



Montgomery Planning

Midcounty Planning Division

5/18/23

Agenda Item 5



# Saul Centers White Flint West (Plan Validity & APF Extension)

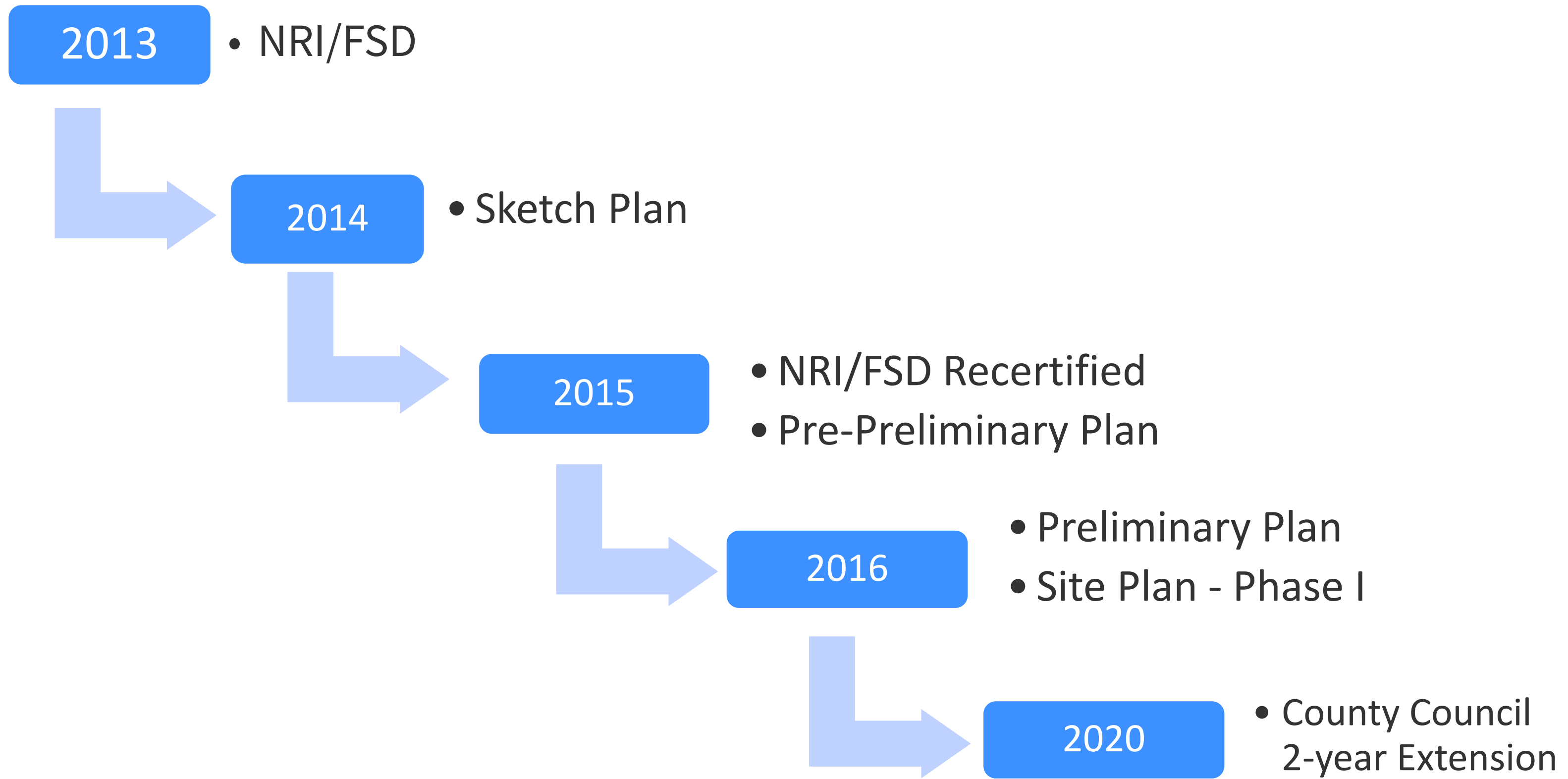
Preliminary Plan No. 12016008A



# Staff Recommendation

Staff recommends approval of Preliminary Plan No. 12016008A with the findings and conditions for a three (3)-year extension of the Preliminary Plan validity period and a six (6)-year extension of the APF validity period.

