MFP/PHED Item 1
January 26, 2010
Worksession

MEMORANDUM

TO: Management and Fiscal Policy Committee
Planning, Housing and Economic Development Committee

FROM: Michael Faden, Senior Legislative Attorney
Marlene L. Michaelson, Senior Legislative Analyst[1]
Glenn Orlin, Deputy Council Staff Director

SUBJECT: **Worksession:** White Flint Sector Plan – financing issues -- overview

Purpose There appears to be a consensus among the Executive, Planning Board, and stakeholders that the revised White Flint sector plan should not decide how to finance the many public facility improvements that will be needed to sustain the intensive land development which the proposed plan would encourage. However, almost every possible financing mechanism will require some kind of Council action – legislative, budgetary, or both – relatively soon after this plan is approved. Therefore, before the Council acts on this plan, Councilmembers, the Planning Board, and interested parties would benefit from reviewing the financing mechanisms that can be used to realize the plan's goals. (For more background, see the County Executive's October comments on ©11-17.)

Schedule This is expected to be the first of two joint Committee worksessions on this topic. This worksession will review the principles and goals of any financing mechanism and generally outline potential financing options. At a later worksession, to be scheduled, the joint Committee is expected to consider which financing options deserve further examination, after the plan is adopted, by Executive branch, Council, and Planning staff, and how the selected options could work together to form a coherent financing program.

Magnitude Finance Department staff estimated the cost of specific transportation and other public facility items that government (County and/or State), private developers (as part of their normal exactions or commitments to obtain development approval), and a White Flint special tax district of some sort (a government-operated but privately-funded financing mechanism) would be called on to provide. See tables, ©1-3. **This discussion, and the presentation by Finance staff, will focus on how to fund and operate one or more White Flint special tax districts.**

[1]Ms. Michaelson assisted in the preparation of this memo but did not review the final version.

As analyzed by Finance staff, over the life of this plan the needed infrastructure items on ©2-3 would roughly be allocated among the 3 providers this way:

• Direct developer-provided items	$225 million
• State/County government-provided items	$300 million
• White Flint special tax district-funded items	$370 million
• *Total*	*$895 million*

These are all preliminary numbers. Both the cost of any one item, and the allocation of that item to a specific funding source, are likely to change and need not be debated here.[2] But Council staff concurs that this allocation is a useful conceptual guide for planning purposes.

Core financing principles Discussions among Council, Executive branch, and Planning staff reached agreement on the following set of core principles which should guide the selection of any District financing mechanism:

1) Protect the Charter property tax limit
2) Secure revenue stream to pay off bonds
    a) feasibility of bond funding: quality of bonds; guarantee that development will occur
3) Maintain County bond rating and good name; low risk exposure to County
4) Solid legal basis --avoid challenge to financing mechanisms
    a) Property owners
    b) IRS
5) Timely availability of revenue to produce infrastructure before/at development
6) Uniform/equitable approach regarding who pays
7) Clarity necessary for public understanding, acceptance

Goals of financing Similarly, staff developed the following set of primary goals for each financing mechanism:

1) Assure sufficient resources up front
2) Assure that funds received every year as needed
3) Affordability to payers

Parties Staff listed the various parties who could pay a fair share of infrastructure:

1) Government – State, County
2) Property owners who develop soon
3) Property owners who do not develop soon
    a) Commercial
    b) Residential
4) Taxpayers County-wide
5) Facility users (motorists, transit riders, etc.)

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[2]For example, whether the library is an express library (as listed on ©3) or a full-service library, as the Library Department apparently would prefer, and whether developers should pay for its capital costs, are issues to be resolved, but not in this worksession.

Financing options Finance Department staff provided a comprehensive table (see ©4-10) showing the most suitable financing options for a White Flint special tax district. They can explain the benefits and limits of each option, and Council and Planning staff can comment on each. The issue of funding added parking capacity may especially require more discussion beyond that shown on ©10.

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White Flint Sector Plan Executive Branch Cost Estimates

reference: County Executive's October 5, 2009 Memo to Council

			Stage		
Source of Funds	**Total Estimated Construction Cost**	**Percent of Total Construction Cost**	**Stage 1**	**Stage 2**	**Stage 3**
Public Financing Mechanisms					
County (or State)	**$299,584,112**	**33.5%**	**$57,206,702**	**$107,618,183**	**$134,759,227**
District	**$369,859,281**	**41.4%**	**$88,947,603**	**$188,175,311**	**$92,736,367**
Subtotal of Public Financing Mechanisms	**$669,443,393**	**74.9%**	**$146,154,305**	**$295,793,494**	**$227,495,594**
Developer	**$224,857,216**	**25.1%**	**$76,703,032**	**$97,309,381**	**$50,844,803**
GRAND TOTAL	**$894,300,609**	**100.0%**	**$222,857,337**	**$393,102,875**	**$278,340,397**
% of Grand Total	**100.0%**		**24.9%**	**44.0%**	**31.1%**

