



MEMORANDUM

DATE: September 2, 2020

TO: Gwen Wright, Planning Director

VIA: Carrie Sanders, Chief *CS*

FROM: Jessica McVary, Supervisor *JM*
 Nkosi Yearwood, Planner Coordinator *NY*
 Mid-County Planning Division

SUBJECT: Right-of-Way Abandonment Case No. AB-772
 Portions of Executive Boulevard and Old Georgetown Road

RECOMMENDATION

Staff supports the subject abandonment petition and hereby transmits the following staff comments to the Montgomery County Department of Transportation (MCDOT) in accordance with Montgomery County Code Chapter 49-62, “Abandonment and Closing Rights-of-Way: Abandonment Authority; Scope of Article; Procedures.” The Planning Board has not reviewed this proposal, but it has reviewed and approved new developments associated with this petition.

DISCUSSION

The subject abandonment is requested by the Montgomery County Department of Transportation (MCDOT), Division of Transportation Engineering, to abandon two portions of excess public right-of-way that will no longer be needed for current or future use. The areas include a portion of Executive Boulevard and a portion of Old Georgetown Road. These roadways are located in the White Flint plan areas.

The first portion of excess right-of-way, approximately 3,046 square feet, is located along the frontage of 6000 Executive Boulevard in the 2018 *White Flint 2 Sector Plan* area. In 2018, this property received a Sketch Plan (No. 320180140) approval from the Planning Board. The underlying land will be transferred to the property owner of 6000 Executive Boulevard (Guardian Realty), upon Council approval of the abandonment.

The roadway realignment at Executive Boulevard and Old Georgetown Road will create an approximate 37,363-square foot area of excess right-of-way, which is the second portion identified for abandonment. This area was previously owned by the Maryland Department of Transportation State Highway Administration (MDOT SHA) and was transferred to the County

in 2016. This area is associated with the VOB development, which has received two approvals from the Planning Board, including a Preliminary Plan. Upon Council approval of the abandonment, this area will be transferred to the property owner.

The proposed abandonment of these two public rights-of-way will contribute toward the implementation of the White Flint Western Workaround (CIP No. 501506) and new development approved in the White Flint Sector Plans. Therefore, the Montgomery County Planning Department recommends approval of the abandonment case, AB 772 Portions of Executive Boulevard and Old Georgetown Road, based on Planning Staff's review as described in this memorandum.



Gwen Wright, Planning Director

September 2, 2020

Date Approved

GW:jm:ny:ha

Attachment

1. Abandonment Request

ATTACHMENT 1



DEPARTMENT OF TRANSPORTATION

Marc Elrich
County Executive

Christopher R. Conklin
Director

MEMORANDUM

May 7, 2020

TO: Christopher R. Conklin, Director
Department of Transportation

FROM: Eric Willis, Chief, Property Acquisition Section
Division of Transportation Engineering, Department of Transportation

SUBJECT: **Request for Abandonment – Application for Abandonment of Portions of Executive Boulevard and Old Georgetown Road**

The Montgomery County Department of Transportation, Division of Transportation Engineering (the “Applicant”) is requesting the abandonment of two separate portions of the public rights of way known as Executive Boulevard and Old Georgetown Road, pursuant to Section 49-62(b) of the Montgomery County Code (the “Application”). Please find copies of the following Application materials:

1. Narrative and Justification Statement in Support of the Application of both portions of public right of way
2. Drawing Depicting Road Improvements (Exhibit A)
3. Plat of Abandonment for Executive Boulevard portion (Exhibit B)
4. Legal Description of Executive Boulevard portion to be Abandoned (Exhibit C)
5. Plat of Abandonment for Old Georgetown Road portion (Exhibit D)
6. Legal Description of Old Georgetown Road portion to be Abandoned (Exhibit E)
7. Excerpt from the White Flint Sector Plan (Exhibit F)

As described in the Narrative and Justification Statement referenced above, this request for Abandonment is in conjunction with the White Flint Western Workaround Capital Improvement Project (CIP No. 501506) and in conformance with the realignment of the road network per the White Flint Sector Plan. The Applicant requests that the Montgomery County Department of Transportation take all necessary actions to allow the County Executive or his designee to make a recommendation on the proposed abandonment and forward that recommendation to the County Council for approval.