# Project History



# Site Vicinity

- CR-4.0, C-3.5, R-3.5, H-300
- 2010 *White Flint Sector Plan*
- Within the Metro West District of the plan area
- Nearby the North Bethesda Metro Station



# Subject Property

- Three (3) lots at 11520, 11560, and 11564 Rockville Pike
- 5.48-acre Property Area
- Currently improved with approximately 66,000 square feet of a variety of retail stores in a two-story strip center
- Northern lot has a McDonald's with an associated surface parking lot



# Amendment Proposal

- The Applicant requests approval to extend the Preliminary Plan validity period by six (6) years.
  - Currently set to expire on July 10, 2023.
- Revise existing Condition No. 25 to extend the Adequate Public Facilities (“APF”) validity period phasing schedule by six (6) years for each phase.
  - Phase I is currently set to expire on July 10, 2025.
  - Phase II is currently set to expire on July 10, 2030.

# Summary of Existing and Proposed Validity Dates

	Expiration date based on 2016 Planning Board approval	Expiration date based on 2-year Council Extension	Applicant's requested extension expiration date	Staff's Proposed expiration dates
<b>Preliminary Plan Validity Period</b>	July 10, 2021	July 10, 2023	July 10, 2029	July 10, 2026
<b>APF Validity Phase I (Parcel A)</b>	July 10, 2023	July 10, 2025	July 10, 2031	July 10, 2028
<b>APF Validity Phase II (Parcel B)</b>	July 10, 2028	July 10, 2030	July 10, 2036	July 10, 2033

# Analysis and Findings - Plan Validity

- Planning Board can extend the validity period if certain findings can be made per Section 50.4.2.H of the Subdivision Regulations.
- Additionally, per Section 50.4.2.H.3.a. the Planning Board must find that:
  - i. Delay by the government or some other party after the plan approval have prevented the Applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the Applicant; or
  - ii. The occurrence of **significant, unusual and unanticipated events**, beyond the Applicant's control and not caused by the Applicant, have **substantially impaired** the Applicant's ability to validate the plan, and **exceptional or undue hardship**.



# Analysis and Findings - Plan Validity

- If voting to approve an extension, the Board must only grant the **minimum time it deems necessary** for the applicant to validate the plan per Sec. 50.4.2.H.5.b.
- Staff recommends that the Planning Board require the Applicant to validate the Preliminary Plan within three (3)-years extending the current expiration date through 2026.
  - Maintains the existing 2-year sequencing between record plat and building permit.

# Analysis and Findings – APF Validity

- Planning Board can extend a determination of Adequate Public Facilities for six (6) years, for a subdivision with an original validity period longer than seven years per Section 50.4.3.J.7.
- To grant an extension of the APF validity period, the Planning Board must consider the following findings of Sections 50.4.3.J.7.a. (all application types) and 50.4.3.J.7.d. (nonresidential or mixed-use subdivisions).

# Analysis and Findings – APF Validity

Sec. 50.4.3.J.7. requirements for the extension request for up to six (6) years:

1. Timely request for an extension.
2. No additional development, public improvements, or traffic impacts.
3. New adequate public facilities determination for school adequacy for the unbuilt units.
  - FY23 Schools Test: Students generated does not exceed the adequacy ceilings for each school.
4. New development schedule.
5. Financing secured for either:
  - new development schedule for completion of at least one new building in the next stage of the development schedule;
  - or completion of infrastructure required to serve the next stage.

# Analysis and Findings – APF Validity

- Sec. 50.4.3.J.7.d.i. requirements for nonresidential or mixed-used subdivisions:
  - a) Building permits issued for structures that comprise at least 40% of the total approved gross floor area (GFA) for the project
  - b) All the infrastructure required by the conditions of the original preliminary plan approval has been constructed, or payments for its construction have been made
  - c) DPS has issued occupancy permits or completed a final building permit inspection for:
    - structures that comprise at least 10 percent of the project within the 4 years before an extension request is filed; or
    - structures that comprise at least 5 percent of the project within the 4 years before an extension request is filed, if structures that comprise at least 60 percent of the project have been built or are under construction.

# Subdivision Waiver Request

- The Applicant has not met the requirements of Section 50.4.3.J.7.d. of the Subdivision Regulations related to the minimum thresholds for infrastructure improvements and construction progress and requests a waiver from the findings of this section.
- Section 59.9.3.A requirements are satisfied to grant the waiver:
  - ✓ Due to practical difficulty or unusual circumstances of a plan, the application of a specific requirement of the Chapter is not needed to ensure the public health, safety, and general welfare;
  - ✓ The intent of the requirement is still met; and
  - ✓ The waiver is the minimum necessary to provide relief from the requirements and consistent with the purposes and objectives of the General Plan.

# Findings

- Consistent with the provisions of Chapter 50, the Subdivision Regulations, Chapter 59, the Zoning Ordinance, and the Sector Plan;
- Remains in conformance with the approved Preliminary Plan;
- Adequate public facilities exist for the proposed development;
- Findings as detailed in the Staff Report.
- No public correspondence received.

# Staff Recommendation

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