Note: Figures Do Not Include Parking

White Flint Sector Plan Executive Branch Cost Estimates

reference: County Executive's October 5, 2009 Memo to Council

No.	REF. (Exec. Rec.)	MP #	Name	Limits	Comments	Total Estimated Construction Cost	Stage		
							Stage 1	Stage 2	Stage 3

Public Financing Mechanisms

County (or State)

No.	REF. (Exec. Rec.)	MP #	Name	Limits	Comments	Total Estimated Construction Cost	Stage 1	Stage 2	Stage 3
16	6	A-90	Randolph Rd	Nebel Street to CSX tracks		$5,043,158	$0	$5,043,158	$0
17	7	A-270	Montrose Pkwy Phase 1 (MD 355 Interchange Phase I)	Old Georgetown Rd to Chapman Ave	Under Construction	$0	$0	$0	$0
18	*8*	*A-270*	*Montrose Pkwy Phase 2 (MD 355 Interchange Phase 2)*	*Chapman Ave to CSX tracks*		*$42,400,000*	*$0*	*$42,400,000*	*$0*
19	10	B-2	East Jefferson St. Ext	Nebel Street to MARC station	project, not in the Plan	$0	$0	$0	$0
20	11	B-3	Woodglen Drive	Edson Lane to Nicholson Lane		$9,919,800	$0	$9,919,800	$0
21	13	B-4	Huff Court	Executive Blvd to Nicholson Lane		$6,651,880	$0	$6,651,880	$0
22	20	B-5	Nebel Street Ext. (North)	Randolph Road to Plan Area Boundary		$6,126,561	$0	$6,126,561	$0
23	23	B-7	Executive Blvd Ext (North)	East Jefferson St Marinelli	VOB Service bldg	$8,407,200	$8,407,200	$0	$0
24	31	B-12	Chapman Ave (Citadel Ave/ Maple Ave)	Old Georgetown Road to Plan Area Boundary		$27,074,919	$27,074,919	$0	$0
25	35	B-18	Security Lane	Woodglen Drive to Rockville Pike		$6,086,784	$0	$6,086,784	$0
26	42		Montgomery Aquatic Center (MAC) Expansion			$19,104,227	$0	$0	$19,104,227
27	43		Fire and Rescue Services		operating and one time costs)	$21,724,583	$21,724,583	$0	$0
28	44		Bus Depot			$80,000,000	$0	$0	$80,000,000
29	*45*		*MARC Station*			*$35,655,000*	*$0*	*$0*	*$35,655,000*
30	46		Civic Green			$11,390,000	$0	$11,390,000	$0
31	47		Elementary School		operating and personnel costs)	$20,000,000	$0	$20,000,000	$0
Subtotal County (or State)						**$299,584,112**	**$57,206,702**	**$107,618,183**	**$134,759,227**
Subtotal County (or State): Percent of Grand Total						**33.5%**			

District

No.	REF. (Exec. Rec.)	MP #	Name	Limits	Comments	Total Estimated Construction Cost	Stage 1	Stage 2	Stage 3
1	1	M-4	Old Georgetown Rd (Md 187)	Tilden Lane to East Jefferson St		$23,045,814	$23,045,814	$0	$0
2	2	M-4	East Jefferson St Ext (Md 187)	Old (Old) Georgetown Road to Rockville Pike		$16,589,780	$16,589,780	$0	$0
3	3	M-4A	Old Old Georgetown Rd	East Jefferson St Ext to Montrose Pkwy		$15,011,040	$15,011,040	$0	$0
4	4	M-6	Rockville Pike (Md 355)	Flanders Ave to Hubbard Drive		$96,182,039	$13,300,000	$0	$82,882,039
5	5	A-69	Nicholson Lane	Old Georgetown Road to CSX tracks		$61,826,160	$0	$61,826,160	$0
6	9	B-2	East Jefferson St . Ext	Rockville Pike to Nebel Street		$8,141,283	$0	$8,141,283	$0
7	15	B-4	Citadel Avenue	Existing Terminus to Marinelli Road		$2,595,938	$2,595,938	$0	$0
8	19	B-5	Nebel Street	Nicholson Lane to Randolph Road		$37,193,788	$0	$37,193,788	$0
9	21	B-6	Marinelli Road	Executive Blvd to Nebel Street		$28,408,448	$0	$28,408,448	$0
10	24	B-7	Executive Blvd Ext	Marinelli Road to Woodglen Drive		$17,605,632	$0	$17,605,632	$0
11	26	B-7	Executive Blvd Ext (East)	Rockville Pike to Huff Court		$9,854,328	$0	$0	$9,854,328