Division of Transportation Engineering

100 Edison Park Drive, 4th Floor * Gaithersburg, Maryland 20878 * 240-777-7220 Office * 240-777-7277 FAX
www.montgomerycountymd.gov

*Montgomerycountymd.gov/311 * 240-777-3556 TTY*

NARRATIVE and JUSTIFICATION STATEMENT

Pursuant to the provisions of Section 49-62 of the Montgomery County Code, the Montgomery County Department of Transportation, Division of Transportation Engineering (the “Applicant”) requests the abandonment of two separate portions of County right of way located within the White Flint sector plan area.

The County has programmed and funded a Capital Improvement Project known as the White Flint Western Workaround (CIP No. 501506), pursuant to which the County is constructing a series of road improvements within the White Flint sector plan area, including 1) the relocation and extension of Executive Boulevard; 2) the construction of a new Banneker Street to run between Old Georgetown to the west and Rockville Pike to the east; 3) the realignment of the intersection of Old Georgetown Road and Executive Boulevard; and 4) the construction of Hoya 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”). A drawing depicting the realignment of the road network as a result of the Road Improvements is attached as **Exhibit A**.

As a result of these Road Improvements, the Applicant has identified two portions of existing County right of way that will no longer be necessary for present or anticipated future public use.

A. Executive Boulevard.

The first portion of excess right of way identified for Abandonment is part of the previous alignment of Executive Boulevard and is described and delineated on a Plat of Abandonment attached as **Exhibit B.** The realignment of Executive Boulevard as it intersects with Old Georgetown Road will create an approximate 3,046 square foot area of excess right of way no longer needed for the maintenance of any existing or future County improvements as per the Sector Plan. Subject to the County Council approving the abandonment of this section of the Executive Boulevard right of way, the County proposes to transfer the underlying land (which is owned by the County in fee simple) to the abutting property owner, CPH 6000, LLC (Guardian Realty), in exchange for the dedication of other land and property interests owned by Guardian Realty that are needed for the Road Improvements. This proposed exchange is set forth in the Public Improvements Easement Agreement entered into by the County and Guardian Realty on or about April 18, 2019. A legal description of this excess right of way is attached to this Applicant as **Exhibit C.**

B. Old Georgetown Road

The second portion of excess right of way identified for Abandonment is part of the previous alignment of Old Georgetown Road as it curves toward the intersection with Maryland Rte 355 (Rockville Pike). Ownership of this portion of Old Georgetown Road was previously transferred to the County from the State Highway Administration (SHA) pursuant to a Road Transfer Agreement dated July 13, 2016 and subsequent Deed dated October 3, 2017. Said area

is described and delineated on a Plat of Abandonment attached as **Exhibit D** and contains a combined 37,363 square feet. A legal description of this excess right of way is attached as **Exhibit E**. The new alignment of the intersection of Old Georgetown Road and Executive Boulevard as a result of the Road Improvements makes this area no longer necessary for present or future use. An excerpt from the White Flint Sector Plan noting this realignment is attached as **Exhibit F**.

Pursuant to that Amended and Restated Memorandum of Understanding dated May 1, 2019, entered into between the County and Old Georgetown Nissan Property, LLC and Old Georgetown Saab Property, LLC (VOB), upon approval of the abandonment by the County Council, the County's interest in the subject land is to be transferred to VOB in exchange for the dedication of other land and interests owned by VOB that are needed for the Road Improvements.

Pursuant to Section 49-63(c)(1) of the Montgomery County Code the requested abandonment of the two portions of excess ROW described above is appropriate in that upon completion of the Road Improvements the subject rights of way will no longer be necessary for present or anticipated future public use and the proposed transfer of the subject land pursuant to the agreements referenced herein will allow for future development as envisioned by the White Flint Sector Plan. For these reasons, the Applicant requests that the Montgomery County Department of Transportation move to allow a hearing by the Executive or his designee in order to forward a recommendation of approval to County Council in support of this Abandonment.

