaton Redevelopment Program. The project included the construction of a platform above the Washington Metropolitan Area Transit Authority (WMATA) bus bays. The platform would have supported up to 3 office buildings and 800,000 square feet of office space. The County would have been obligated to lease 150,000 square feet of office space, and M-NCPPC had been identified as a possible (unwilling) tenant for an additional 150,000 square feet. The developer would have attempted to fill the remaining space.
- May 2012: The Council approved a placeholder PDF setting aside funding for a headquarters building for M-NCPPC, rather than approving the platform. The PDF indicated that the building would be located on Parking Lot 13.
- Winter 2012/2013: DGS asked M-NCPPC if it would consider the Regional Services Center site as an alternative to Parking Lot 13, thereby freeing up Parking Lot 13 for private development.
- Winter 2012/2013: M-NCPPC explored the possibility of relocating to the Regional Services Center site and indicated that they believed acquisition of additional property rights would be necessary to make the site work.
- March 12, 2013: The County Council met in closed session to discuss whether it would generally support the acquisition of additional property interests. After hearing from both M-NCPPC and the Executive, the Council supported M-NCPPC's request to explore acquiring additional property interests as necessary.
- March 27, 2013: County Executive Leggett wrote in a letter that he did not intend to move DEP and DPS to Wheaton as part of the Wheaton Redevelopment Program.
- April 12, 2013: DGS indicated to the joint committees that the Executive was interested in pursuing a public/private redevelopment. The precise location of the office building in Wheaton would remain open.<sup>1</sup> The Executive did not make a decision as to whether to relocate DEP and DPS. The joint committees requested more details in a subsequent worksession.

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<sup>1</sup> The April and May 2013 worksessions included discussions of the relationships between the size of the project and the location of the project. One key issue was that the Regional Services Center site was only 15,367 square feet, meaning that the site had a zoning capacity (without density transfer) of 92,202 square feet. This zoning capacity would not have been sufficient—without a density transfer—for either (a) an office building (approximately 142,000 square feet) for M-NCPPC and the RSC/Urban District only; or (b) an office building (approximately 250,000 square feet) for M-NCPPC, the RSC/Urban District, and DEP and DPS. In addition, there was some discussion of the fact that Lot 13 may not be large enough to accommodate multiple office users, residential uses, and all of the civic/public use spaces desired by the community.

- April 30, 2013: Planning Board Chair Carrier transmitted a letter stating that M-NCPPC would prefer to control the design and construction of the office building, that M-NCPPC would prefer to own the office building, and further that any process to select a private developer should be open and transparent, and that negotiations with a developer should be completed by a time certain.
- May 7, 2013: County Executive Leggett transmitted a letter supporting a new headquarters for M-NCPPC, the Regional Services Center and the Urban District, while also presenting an option for a multi-agency building.
- May 8, 2013: The joint committees discussed two options—the first option was a building for M-NCPPC and the Regional Services Center/Urban District at the site of the current RSC site (favored by the GO Committee); the second option was a larger office building that could include co-location of M-NCPPC and County Government offices and that would be part of a project proposed by a developer (favored by the PHED Committee).
- May 13, 2013: The Council approved a second placeholder PDF that continued to set aside funding for the M-NCPPC portion of the project, and which further made clear the intent of both the Council and Executive to move forward to solicit proposals from private developers. The PDF stated that the County portion of the project might be financed using alternative financing structures.
- Summer 2013: The RFP was released on June 3. A Silver Spring community meeting was held on June 11, and a Wheaton community meeting was held on June 12—these community meetings provided an opportunity for potential bidders to hear from the communities. Proposals were due by July 31.
- Fall 2013: The County commenced parallel meetings/negotiations with Stonebridge Carras (the preferred development partner) and with M-NCPPC (the building owner). The preferred development partner presented concepts to the Silver Spring community on September 16 and to the Wheaton community on September 18. Another meeting in the Wheaton community was held on December 11.
- March 17, 2014: The County Executive transmitted a substantially revised PDF. The PDF includes changes to the project schedule, sources of funding, and project scope.
- April 28, 2014: The joint committees (PHED/GO) was briefed on the project and voted to recommend the project for approval by the full Council.
- May 6, 2014: The County Council unanimously expressed its intent to approve the project (which was subsequently approved along with the FY15 operating and capital budgets in May).