

T&E COMMITTEE #1
October 13, 2016

MEMORANDUM

October 11, 2016

TO: Transportation, Infrastructure, Energy and Environment Committee
FROM: Glenn Orlin, ^{GO} Deputy Council Administrator
SUBJECT: Resolution to authorize advance taking for White Flint West Workaround project

On September 29, 2016 the County Executive requested authority to condemn, by the advance taking procedure, portions of three properties in order to construct the first phase of the White Flint West Workaround project. The Executive's letter transmitting this request is on ©1-2 and a draft resolution is on ©3-4. A map showing the location of the project is on ©5. Maps showing the extent of the acquisitions are on ©6-7.

The Department of Transportation (DOT) wrote to the properties' owner notifying him of the Executive's request and when the Committee and Council would meet on the matter. The letter is on ©8. DOT staff will be on hand at the worksession to answer any questions.

Council staff recommendation: Concur with the Executive. Council action is tentatively scheduled for October 18, 2016.



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

RECEIVED
MONTGOMERY COUNTY
PRINCIPAL
2016 SEP 29 PM 3:16

Isiah Leggett
County Executive

MEMORANDUM

September 29, 2016

TO: Nancy Floreen, President
Montgomery County Council

FROM: Isiah Leggett, County Executive

Timothy L. Finestwe (Acting)

SUBJECT: White Flint West Workaround, C.I.P. Project No. 501506
Transmittal of Resolution for Advance Take

The County is designing and constructing certain infrastructure improvements within the Metro West District in accordance with the White Flint Sector Plan. Specifically, the Sector Plan calls for four major infrastructure projects that collectively make up the "Western Workaround." First, the relocation of Executive Boulevard; second, the construction of a new Main/Market Street to run between Old Georgetown to the west and Rockville Pike to the east; third, the realignment of the intersection of Old Georgetown Road and Executive Boulevard; and fourth, the construction of Hoya/ Towne Street (old Old Georgetown Road) which will connect Old Georgetown Road to Montrose Parkway (collectively these four projects are referred to as the "Road Improvements"). The construction of the Road Improvements is scheduled to occur in two phases: Phase I will include the relocation of Executive Boulevard up to the connection with the new Market/ Main Street and the construction of portions of Main/ Market Street. Phase II will include the remainder of Executive Boulevard to Old Georgetown Road, the new intersection at Executive Boulevard and Old Georgetown Road, and the construction of Hoya/ Towne Street. The Phase I construction is scheduled to commence in October 2016.

The Phase I Road Improvements impact two private properties, Old Georgetown Saab Property, LLC and Old Georgetown Nissan Property, LLC. Both properties were former VOB car dealerships and both properties are controlled by the owners of VOB. VOB is planning to assemble the two properties, along with a third property located between the two, and develop the combined properties in accordance with the Sector Plan. The County has been engaged in negotiations with VOB to enter into a Memorandum of Understanding regarding the exchange of certain land that will provide the County with the necessary right-of-way for the Phase I and Phase II Road Improvements and facilitate the future VOB development. In connection with this MOU, the County is seeking to obtain from VOB a Right of Entry onto those portions of the

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White Flint West Workaround
C.I.P. Project No. 501506
Page 2
September 29, 2016

VOB properties that are impacted by the Phase I Road Improvements in order to construct the Phase I Road Improvements.

At this time the parties have not executed a Right of Entry Agreement. While the County is optimistic that a Right of Entry Agreement will be forthcoming, as a matter of caution, the County is seeking authorization from the County Council to proceed with the optional Advance Taking procedure for condemnation of land as provided for in Chapter 49-50 of the County Code in order to take immediate possession of the necessary portions of the VOB properties and ensure that the construction of the Phase I Road Improvements remains on schedule.

Authorization to commence Advance Taking procedures will not end the County's efforts to continue to negotiate toward an amicable agreement with the subject property owners. However, due to construction time constraints, formal authorization to commence Advance Taking procedures is being requested at this time.