Respectfully Submitted,

Eric Willis

Eric Willis

Chief, Property Acquisition Section

Department of Transportation Engineering

LEGEND
 - - - EXISTING RIGHT OF WAY
 — PROPOSED RIGHT OF WAY

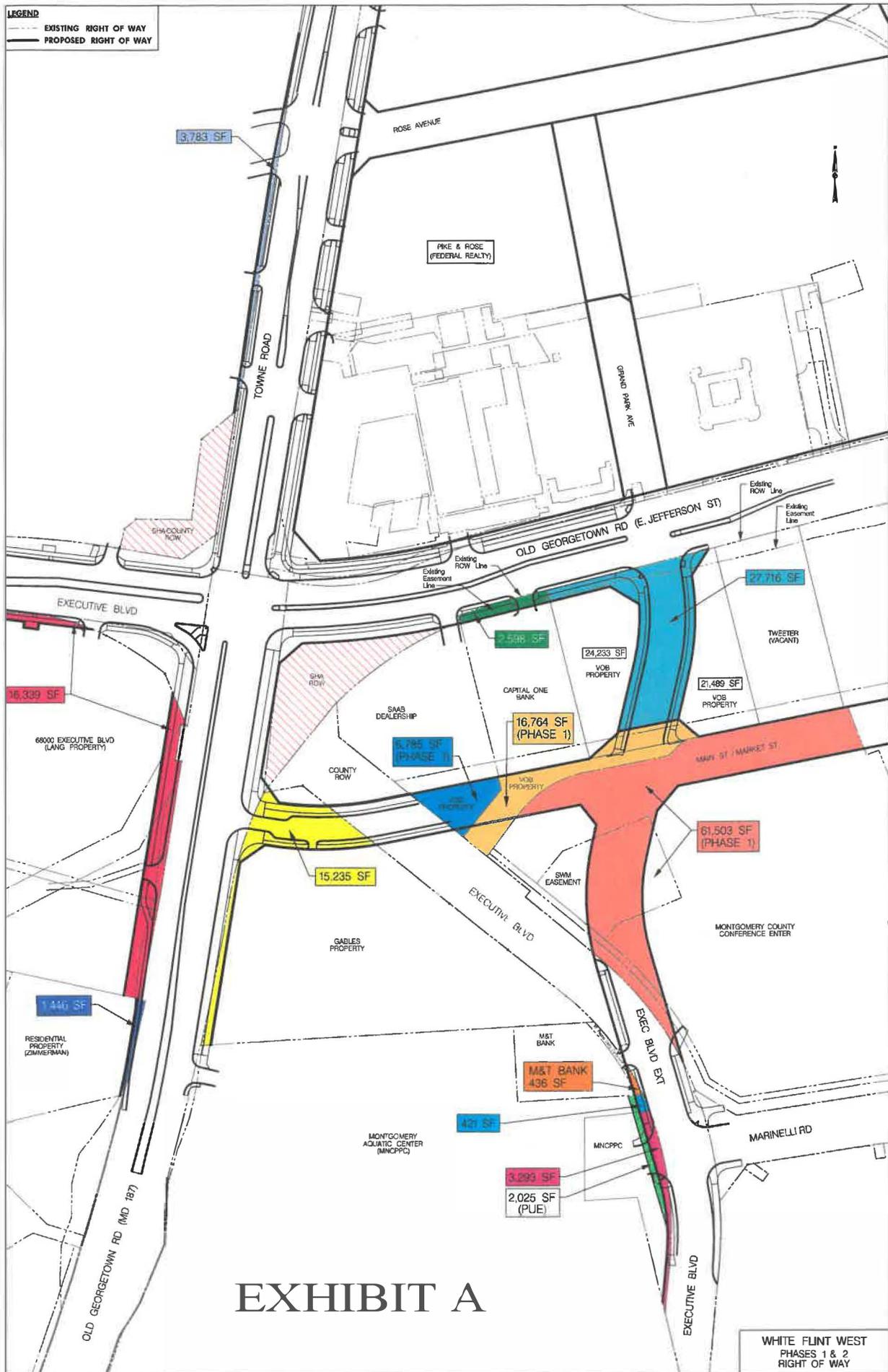
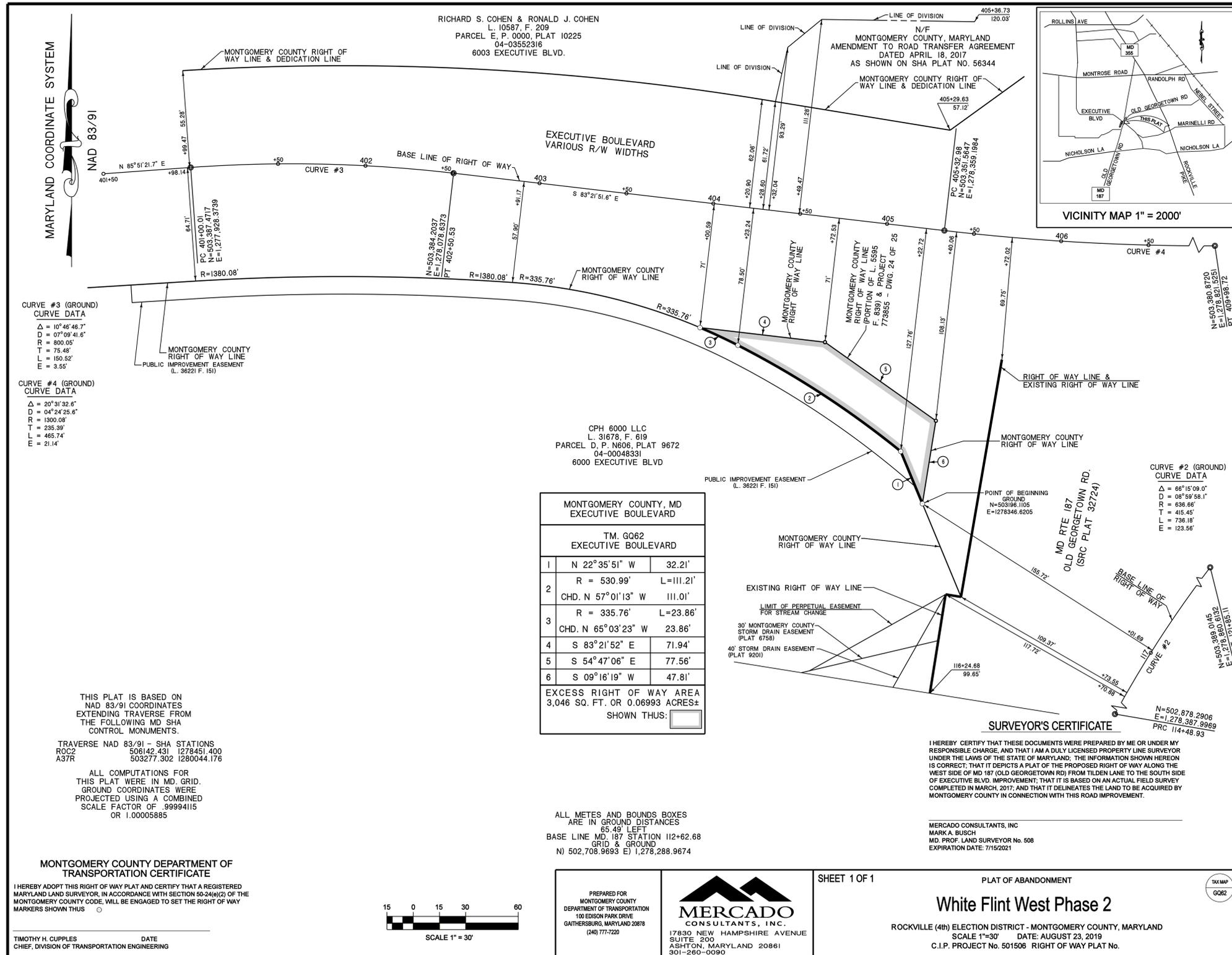