White Flint Sector Plan Executive Branch Cost Estimates

reference: County Executive's October 5, 2009 Memo to Council

No.	REF. (Exec. Rec.)	MP #	Name	Limits	Comments	Total Estimated Construction Cost	Stage		
							Stage 1	Stage 2	Stage 3
12	27	B-10	Main Street (B-10 Market St)	Executive Blvd to Rockville Pike		$12,873,781	$12,873,781	$0	$0
13	37	LB-1	Main Street	Old Georgetown Rd to Rockville Pike		$4,281,250	$4,281,250	$0	$0
14	38		Circulator bus infrastructure			$1,250,000	$1,250,000	$0	$0
15	39		Second entrance to Metro (includes construction, planning, design, and permitting, construction administration, and contingency/escalation)			$35,000,000	$0	$35,000,000	$0
Subtotal District						**$369,859,281**	**$88,947,603**	**$188,175,311**	**$92,736,367**
Subtotal District: Percent of Grand Total						**41.4%**			
Subtotal of Public Financing Mechanisms						**$669,443,393**			
Subtotal of Public Financing Mechanisms: % of Grand Total						**74.9%**			

Developer

32	12	B-4	Huff Court Ext	Nebel St Ext to Executive Blvd	White Flint Garage 2 level	$32,702,720	$0	$0	$32,702,720
33	14	B-4	Citadel Avenue	Nicholson Lane to existing terminus		$3,234,375	$0	$3,234,375	$0
34	16	B-4	Citadel Avenue Ext (?)	Marinelli Road to Old Georgetown Rd		$6,928,650	$6,928,650	$0	$0
35	17	B-5	Edson Lane	Woodglen Drive to Rockville Pike		$8,214,375	$8,214,375	$0	$0
36	18	B-5	Nebel Street Ext. (South)	Rockville Pike to Nicholson Lane	3 bldgs	$50,005,750	$0	$50,005,750	$0
37	22	B-7	Executive Blvd Ext (North)	B-16 to East Jefferson Street	Old Toys R US/ AC Moore Bldg	$26,794,290	$26,794,290	$0	$0
38	25	B-7	Executive Blvd Ext	Woodglen Drive to Rockville Pike		$5,894,328	$0	$5,894,328	$0
39	28	B-10	Main Street (B-10 Market St)	Rockville Pike to B-13		$21,807,720	$0	$21,807,720	$0
40	29	B-11	Station Street	Marinelli Road to Old Georgetown Rd		$17,310,558	$17,310,558	$0	$0
41	30	B-12	Chapman Ave (or other name	Marinelli Road to Old Georgetown Rd		$16,290,159	$16,290,159	$0	$0
42	32	B-13	New Street	Marinelli Road to Nebel Street		$8,431,583	$0	$0	$8,431,583
43	33	B-14	Realigned Nicholson Court	Nebel Ext to cul-de-sac		$3,820,000	$0	$0	$3,820,000
44	34	B-16	Midpike Plaza Rung	Existing Terminus to B-13 (approx 900')		$16,367,208	$0	$16,367,208	$0
45	36	B-18	Security Lane Extended	Rockville Pike to B-4		$5,890,500	$0	$0	$5,890,500
46	40		Express library		one-time capital costs	$625,000	$625,000	$0	$0
47	41		Satellite Regional Services Center		one-time capital costs	$540,000	$540,000	$0	$0
Subtotal Developer						**$224,857,216**	**$76,703,032**	**$97,309,381**	**$50,844,803**
Subtotal Developer: Percent of Grand Total						**25.1%**			
GRAND TOTAL Executive Branch Cost Estimates						**$894,300,609**	**$222,857,337**	**$393,102,875**	**$278,340,397**

Sources of Funding for Public Infrastructure
Being Considered for White Flint "District" Financing

