



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

Staff Report: Site Plan 820060390, Stanmore (formerly Hyde Property)

ITEM #: _____

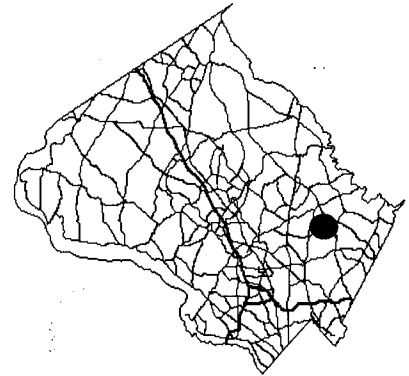
MCPB HEARING DATE: July 29, 2010

REPORT DATE: July 15, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief
Robert Kronenberg, Supervisor
Development Review Division

FROM: Sandra Pereira, Senior Planner
Development Review Division
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APPLICATION DESCRIPTION:

16 one-family detached dwelling units, including 3 existing houses to remain; 50.93 acres; RNC Zone; located on the east side of Batchellors Forest Road, approximately 400 feet south of Dr. Bird Road (MD 182); 2005 Olney Master Plan.

APPLICANT: Stanmore Limited Partnership c/o Mr. Thomas Hyde

FILING DATE: May 22, 2006

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY:

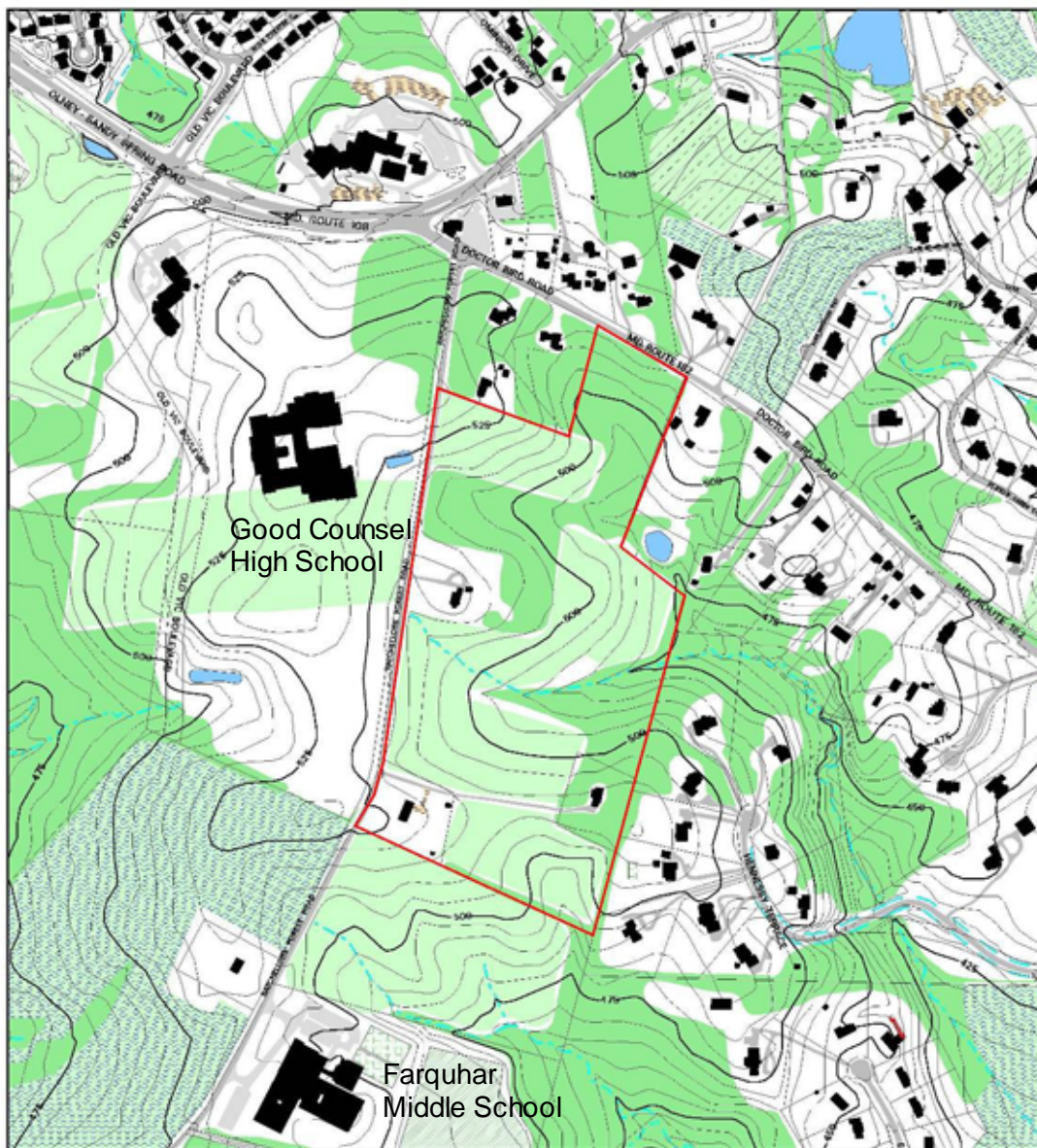
The site will be developed under the optional method with 13 new one-family detached units and 3 existing houses to remain. The layout proposes two residential clusters which are located away from Batchellors Forest Road in order to maintain broad vistas of open space and preserve the rustic character of this road. The rural open space is approximately 69 percent of the tract area.

