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

February 12, 2009

COVER MEMORANDUM

TO: Montgomery County Planning Board

VIA: Piera Weiss, Master Planner (Vision Division)
Dan Hardy, Chief (Move Division) and Acting Chief (Explore Division)

FROM: Jacob Sesker, Planner Coordinator (Explore/Research)

SUBJECT: Cover Memo-White Flint Financing

STAFF RECOMMENDATION

Review Staff analysis.

BACKGROUND AND CONTEXT

The attached memo contains the technical analysis of the financing mechanism described in the White Flint Sector Plan. Specifically, the attached memo examines the extent to which public sector gap financing could be required to pay for "District" infrastructure inside the Sector Plan area.

Throughout the past year, Staff has discussed with the Board a number of specific implementation tools that might be appropriate for application in the White Flint Sector Plan. Among the tools discussed were specific financing and administrative mechanisms.

In general, financing and administrative mechanisms were suggested because of the significant costs of infrastructure and the practical need for greater certainty in infrastructure programming. The Planning Board directed Staff to pursue an ambitious approach, which includes an Authority with dedicated streams of funding and which has the powers necessary to improve the certainty that all necessary infrastructure projects will be delivered when needed.

The "District" Financing Mechanism

The financing mechanism supported by the Board has been called a "District" financing mechanism, because it works by capturing private and public revenues generated by the new development within the Sector Plan area, or "District." This concept is consistent with the current best practices in transit area reinvestment and redevelopment.

It is assumed that the "District" will fund the construction or reconstruction[1] of the following facilities, as set forth in the Sector Plan:

- Rockville Pike ($66M)
- Metrorail Station north entrance ($25M)
- MARC station and supporting access ($13M)
- Circulator shuttles ($5M)
- Local streets not required for site access and design ($62M)

Those projects will be funded through a combination of private and public funds. The sources of those funds will include:

- Transportation impact taxes charged to new residential development
- Transportation impact taxes charged to new commercial development, if necessary
- A special tax/assessment of up to 10% above the current overall real property tax (ad valorem) of all new and existing commercial uses/development
- Public financing (through TIF financing or GO bonds) to cover financing gaps

The attached Technical Memorandum represents Staff's analysis of the performance of the financing mechanism. This analysis is intended to provide the Board with additional information regarding the costs to the public sector of providing gap financing for the "District" infrastructure program.

A Note on Administration and Financing

The administrative mechanism—to the extent that it can be separated from the financing mechanism—is not the subject of this analysis or this work session. The administrative mechanism supported by the Planning Board would have powers greater than any currently existing urban districts in Montgomery County. Reflecting the Planning Board's position, the Sector Plan recommends the creation of the White Flint Redevelopment Implementation Authority, which would be endowed with broad powers and carefully defined responsibilities, as set forth in the Sector Plan itself.

The purpose of the Authority is to facilitate the orderly implementation of the Sector Plan by delivering meaningful chunks of infrastructure when that infrastructure is needed. The administrative mechanism plays an important role in advancing the infrastructure staging plan. Because the planned improvements to Rockville Pike must occur after a more robust street network is constructed, the administrative mechanism that is ultimately adopted should be able to deliver that robust street network in a timely fashion.

[1] Estimates do not include the cost of right-of-way acquisition.

SUMMARY OF FINANCING MECHANISM ISSUES

1) *Should new residential development make a payment to the District that is equivalent to the current transportation impact tax for residential development?*

Staff's analysis (see attached Technical Memorandum) indicates that a residential impact tax (or equivalent) payment to the District would meet approximately 7% of the total cost of the District transportation projects. The residential impact tax payment would contribute a greater portion of the total project costs to the extent that development takes advantage of the Alternative Review Procedure, for which higher impact taxes and a TDM monitoring program can replace the LATR and PAMR tests for transportation system adequacy. Under the proposed implementation authority scheme, however, the LATR and PAMR tests would be replaced by the pro-rata mechanisms described in this memorandum, so that no property owner would have an incentive to use the Alternative Review Procedure.

Staff continues to recommend that new residential development make payments to the District. These payments will help to ensure that new development (as opposed to existing uses) and residential development (as opposed to commercial development) contribute to the costs of new infrastructure. By making these payments to the District, rather than to the County, these revenues can reduce the borrowing risk associated with Stage 2 and Stage 3 infrastructure. Staff acknowledges that by directing those payments to the District, the County might lose some potential impact tax revenue. However, the magnitude of that loss is unclear given the current crediting system.

Staff continues to recommend that those payments be in an amount equivalent to the current transportation impact tax. Staff believes that this is the best approach given concerns about housing affordability on the one hand, and the potential effect of "crediting" on the other hand ("crediting" refers to the credits against the impact tax payments given for required traffic mitigation measures).

2) *Should the current transportation impact tax (or equivalent) payment by new commercial development be eliminated or reduced for the White Flint Sector Plan?*

Staff's analysis (see attached Technical Memorandum) indicates that the majority of the costs of District transportation infrastructure would be borne by new and existing commercial uses. The 10% special assessment on all new and existing commercial uses would result in significantly greater revenue than the current transportation impact tax on new commercial development. One reason for this is that the Sector Plan adds more residential capacity than commercial capacity, but the current development is predominantly commercial.