Finance Structure	Legal County Financial Considerations Equity Revenue Stream Other Considerations	Core Principles
Impact taxes (Development Impact Tax for Transportation Improvements)	Cash payments made at time of permit. Rates are based on residential unit type or gross floor area and building type for non-residential. Funds transportation improvements as specified in Code, collected Countywide. Used as current revenue (cash) funding source for transportation projects in the CIP.	
	Legal • An existing mechanism, proven but unreliable revenue stream. • Rates may be changed by County Council. • A special White Flint district may be created with funds collected designated to be used for transportation improvements in the policy area from which the funds were collected or an adjacent policy area.	Existing law or ability to modify locally
	County Financial Considerations • Does not count against Charter Limit. • Does not count against debt capacity. • Depending on how structured, could subtract from General County impact tax revenues • Might be more appropriate for County, rather than district infrastructure	Does not count against Charter Limit or Debt Capacity
	Equity • One-time, up-front charge (affects affordability for developers) • Current revenue source—not appropriate for securing bonds • Applies only to new development—an equity issue for property owners who benefit but don't redevelop (and therefore don't pay the tax) • Limited by limits on what the market can bear • Geographic and temporal proximity issues	
	Revenue Stream • Up-front extractions from builders paid at time of permit • Could also be paid over time, possibly at higher rate • Impact taxes are accumulated by the County and improvements constructed as sufficient taxes are accumulated • Unreliable revenue stream – not appropriate to secure debt	Revenue stream not appropriate to secure debt
	Potential Changes • Could allow payment up front or over time • Can create a dedicated area coincident with White Flint sector plan area	

Other excise taxes	Taxation of a specific activity or purchase, such as fuel/energy taxes, admission & amusement taxes, hotel/motel, etc. Rates can be structured in a variety of ways. Possible applications to raise revenues for White Flint could be a tax on rental or business activity, parking spaces, etc. Excise taxes might be used in conjunction with other taxation, possibly to achieve equity or to balance benefits.	
	Legal • Cannot be based on assessed value or sales • Requires some activity to trigger the tax. • Requires County legislation. • Could be levied on existing development. • Excise taxes can be used in much the same manner as special taxes and special assessments.	Requires County legislation
	County Financial Considerations • Does not count against the Charter Limit. • Likely not to count against debt capacity • Dependability of revenue stream could be an issue, no history, unlikely to be able to secure debt	Does not count against Charter Limit or Debt Capacity
	Equity • Not subject to the same narrow benefit and nexus requirements as special assessments.	Equity subject to details of how tax is structured
	Revenue Stream • Risky, uncertain revenue stream probably not good security for bonds. • Untested	Revenue stream not appropriate to secure debt
	Other Considerations • Depending on how structured, may have loopholes • May be complex and costly to administer	

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Development Districts - Chapter 14	Special (ad valorem or other) taxes and benefit based assessments are levied on property within district. Revenues are pledged/dedicated to pay debt service on bonds used to fund infrastructure. Limitations on application to broad areas due to consent requirements in State law.	
	Legal • Proven funding mechanism – two funded districts exist in Germantown • The high consent level may help overcome any stricter limitations of nexus and benefit requirements. • Amendments to Chapter 14 in 2008 provide ability to levy tax up front and form subdistricts	Existing law requires 80/80 consent levels
	County Financial Considerations • Ad valorem property taxes that do not count against Charter Limit. • Does not count against debt capacity – special obligation bonds • Existing law allows taxes to be collected immediately upon formation, building up revenue and acclimating property owners to taxes. • Additional taxation is an increment above existing taxes; revenues generated by development remain available to general County purposes. • Spreads most costs to ultimate owner/lessee via taxes over 20+ years. • Development districts can levy special taxes and/or special assessments. • Can apply to undeveloped property, or triggered by redevelopment	Does not count against Charter Limit or Debt Capacity
	Equity • A high consent level effectively limits the use of development districts primarily to property owners who consent to the imposition of the charges. • Applies only to new development—an equity issue for property owners who benefit but don't redevelop (and therefore don't pay the tax). • Under current law (80/80 consent requirement), consent addresses equity • This could be viewed differently if lower consent levels were required • Burden for improvements is on those property owners in the district, may not be viewed as equitable if other property owners outside district also benefit significantly from district infrastructure	Equitable within areas consenting to taxes
	Revenue Stream • Strong – revenues collected on property tax bill along with other property taxes • Steady revenue stream can be used as current revenue source and also can secure debt. Ad valorem taxes provide dependable revenue stream	Revenue stream can secure debt
	Other Considerations	

Development District - Special Taxing Area	Ad valorem taxes would be levied on all properties in a specified district, with the tax revenues pledged to repay debt service on bonds issued for infrastructure. Closest precedent is Noise Abatement Districts – taxes are collected in small residential area to pay debt service on bonds used to build noise walls along the Capital Beltway. All residential and commercial property would be taxed at the same rate. Properties otherwise exempt from real property taxes would also be exempt from development district tax, e.g. federal property, churches, etc.	
	Legal • Would be considered a development district and tax revenues therefore not subject to Charter Limit (may be challenged) • Additional legal analysis/research needed to confirm intent of existing Charter language • Per bond counsel, would require change in state law if revenues are pledged to debt service on bonds, thus allowing issuance of special obligation bonds, which do not count against debt capacity • Otherwise would count against debt capacity • Need to review the statutory provisions to impose special taxes in Montgomery County	Would not count against Charter Limit With change in State Law, would not count against debt capacity
	County Financial Considerations • Envisioned as a property tax not subject to Charter limit • Likely would count against debt capacity calculations • Ability to collect revenues and advance improvements ahead of development.	
	Equity • Ability to raise revenues from a broad base, including existing development • All taxpayers in district pay for infrastructure	Broad application
	Revenue Stream • Strong – revenues collected on property tax bill along with other property taxes • Strong revenue stream appropriate to support debt	Revenue stream can secure debt
	Other considerations	