Attachments:
County Council Resolution
Maps and Plats

RESOLUTION _____
 INTRODUCED _____
 ADOPTED _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

By County Council

SUBJECT: Optional Procedure for Condemnation of Land, Advance Taking
 CIP Project No. 501506

In accordance with Article III, Section 40A, Maryland Constitution and Section 49-50,
 2004 Montgomery County Code, as amended.

BACKGROUND

- I. The Council has been requested to authorize the condemnation of the portions of land necessary to construct the Phase I Road Improvements for the White Flint West Workaround project in the Metro West District of the White Flint Sector Plan area. The Phase I Road Improvements include: 1) the relocation of Executive Boulevard from Marinelli Drive to its intersection with the new Main/ Market Street; and 2) the design and construction of a new Main/ Market Street from the eastern boundary of the Montgomery County Bethesda North Conference Center property to western edge of the existing Executive Boulevard right-of-way.
 1. In order to meet the construction schedule, as authorized by the Montgomery County Council, the County must acquire the properties referenced below in a timely manner.
 2. The County has been unable to complete negotiations to obtain the right to enter upon the properties listed below to construct the Phase I Road Improvements.

RIGHT OF WAY IN SQUARE FEET

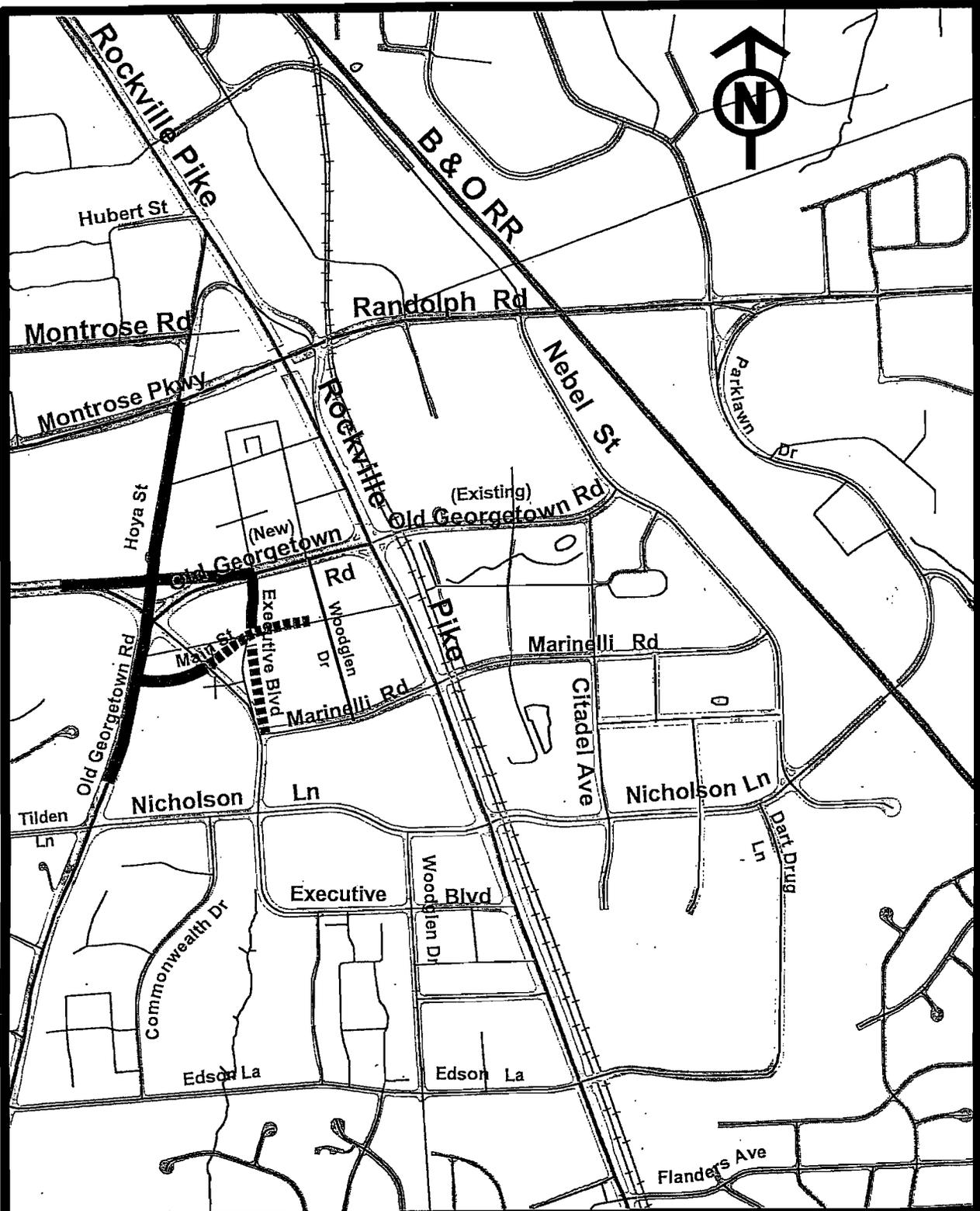
OWNER NAME	ACCOUNT NUMBER	LOT/BLOCK OR PCL./MAP	LIBER /FOLIO	FEE SIMPLE	PERPETUAL EASEMENTS	TEMPORARY EASEMENTS
Old Georgetown Saab Property, LLC	04-03262802	P614/GQ62	20858/87	9,714 sq. ft.	2,396 sq. ft.	
Old Georgetown Saab Property, LLC	04-01736960	P613/GQ62	20858/87	6,576 sq. ft.	209 sq. ft.	
Old Georgetown Nissan Property, LLC	04-00052297	N562/GQ62	20445/730	3,675 sq. ft.		1,048 sq. ft.