Staff continues to recommend elimination (or at least reduction) of the current transportation impact tax on new commercial development. Staff assumes that it will be politically difficult to impose a special assessment or other additional costs for commercial property owners if that imposed cost is in addition to the existing transportation impact taxes. Additionally, a special assessment on all new and existing commercial uses might serve to incentivize redevelopment; to simultaneously charge impact taxes on new commercial development might substantially reduce the incentive effect of the special assessment.

3) *Should the private portion of District financing come from a special tax/assessment on all new and existing commercial uses?*

Staff's analysis indicates that the special tax/assessment on commercial uses will generate substantially more revenue than would be generated by the current impact tax payments charged to new commercial development. The analysis shows that the financing mechanism relies upon the special assessment for more than 60% of the cost of District infrastructure.

The Sector Plan recommends replacing one-time payments by new development (impact taxes) with a special tax/assessment on all new and existing commercial uses. This special tax/assessment generates recurring payments which provide annual revenues. Those revenues represent a dedicated stream of revenues against which the District can borrow.

4) *Should the special tax/assessment on all new and existing commercial uses be established at a rate equal to 10% above and beyond the current overall ad valorem real property tax bill?*

Reducing the special assessment to less than 10% on top of the overall ad valorem real property tax would increase the size of the financing gap to be filled by public sector. If establishing the special assessment as an ad valorem charge implicates charter limit issues, other solutions could be appropriate. However, any such alternative should generate a similar level of revenue and represent a similarly equitable distribution of costs.

5) *Should incremental public sector revenues be used to fill the financing gap?*

Staff analysis indicates that the cost of the master planned transportation infrastructure will likely exceed the ability of the private sector to pay. To the extent that burden falls on new development through impact taxes or exactions, the cost would stymie new development. To the extent that burden falls on existing uses, the result would be a significant increase in the tax bills of going concerns. Assuming that infrastructure costs cannot be reduced, a logical alternative to placing the burden solely on the private sector would be to provide public sector gap financing. The new development will generate a substantial tax increment, a portion of which could be applied to close the financing gap.

ISSUES FOR FUTURE CONSIDERATION

Staff has received testimony from interested stakeholders as well as other information from Staff's continuing engagement with the Executive Branch. This new information has raised the following concerns:

- The relative effectiveness of the proposed administrative mechanism when compared to existing implementation tools
- The assumptions regarding ROW acquisition costs for District transportation projects may understate costs to both the public sector and the District
- The need for greater detail which party will build the facilities funded by the District financing mechanism
- The issue of whether the MARC station and Metro station improvements should be funded by the District
- T effect on the financing mechanism of any changes to the transportation network, land use (density and mix), and administrative mechanism.

All issues raised by testimony—including those outlined above—will be addressed by Staff in future work sessions.

NOTE: EXECUTIVE TESTIMONY AND INTER-AGENCY IMPLEMENTATION DISCUSSIONS

The written testimony submitted by the County Executive expresses fundamental concerns regarding the proposed administrative mechanism. The Executive feels that existing structures would achieve the Sector Plan's objectives.

Staff began the process of engaging the Executive Branch in spring 2008. To date, a number of meetings have been held to discuss issues related to implementation of the Sector Plan. Staff continues to work with the Executive Branch in an effort to better understand the Executive's concerns.

NOTE: ECONOMIC ANALYSIS PRESENTED BY THE DEVELOPMENT COLLABORATIVE

Efforts by a group of property owners in the White Flint Sector Plan area (the Development Collaborative[2]) culminated in the production of a report, which was entitled "White Flint Sector Plan: Financial Analysis, Economic Benefits & Infrastructure Financing". That report was not submitted as public testimony, but in November that report was distributed to the Planning

[2] The "Development Collaborative" includes Federal Realty Investment Trust, The JBG Companies, Lerner Enterprises, The Tower Companies, Combined Properties, and The Holladay Corporation

Board, as well as members of both the legislative and executive branches of government. That report addressed three separate issues:

- "Economic benefits of development within the White Flint Sector Plan area to Montgomery County"
- "Public-private financing strategy for critical transportation improvements"
- "Economic viability of development in the context of the TMX-zone and White Flint Sector Plan requirements"

Staff's Technical Memorandum addresses only the second of these three issues, and in no way is intended to either rebut or endorse that analysis.

In its report, the Development Collaborative argues that while the benefits of redevelopment in White Flint are substantial, Montgomery County's zones, policies and regulations—and certain aspects of the Draft Sector Plan—will render much of the redevelopment infeasible. The Development Collaborative lists eighteen changes to the Draft Sector Plan, County policies, and County regulations that, in its estimation, improve the viability of redevelopment.

Of the eighteen suggested changes, only three pertain uniquely/specifically to the Draft Sector Plan (a more flexible mix of uses, allow above grade parking subject to reasonable design guidelines, and substantial changes to the transfer of density proposal aspect of the Sector Plan's zoning capacity). The remaining suggested changes address issues that are beyond the purview of the master plan process, and which would be typically addressed in discussions regarding regulatory process, the annual growth policy, affordable housing policy, and parking policy.