<table>
<tr><th colspan="3">FINANCE DEPARTMENT DOES NOT RECOMMEND FOR FURTHER CONSIDERATION</th></tr>
<tr><td>Tax increment financing</td><td>A portion or all of new property tax revenue generated by development is used to finance debt issued to support the development, usually for infrastructure. The increment in property tax revenues is channeled to allow the new development to occur, and are not available for other general county uses. Typically used in distressed areas where development or redevelopment would otherwise not occur.</td><td></td></tr>
<tr><td></td><td>Legal
• Legal authority exists in state law
• Never used in Montgomery County (no bonds issued)</td><td></td></tr>
<tr><td></td><td>Equity
• Could be levied on existing development.
• Inappropriate for broad area financing (hard to justify "but for" test)</td><td>Equitable approach in specified district, but draws from general County resources</td></tr>
<tr><td></td><td>County Financial Considerations
• Redirects revenues from general availability and dedicates them to debt service retirement, thereby redirecting revenues under Charter Limit
• Debt service counts against debt capacity.
• Risk that failed development can result in default on bonds and affect County's standing in the municipal bond market.</td><td>Counts against Charter Limit

Counts against debt capacity</td></tr>
<tr><td></td><td>Revenue Stream
• Steady stream of revenue is appropriate to secure debt.</td><td>Revenue stream can secure debt</td></tr>
<tr><td></td><td>County Financial Considerations
• "But for" financing mechanism
• Not suitable for broad areas
• Typically used as last resort to remedy urban blight
• Takes away from revenues to fund general county services</td><td></td></tr>
<tr><td></td><td>Other Considerations
• Tax increment financing is normally a source of last resort, associated with urban blight
• Risk involved - if the increase in property taxes from new development is not sufficient to cover debt service, property owners should be required to make up the shortfall with a special tax, excise tax, or special assessment</td><td></td></tr>
</table>

Special assessments		
	Legal • Potentially lengthy, contentious process of assessing benefits and imposing a charge • Under existing case law, limited by restrictive benefit and nexus requirements • Due to past problems, County has not used for some time	
	County Financial Considerations Ability to collect revenues immediately and advance improvements ahead of development	
	• Equity •	
	• Revenue Stream	
	• Other Considerations	

GENERAL COUNTY FUNDING SOURCES -- NOT SUITABLE FOR "DISTRICT" FINANCING MECHANISM		
GO Bonds, Recovery Zone Bonds (ED)	• Competes directly with schools, roads, government facilities • Counts against SAG limits and debt capacity	
Revenue Authority, MEDCO	• lease revenue bonds backed by the County's appropriation pledge issued by a conduit for the County would still count against County debt capacity	
Parking revenue bonds	• Needs strong feasibility and revenue stream for marketability. Parking revenue bonds are available with parking facilities that produce income, although established revenues or another credit source (e.g., special taxes) may be required to support the bonds. • Needs land for parking facilities	

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

October 5, 2009

To: Phil Andrews, Council President

From: Isiah Leggett, County Executive

Subject: White Flint Sector Plan

I am pleased to have the opportunity to provide the Council with my comments and the fiscal impact analysis for the White Flint Sector Plan. I am also attaching technical comments from the various County departments along with appendices with the fiscal impacts of the White Flint Sector Plan.

I commend the Planning Board and its staff on their hard work and vision for White Flint. The draft White Flint Sector Plan is a paradigm of smart growth with its focus on transit and reuse of acres of surface parking lots; however there are aspects of the Plan about which I have concerns. This Plan needs to be considered in the broader context of what is planned both north and south of the Planning Area. The related developments, including the BRAC development at Bethesda Navy Hospital, are critical considerations in the viability of this Plan.