ACTION

- I. The County Council finds that there is an immediate need to take possession of a portion of the property listed above and approves the Resolution authorizing the condemnation of land under the optional method for condemnation of land for streets or roads specified in Section 49-50, 2004 Montgomery County Code for the construction of the White Flint West Workaround project. In furtherance of these actions, the County Council hereby:
1. Guarantees the payment of any amount above the estimated fair market value later awarded by a jury; and
 2. Appoints Altus Group US to appraise the fair market value of the property.
 3. Orders the County Attorney to acquire the listed property under this procedure.
- II. Montgomery County will take immediate possession of the listed property upon filing petitions of advance taking in the Circuit Court for Montgomery County, Maryland and depositing with the Court the fair market value of the property, as determined by the appraiser appointed above. The County may abandon these proceedings at any time prior to payment of the fair market value of the listed property into the Court.
- III. The County Attorney is hereby directed to take all necessary steps to acquire the property.

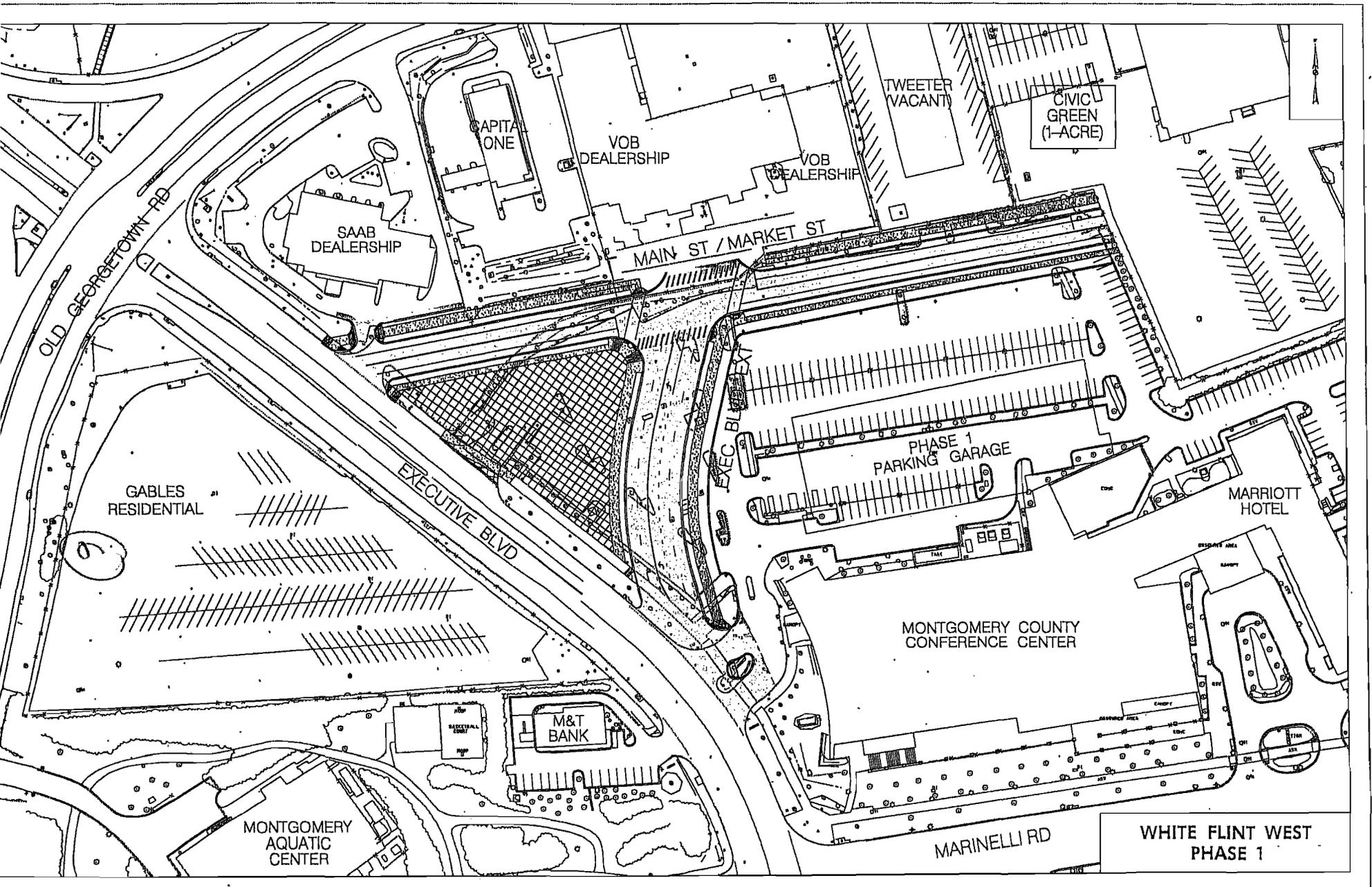
THIS IS A CORRECT COPY OF COUNCIL ACTION

Linda M. Lauer
Clerk of the County Council



LEGEND	
-----	PHASE 1
————	PHASE 2

**WHITE FLINT
WESTERN WORKAROUND
EXHIBIT B**



WHITE FLINT WEST
PHASE 1



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Al R. Roshdieh
Director

October 3, 2016

VOB Management/Rankin Properties
Attn: Ricky Hahn
11401 Big Piney Way
Potomac, MD 20854
Via electronic mail: rickyhahn@me.com

Re: Request to County Council for authorization of Advance Taking Process