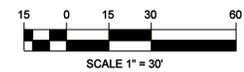
EXHIBIT B



MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION CERTIFICATE

I HEREBY ADOPT THIS RIGHT OF WAY PLAT AND CERTIFY THAT A REGISTERED MARYLAND LAND SURVEYOR, IN ACCORDANCE WITH SECTION 50-24(a)(2) OF THE MONTGOMERY COUNTY CODE, WILL BE ENGAGED TO SET THE RIGHT OF WAY MARKERS SHOWN THUS

TIMOTHY H. CUPPLES DATE
 CHIEF, DIVISION OF TRANSPORTATION ENGINEERING



ALL METES AND BOUNDS BOXES ARE IN GROUND DISTANCES
 65.49' LEFT
 BASE LINE MD 187 STATION 112+62.68
 GRID & GROUND
 N) 502,708.9693 E) 1,278,288.9674

PREPARED FOR
 MONTGOMERY COUNTY
 DEPARTMENT OF TRANSPORTATION
 101 EDISON PARK DRIVE
 GAITHERSBURG, MARYLAND 20878
 (240) 777-7220



SHEET 1 OF 1

PLAT OF ABANDONMENT
White Flint West Phase 2
 ROCKVILLE (4th) ELECTION DISTRICT - MONTGOMERY COUNTY, MARYLAND
 SCALE 1"=30' DATE: AUGUST 23, 2019
 C.I.P. PROJECT No. 501506 RIGHT OF WAY PLAT No.



