

THE WHITE FLINT PARTNERSHIP

May 17, 2011

The Honorable Valerie Ervin, President
and Members of the Montgomery County Council
Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

Re: Zoning Text Amendment 11-01: Public Hearing May 17, 2011

Dear President Ervin and Members of the Council:

The White Flint Partnership (“Partnership”) wishes to express its continued support for the CR Zones including the proposed modification by the Planning Board to Section 53-C-15.43(d) concerning amendments to binding elements at the time of site plan review. Over the last month, the Partnership has worked with staff and the Planning Board to address certain issues raised by potential changes to this Section. The establishment of binding elements as part of the sketch plan after public hearing and approval by the Planning Board was a critical factor in the Partnership’s support of the CR Zones and sketch plan process. In this regard, the Partnership feels strongly that the intent of the existing law is to honor the elements of a sketch plan that are determined to be binding elements by the Planning Board during sketch plan approval and to prevent amendments to such binding elements at the time of site plan that are not agreed to by the applicant for the reasons discussed below.

Property owners such as those in White Flint with large multi-phased, mixed-use projects need to rely on the early determination of certain critical factors such as the public benefit package and location and extent of significant amenity space in order to properly plan and execute long-term, complex development plans. Indeed, following sketch plan approval, preliminary plans and multiple site plans are anticipated for the majority of these projects. Preparation of these plans entails significant costs and commitment of resources. Allowing fundamental elements of such plans approved as binding elements at sketch plan to be unilaterally changed by the Planning Board without the agreement of the owners as staged site plans are being implemented would undermine the use and execution of the CR Zones and implementation of the Sector Plan for White Flint. The Partnership believes that certainty on core elements established as binding elements after notice and public hearing at time of sketch plan is critical not only for a property owner’s investment but also for dealing with existing and potential tenants that need to be brought into the process early so that site plans can be successfully prepared and implemented.

After working through the issues with the Planning Board and staff, the Partnership believes that the suggested language as set forth in the May 13, 2011 letter from Board Chair Carrier to the County Council regarding Section 53-C-15.43(d) appropriately clarifies the Planning Board’s authority and rules for amendments to the binding elements of an approved sketch plan at the time of site plan review. The language would continue to allow an applicant to request an amendment to the binding elements or agree to one recommended by the Planning Board staff subject to specified findings of the Planning Board. Additionally, the Board would be allowed, upon recommendation of staff or its own initiative, to amend a binding element if it finds that changes in relevant facts and circumstance since the sketch plan approval demonstrate that a binding element is either not consistent with the applicable sector plan or does not meet the requirements of the zone. In this regard, the authority of the Board to modify a binding element without the agreement of the applicant is tied to master plan compliance and zoning requirements and based on changes in facts and circumstances thereby clearly limiting the scope of review and specifying

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the necessary findings the Board must make to support such a modification. Because it serves to clarify the amendment process and provides for acceptable standards and limitations on the authority of the Board to make changes to binding elements on its own initiative, the White Flint Partnership supports the new language for Section 59-C-15.43(d) as drafted by the Board.

Thank you for your consideration of this matter.

Best Regards,

THE WHITE FLINT PARTNERSHIP

Federal Realty Investment Trust
Gables Residential
The JBG Companies
Lerner Enterprises
The Tower Companies
Saul Centers, Inc.

cc: Francoise Carrier
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