The White Flint Sector Plan, done correctly can reap great benefits upon future generations. If not done correctly, it can leave a legacy of impaired air quality and quality of life. I have four primary concerns. One is the traffic impacts that will result from implementation of the draft Plan, particularly with BRAC looming on the horizon. A second concern is that the Plan is predicated on a zone that has not yet been created and that is therefore not fully understood. There is much work to be done on this zone which will no doubt be significant to the Plan. Given the importance of the White Flint Sector Plan, it is critical that the zone be carefully evaluated before significant decisions are made on the various elements of the Plan. The third and fourth concerns are related. The County Council and I, at the appropriate budget cycle, will need to evaluate how the infrastructure can fit into the CIP given competing priorities. As with any project, this will need to be undertaken in the context of the entire CIP at the time of the project. Finally, there has been a lot of discussion about how portions of the developers' share of costs can be publicly financed. There are public finance tools available that can be put in place at the appropriate time. As a long range land use tool, the Sector Plan should not address the complex issue of public financing of infrastructure.

The draft Plan reflects many important principles that we can all agree are important – smart growth, as I mentioned above, and a focus on a vibrant urban area. As Bethesda approaches build-out, a more urban version of White Flint as a focal point for urban commercial activity is envisioned to emerge. While the draft Sector Plan covers a thirty year period, it is expected that significant redevelopment along Rockville Pike is imminent which will require significant budget decisions and weighing of priorities.

The draft Sector Plan proposes 9800 new dwelling units and 5.69 million square feet of new commercial space for a total of 14,341 dwelling units (of which 2,674 would be affordable) and a total of 12.98 million square feet of commercial space. The Plan proposes to transform Rockville Pike into a pedestrian friendly boulevard with traffic moving at a more relaxed pace. To manage traffic and pedestrian activity, the Plan proposes a new transportation network with a grid of public streets. This grid is intended to relieve pressure from Rockville Pike and support the development that is proposed around it. Other key infrastructure elements within the Plan include a new northern entrance to the Metro station, a new MARC rail station, a fire station, an express library, a Regional Services Center satellite office, and parking for the public. Additionally, the Plan proposes a 39% mode split for non-vehicle trips with a requirement that prior to proceeding to stage two of the Plan a 30% non-vehicle mode split must be accomplished and prior to proceeding to stage three of the Master Plan a 35% non-vehicle mode split must be achieved. But will it all work without creating major amounts of congestion? As I indicated in my comments on the proposed 2009 Growth Policy, I do not favor intentionally creating congestion because of the impacts that congestion will have both on quality of life and the environment.

With its focus on redevelopment of acres of asphalt parking lots, the draft White Flint Sector Plan is aimed at being more environmentally friendly. Existing surface parking lots produce uncontrolled and untreated stormwater run-off. The new residential and commercial space will create stormwater management facilities to qualitatively and quantitatively handle stormwater. The Plan also is intended to create green spaces where none currently exist. The Planning Board is proposing to move the County in a very positive direction with this approach; however, where the Plan thoughtfully addresses stormwater, it does not address diminished air quality that will result from intentionally congested roads – congestion that may be significantly understated.

Infrastructure called for in the draft White Flint Sector Plan will be paid for from the following four sources: i) State funds; ii) County general obligation bonds (County general fund); iii) Developer provided exactions; and iv) special district impositions tied to redevelopment. Executive staff estimates that as proposed in the draft Plan, the public sector would pick up approximately 34% of the costs associated with redevelopment, including 9% from the State and 25% from the County. The private developers would directly provide 25% of the needed infrastructure, and the remaining 41% is proposed to be paid for through special taxes or assessments levied in some form of special district financing mechanism. For the White Flint Sector Plan, the public/private sharing of overall costs to achieve a vision for smart growth redevelopment and creation of new transit-oriented employment and housing to replace outdated, inefficient surface parking lots is a reasonable approach.

This draft Plan involves other significant policy considerations that are set out below.

Fiscal Impacts

My staff has reviewed the draft White Flint Sector Plan and estimates that the infrastructure called for by the draft Plan totals $894 Million. Of this amount, $225 Million is assumed to be provided by private developers through the development process. An additional $370 Million is to be paid for through some type of a public financing vehicle such as a development or similar district. $78 Million is assumed to be paid for by the State and approximately $221 Million is to be paid for by the County through the CIP process. These figures do not include the provision of public and private parking capacity. The Plan calls for 9000 public parking spaces which are to be privately funded at an estimated cost of approximately $360 million. A summary of the anticipated costs is attached as Appendix A.

County departments, with the assistance of Municap, Inc., a County financial consultant, estimates that the overall net fiscal impact of the draft Plan based on a forty year build-out is $6.9 Billion and the annual net fiscal impact is $131 Million. These calculations are based on a total projection of 39,072 direct jobs (existing and created) resulting from the development contemplated in the draft White Flint Sector Plan and 25,463 indirect jobs. The projected number of jobs is less than that used in the draft Plan and is based on the program utilized by our consultant. The significance of this number though is that it results in a reasonably conservative estimate of the net fiscal impacts of the Plan. A summary of the total and annual net fiscal impacts is attached as Appendix B.