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SITE DESCRIPTION

Vicinity

The subject property contains approximately 51 acres in the Rural Neighborhood Cluster (RNC) Zone (“Subject Property” or “Property”). The Property is located on the east side of Batchellors Forest Road in the southeast quadrant of its intersection with Dr. Bird Road (MD 182). Surrounding land uses are residential in the RE-2, Rural Cluster and RNC zones to the east, north, southwest and southeast. The adjacent property to the south is designated for a future local park, and the abutting property to the west contains the existing Good Counsel High School. Also located in close proximity to the Subject Property are the Olney Theater and Olney Inn to the north of the Property on MD 108, and Farquhar Middle School to the south of the Property along Batchellors Forest Road.



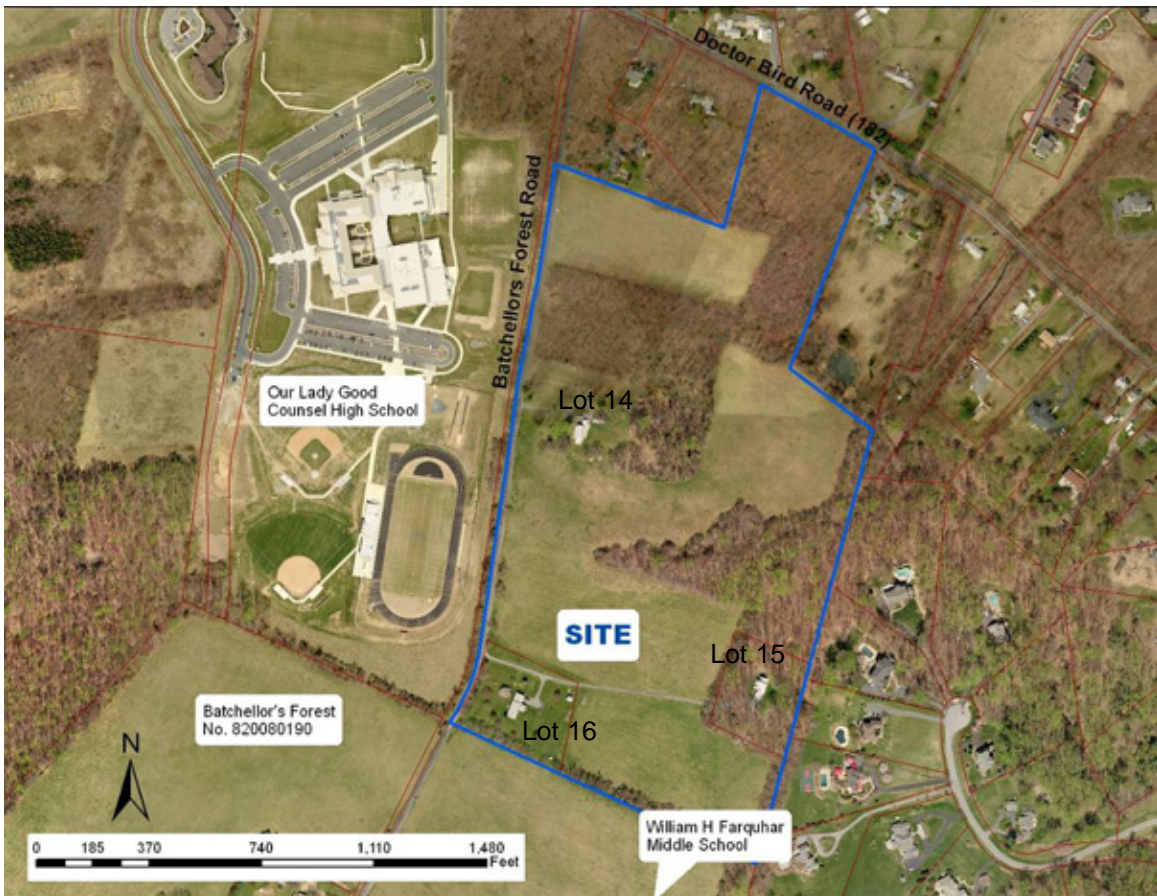
Vicinity Map

Nearby recently approved applications for residential development in the RNC zone include Batchellors Forest (Site Plan No. 820080190), and Olney Estates (Site Plan No. 820060190). The general character in the southeast quadrant of Olney is fairly low-density in nature, with significant environmental resources. Batchellors Forest Road, the only through road in this quadrant, has been designated as a rural rustic road due to its visual attributes.

Site Analysis

The site is mostly undeveloped and contains a mix of forested area and open fields, plus three existing residential dwelling units. The Property lies within the Northwest Branch watershed (a Use IV stream). Two streams begin on the Property; one bisects the northern part of the site, and the other flows from the southeast corner. These two streams converge offsite to the east of the subject property. Both one-hundred year floodplains and wetlands lie within the approximately 20-acre onsite buffer area associated with these streams. The stream valleys contain slight to moderate slopes and associated forest. These environmentally sensitive areas limit the amount of buildable area on the site.

There are approximately 16 acres of forest on the site and several specimen size trees. The three existing houses will be placed on new lots. All of the new homes will be served by public water and sewer systems. The existing house on Lot 14 will be connected to public water and sewer, the existing house on Lot 15 will remain on well and septic, and the existing house on Lot 16 will be connected to public water only and remain on septic.



Aerial Photo

PROJECT DESCRIPTION

Previous Approvals

On April 2, 2009, the Planning Board approved with conditions **Preliminary Plan No. 120061100** for Stanmore, formerly known as the Hyde Property (Planning Board Resolution dated September 17, 2009 [Appendix A]) to create a maximum of 16 lots on approximately 51 acres of land.

Proposal