EXHIBIT "C"
DESCRIPTION OF A
PARCEL TO BE ABANDONED
BY
MONTGOMERY COUNTY, MARYLAND

BEING a strip or parcel of Land herein after described as running in, through, over and across the abandoned right of way of Executive Boulevard, where it meets Old Georgetown Road, Maryland Route 187, shown as the Montgomery County MD. Executive Boulevard excess right of way parcel on a Montgomery County right of way plat entitled "RIGHT OF WAY PLAT, WHITE FLINT PHASE 2" recorded in the Land Records of Montgomery County, Maryland as right of way plat No. 1172, and being more particularly described in the Maryland Coordinate System, (NAD83/91), projected to ground dimension, using Grid and Ground coordinate of N) 502708.7693 E) 1278288.9769 at a point 65.49' left of the Base Line of Right of Way, MD 187, Station 112+62.68, and using a combined scale factor of 1.00005885, from the beginning point, described below, as follows:

BEGINNING for the same at a point on the southeasterly right of way of Executive Boulevard as it now exist, at the Beginning Point of the above described parcel, having NAD83/91, ground projected, coordinates N) 503196.111, E) 1278346.621, thence from the **POINT OF BEGINNING**, so fixed and through the existing excess right of way of Executive Boulevard as described above, the following six courses and distances, projected to ground dimensions as mentioned above, VIZ:

1. North 22°35'51" West, 32.21 feet, thence,
2. 111.21 feet along the arc of a non-tangent curve to the left, having a radius of 530.99 feet and being subtended by a chord of North 57°01'13" West, 111.01 feet, thence,
3. 23.86 feet, along the arc of a tangent curve to the left, having a radius of 335.76 feet, and being subtended by a chord of North 65°03'23" West, 23.86, thence binding on the right of way of Executive Boulevard as it now exist, the following three courses and distances,
4. South 83°21'52" East, 71.94 feet, thence,
5. South 54°47'06" East, 77.56 feet, thence,
6. South 09°16'19" West, 47.81 feet, to the **POINT OF BEGINNING**, containing a computed area of 3,046 square feet or 0.06993 acres of land, more or less.

SURVEYOR'S CERTIFICATE

I hereby certify that I was in responsible charge of the preparation of this metes and bounds description, and the survey work reflected in it, all in compliance with the requirements set forth in 09.13.06.12 of the COMAR Regulations.

Mark A. Busch

Date:

Professional Land Surveyor MD. Reg. No. 508

Exp. 07/15/2021

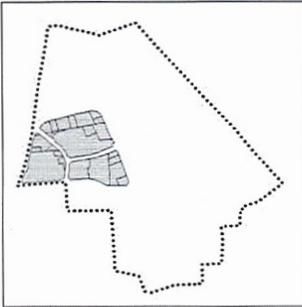
EXHIBIT "E"
DESCRIPTION OF
PARCELS TO BE ABANDONED
BY
MONTGOMERY COUNTY, MARYLAND

BEING two strips or parcels of land herein after described as running in, through, over and across the abandoned right of way of Executive Boulevard, as shown on Montgomery County Project 773855, Drawing 23 of 25 and Maryland route 187 (Old Georgetown Road) and further shown on Maryland State Roads Commission plat number 35187, and being more particularly described in the Maryland Coordinate System (NAD83/91), projected to ground dimensions using a combined scale factor of 1.00005885, from the point of beginning described below:

EXECUTIVE BOULEVARD

BEGINNING for the same at a point on the easterly right of way of Executive Boulevard as it now exist, at the beginning point of the above described right of way plat, having NAD83/91, both grid and ground projected, coordinates N) 503178.764, E) 1278607.727, thence from the **POINT OF BEGINNING**, so fixed and binding on the Montgomery County Executive Boulevard Parcel as defined on the above mentioned Plat, the following eleven courses and distances, projected to ground dimensions as mentioned above, and binding on the right of way of Executive Boulevard, for the first two courses and distances, VIZ:

1. South 03°41'33" East, 54.35 feet, thence,
2. South 51°04'41" East, 143.38 feet, thence binding on the Relocated Main/Market Street Right of Way, the following two courses and distances,
3. South 78°58'51" West, 53.63 feet, thence,
4. 77.63 feet along the arc of a tangent curve to the right, having a radius of 463.03 feet, and being subtended by a chord of South 83°47'01" West, 77.54 feet, thence binding on westerly right of way of Executive Boulevard for the following two courses and distances,
5. North 51°04'41" West, 49.85 feet, thence,
6. South 79°59'31" West, 63.18 feet, to bind along the easterly right of way of MD 187, thence binding along said right of way the following five courses and distances,
7. 50.21 feet, along the arc of a tangent curve to the right, having a radius of 586.65 feet, and being subtended by a chord of North 29°15'51" East, 50.19 feet, thence,
8. South 58°17'03" East, 40.00 feet, thence,
9. North 17°08'28" East, 50.98 feet, thence,
10. North 20°27'50" East, 47.14 feet, thence,
11. North 43°30'21" East, 37.20 feet, to the **POINT OF BEGINNING**, containing a computed area of 14,011 square feet or 0.32164 acres of land, more or less.



Metro West District

This 54-acre district, bounded by Old Georgetown Road, Nicholson Lane and Rockville Pike, forms the western part of the Sector Plan core. There is substantial public investment in the Aquatic Center, Wall Local Park, and the Bethesda North Conference Center and Hotel. The realignment of Executive Boulevard and Old Georgetown Road will create a street grid within the district and improve traffic circulation in the entire Sector

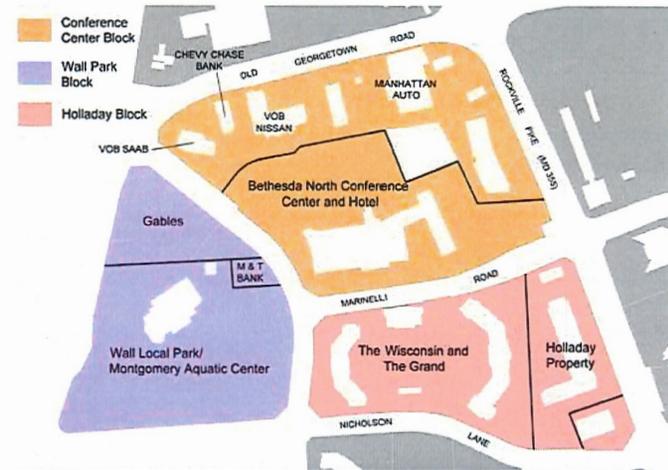
Plan area. The District is divided into three blocks: Conference Center, Wall Local Park and Holladay (Map 13).

The Plan recommends public investment in the Market Street Civic Green promenade, and outdoor recreational facilities at Wall Local Park. Assembly or combined development would best create the proposed street grid, especially in Blocks 1 and 2. When Executive Boulevard and Old Georgetown Road are reconfigured and Market Street is constructed, Blocks 1 and 2 will be divided into smaller blocks. Development in the smaller blocks should be organized with lower building heights at the northwest corner of the Old Georgetown Road and the realigned Executive Boulevard intersection.

Block 1: Conference Center

The Bethesda North Conference Center and Hotel (TS-R Zone), surrounded by automobile sales and other commercial uses, is the main feature in this block. These properties are in the C-2 and TS-R Zones. The new civic green, public use spaces, and Market Street will create the backdrop for future private redevelopment. The road alignments and location of public facilities indicated in Map 18 are not meant to represent specific or final locations and could shift. Development at the intersection of Rockville Pike and Marinelli Road at the Metro station entrance should have a significant public use space.

- Properties zoned C-2 and TS-R fronting Rockville Pike should be rezoned to CR 4: C 3.5, R 3.5, and H 300 with the remainder of the block CR 4: C 2.0, R 3.5, and H 250. The lower height in the block's interior will be consistent with residential development across Marinelli Road, which is 200 feet or greater. The Conference Center property is split zoned to accommodate taller buildings along Rockville Pike and lower buildings on the west.
- The Conference Center Block contains 11 different properties. The proposed street alignment will create smaller blocks. The civic green is to be located on the north side of Market Street. Redevelopment in this block will require careful coordination between property owners and the public sector to align, dedicate, acquire, and build the public