CIP Impacts

It is important to realize that several properties are ripe for redevelopment and contemplate redeveloping imminently. One property owner with major holdings along Rockville Pike suggests that it will be ready to redevelop its property as early as 2012 and will need to have some of the public infrastructure move forward at that time. It is clear that other property owners are not far behind in anticipating redevelopment.

For Stage 1 of the Plan to move forward, staff estimates that approximately $57.2 million of general obligation supported funds will need to be programmed in the CIP. I expect that some of these funds will need to be included in the FY13-18 CIP, and perhaps sooner depending on the pace of private development. Both the County Council and I make budget decisions every budget cycle and in between cycles. The CIP amounts proposed for the draft Plan will need to be evaluated in the context of the budget cycle with complete information as to what projects would actually go forward and on what schedule. To accommodate this amount of funds, the County Council and I will need to determine how this amount fits within the spending affordability guidelines at the time a project is proposed. We will need to evaluate the value of these improvements with other priorities in the CIP.

Public Financing of Infrastructure

A unique aspect of the draft Plan is that it proposes vehicles for public financing of infrastructure. I am very opposed to the Plan addressing the methodology of funding infrastructure. Land use plans, once adopted, are intended to govern the long range approach to development of land, not the longterm approach to management of the County's debt and budget. Spelling out a particular method of public financing in a master plan could have undesirable and unintended consequences, including raising not only expectations, but also questions of affordability, debt burden, and County priorities when reviewed by underwriters and others. This concern, could tie the hands of future County Councils and Executives in an unprecedented manner.

During development of the draft White Flint Sector Plan and in the Plan itself there has been extensive discussion about using tax increment financing ("TIF") to fund a large portion of the necessary infrastructure. The draft Plan characterizes such financing as funding the private share of development costs. There is also a suggestion that impact taxes be charged for residential development but not for commercial development. Conversely, commercial development would be assessed to pay for financing under a TIF while residential development would be excused from a continuing obligation under a TIF. I have many concerns about such proposals.

The world of public financing is very complicated and sensitive. As I said previously, how the County chooses at any point in time to fund infrastructure does not belong in a thirty year plan for land use. Section 305 of the County Charter is a key factor in determining how we fund infrastructure. The financing vehicle that is ultimately employed should be outside of the limitations of Charter Section 305. It should be noted that even though a particular financing tool may not go against the County's Charter limits, the amount of any such obligations are considered in the rating agencies' routine evaluation of the County's financial structure, capacity and soundness.

The County has not pursued TIFs for very sound reasons. I do not support use of a TIF to allow development to proceed under the White Flint Sector Plan. While the County has a policy that development should pay for itself, a TIF runs counter to that policy because it draws from increased tax revenues and dedicates them to pay for infrastructure required for a given project. The result is that property owners subject to a TIF are relieved from their share of the overall tax burden for general services to the extent of the TIF. Consequently, all other taxpayers pick up the difference.

Additionally, if actual TIF revenues fall short of the projections made when the TIF bonds were sold, which they could, the County would be in the precarious position of either having to step up to cover bonds it never intended to cover or let the bonds go unpaid. I believe this is an equally unacceptable position in which to place the County taxpayers. The use of other revenues would undermine the reason for using a TIF in the first place and would result in a much heavier burden on the general taxpayers.

As I mentioned in my testimony to the Planning Board, I am also concerned about the fairness of using a TIF and the fragmentation of the tax base where newer affluent development reserves its property taxes for itself rather than contributing to growth Countywide. This financing policy could be particularly detrimental to existing older areas, such as in Wheaton.

Given the fact that we are in unprecedented times of budget shortfalls due to factors that are well beyond the control of local government, it would be ill-advised to pledge any portion of County revenues so that the full tax base is not available for the County to determine how its revenues should be best used.

The draft Plan has also recommended differentiating in the types of taxes and assessments to be paid by residential and commercial development. I do not agree with this approach. There are complicated and important consequences to such an approach; one of which is that the financing vehicle for commercial development could end up being characterized as a loan, and thus taxable under IRS rules.

During its deliberations, the Planning Board discussed different financing approaches with Executive staff. The County can create one or more Development Districts that are expressly tailored to enable development to pay for itself without counting against Charter Section 305. There are other options as well. Staff will be available at worksessions on the draft Sector Plan to discuss the pros and cons and implications of financing tools that could be used to pay for infrastructure. Again, though, none of these tools should be specified in a master plan.