Dear Ricky,

I was very pleased to hear from Mike on Thursday afternoon last week that we are ready to sign the Right of Entry and Memorandum of Understanding that we have been working on. I believe that the process laid out in those agreements presents a "win-win" situation for both the County and VOB. While we continue to work to get the agreements executed, I wanted to let you know where we stand regarding the start of construction activities and the County Council.

We have had to push back the start of construction of the road improvements from October 10, 2016 to November 8, 2016. We do not anticipate any further delays. That said, in order to safeguard against further delays, we sent over to the County Council last Thursday (prior to receiving Mike's email) a request for authorization to utilize the County's Advance Taking authority. The request is currently set to be introduced by the Council at their session tomorrow, October 4, 2016. After that, it will be scheduled to go before the T&E Committee on October 13, 2016 at 3:00 in Third Floor Council Conference Room and, if necessary, will go to full Council on October 18, 2016. Please also keep in mind that Council authorization does not automatically trigger the file of an Advance Taking action; it just provides authorization to utilize the advance taking mechanism if necessary.

Obviously, if we have the agreements signed by October 13th, that would negate the need for any Council hearing. I remain optimistic that we will get that done.

Thank you for your attention to this matter.

Sincerely,

Eric Willis
Chief, Property Acquisition Section
MCDOT

Division of Transportation Engineering

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