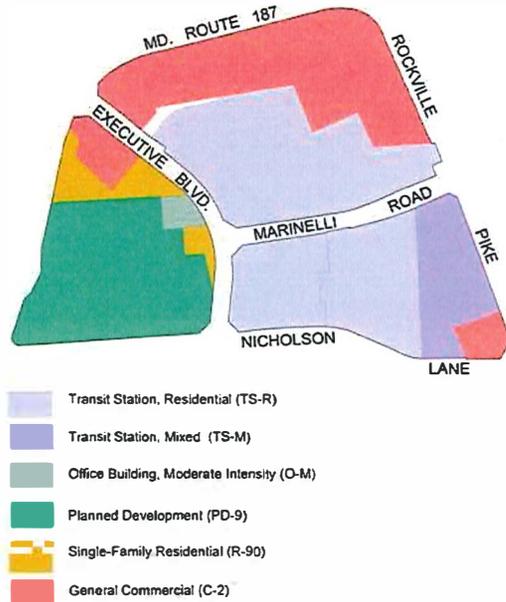


Map 13: Location

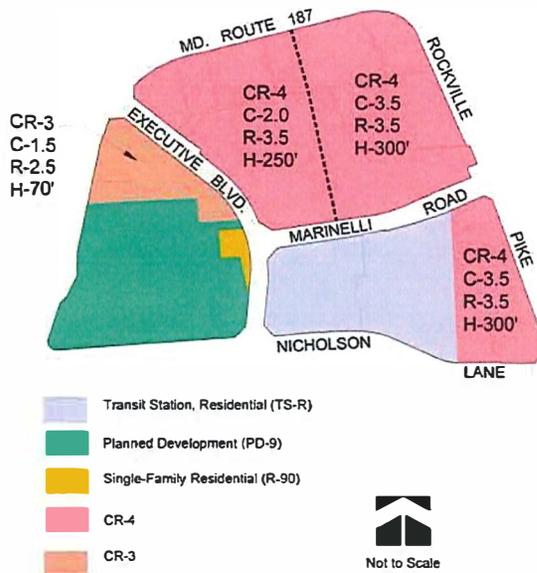


Map 14: Height and Density





Map 15: Existing Zoning



Map 16: Proposed Zoning

roads so that the new blocks formed by the new street network are of a size and configuration that is suitable for redevelopment and can accommodate the one-to-two-acre civic green. The Planning Board should attempt to maximize the size of the civic green, provided it does not compromise functionality. When the Conference Center site redevelops, there should be a complementary public use space on the south side of Market Street to anchor the civic green.

Block 2: Wall Local Park

This block contains the 11-acre Wall Local Park and Montgomery Aquatic Center. There are two other properties, the Gables (now used as a parking lot) and a bank. The land area remaining after the intersection realignment of Old Georgetown Road and Executive Boulevard will be reconfigured into rectangular blocks in sizes more conducive to redevelopment. Wall Local Park should be redesigned with more active outdoor facilities through developer contributions. It may also be an appropriate location for a new community recreation center. This area should be primarily residential in character and use. The Metro East District, because of its proximity to transit in the center of the Sector Plan area, is a suitable alternate location for the co-location of the recommended library and regional services center.

- Confirm the PD-9 and R-90 Zones on Wall Local Park.
- Rezone the rest of the block to CR 3: C 1.5, R 2.5, and H 70 to ensure a transition in height and density between Block 1 at the Metro station and the existing residential development across Old Georgetown Road.

Block 3: Holladay

This 15-acre block is bounded by Marinelli Road, Nicholson Lane, Executive Boulevard, and Rockville Pike. Properties are zoned TS-M, TS-R, and C-2. The Wisconsin and The Grand multifamily developments reflect earlier success with high-rise residential development, while the Holladay development along Rockville Pike represents the type of mixed-use envisioned in this Plan. There is already substantial residential development in this block and redevelopment should focus on employment and retail uses.

- Confirm existing residential development (Grand and Wisconsin) in the TS-R Zone since redevelopment with mixed uses is unlikely.
- Rezone the TS-M zoned Holladay property, located at Marinelli Road and Rockville Pike, and the C-2 property at the corner of Nicholson Lane and Rockville Pike to CR 4: C 3.5, R 3.5, and H 300. The Holladay property is currently subject to a development plan with a maximum 2.2 FAR. If the owners choose to take advantage of the greater potential FAR of the CR Zone, the new plan will be subject to the requirements of the CR Zone.

ATTACHMENT C: ACQUISITION AND ABANDONMENT