Environment

The Planning Board has made a valiant effort to focus development on surface parking which should at a bare minimum do no harm to the environment. That in itself is commendable in an area targeted for growth. The creation of stormwater management facilities to address both the quantity and quality of stormwater will be positive for the environment. On the other hand, the congestion on the roads that is envisioned by both the Master Plan and the proposed Growth Policy can reasonably be expected to result in greater levels of air pollution. Therefore, I continue to be opposed to LOS E which, given the new development and what we know will result from the BRAC at the Bethesda Naval Hospital, will have a negative impact on air quality. I would like to see a greater emphasis on green areas as well.

Transportation

I am concerned about the consequences of the expansion of the Metro Station Policy Area and the overall increase in CLV to 1800 within some of the expanded area. I think that using ½ mile as the threshold for determination of the MSPA is too great of an extension. I am concerned about the overall impacts on traffic resulting from extension of the MSPA to within ½ mile of Metro. This Plan has the potential to result in far reaching congestion of arterial roadways. In this regard, the impact from the BRAC at the Bethesda Naval Hospital should not be underestimated. As I mentioned in my comments on the Growth Policy, I continue to believe that local area review is necessary even if PAMR is satisfied by transportation improvements.

Even with the expanded MSPA, two intersections fail. Without the expanded MSPA and proposed elimination of PAMR, eleven intersections are projected to fail. The plan should either recommend transportation improvements to eliminate failing intersections or provide for development at a level that can be met without intersections failing.

The draft White Flint Sector Plan has a far reaching vision for Rockville Pike where it will not remain the auto corridor that it is today, but instead will be transformed into a boulevard that will be attractive for vehicles and pedestrians alike. I very much support that portion of the Plan that calls for Bus Rapid Transit along Rockville Pike. I do not however think that Bus Rapid Transit should be limited to a one mile stretch of roadway. Rather, it needs to be part of a larger network. I am also concerned that as envisioned in the draft Plan, Rockville Pike will become a choke point and not serve the function it was created to serve as a major artery to and from the District. And the high cost of redoing Rockville Pike is not to be understated. Given all of the pressing transportation needs of the State, it is hard to imagine, now or even thirty years out, that the State will provide costly improvements to Rockville Pike to change its appearance into that of a boulevard. Perhaps it could happen with BRT as a viable element of a project, but otherwise, it is doubtful that the State would undertake such improvements.

This Plan proposes a 39% non-vehicle mode split and conditions stages of development upon achieving first 30% and then 35% mode split. While I support these mode splits, particularly given the proximity to transit, I think that they are ambitious and I am concerned about whether the goal will be met. Strict tracking of mode split will be very important for the success of this Plan. To attain the mode split contemplated by the Plan, I recommend that the north entrance to the White Flint Metro Station be expedited.

The draft Plan contemplates approximately 29,700 parking spaces which must include approximately 9,000 publicly accessed parking spaces to be managed by a parking authority. The costs of these spaces are assumed to be private costs. However, in order to address parking, this Plan should be undertaken in conjunction with the parking study that the Department of Transportation is currently undertaking. The long and short term parking should be as determined by the parking study which is to be completed by early 2010. Free parking should not be permitted.

Department of Fire and Rescue Services

The Plan as proposed does not allow MCFRS to deliver emergency services within a 6 minute response time to several areas north of the proposed station location. Therefore, I do not support the proposed location for a new fire station. The site next to Park & Ride is a preferred site. Given the frontage of this site, I recommend that there be other co-located public facilities. I also recommend that the fire station and any co-located public uses, such as park and ride, be considered for public/private joint development.

Montgomery County Public Libraries

If an express library is to be provided, it should be provided in Metro East rather than at the Mid-Pike location to enhance access by METRO users.

Housing

Consistent with our shared goal to increase levels of affordable housing, public facilities should continue to be evaluated over the life of the Plan for co-location with housing and for their potential to provide higher proportions of affordable and workforce housing.

Conclusions

The White Flint Sector Plan provides the right direction for future development with its focus on existing infrastructure and use of existing impervious areas. Its vision is ambitious. I am committed to working with the Council and the development and private communities to determine the best means of funding improvements called for by the Plan, but that is a process that will need to take place outside of the Plan itself.

There are significant studies and work being undertaken that can have an impact on the Plan that should be reflected in the final White Flint Sector Plan. These efforts include the parking and BRT studies and the work that the Council is set to begin on the CR zone. I am confident that the Council will coordinate these efforts so that the Plan can reflect what we learn from the studies and so that a full understanding of the CR zone is in place prior to adoption of the final Plan.

I again want to acknowledge the hard work and positive vision of the Planning Board and its staff in preparing the White Flint Sector Plan. My staff is committed to support the efforts of the Council.

Attachments: Appendix A
Appendix B
Executive Departments Technical Comments