The site plan proposes a total of 16 one-family detached units, including 3 existing units to remain, using the optional method of development. The new units will be clustered on two proposed private cul-de-sac streets in the northern and central portions of the Property. These clusters are located outside the stream buffers and away from Batchellors Forest Road in order to preserve the open field viewsheds and maintain the rustic character of the road. A natural surface trail will connect the two clusters.



Illustrative Landscape Plan

The application proposes a variety of lot sizes. The lots containing the three existing dwellings range in size from 2.2 acres to 14.7 acres. The proposed lots vary in size from 13,360 square feet for the smallest to 17,783 square feet for the largest. Consistent with the recommendations of the zone, the rural open space will be approximately 68.8 percent of the tract area.

Batchellors Forest Road is a rural rustic road, and consistent with the Functional Master Plan for Rural and Rustic Roads, changes or improvements (including sidewalks) that may alter its character are prohibited.



PROJECT ANALYSIS

Master Plan

The subject site is located within the boundaries of the 2005 Olney Master Plan, which has general recommendations about properties in the southeast quadrant as well as specific recommendations for the subject property.

The general recommendations of the Master Plan for the southeast quadrant (p.23) that are relevant to this site include:

- Preserve open space, streams, significant forests, and the low-density character of the Southeast Quadrant through cluster development, on community sewer where appropriate.
- Protect the rustic road character of Batchellors Forest Road by using topography, clustering of houses away from the road, and landscaping to preclude, or minimize, the visibility of new developments from Batchellors Forest Road.

The Master Plan has the following design guidelines for all properties recommended for the RNC Zone in the Southeast Quadrant (p.25) (including the subject property):

1. Cluster new houses away from sensitive areas.

2. Minimize the fragmentation of forest by preserving contiguous forest areas covering more than one property.
3. Minimize new driveway entrances on Batchellors Forest Road to preserve its rustic character.
4. Design connections of new access roads to Batchellors Forest Road to be respectful of the rustic character of the road.
5. For properties along Georgia Avenue, provide a green buffer of at least 100 feet, outside the master plan right-of-way, to screen views of houses from the road.
6. Preserve exceptional vistas of open fields on larger properties from Batchellors Forest Road, especially on the Casey, Hyde and Polinger properties by clustering homes in such a way that they are not visible from the road. If that is not feasible, use landscaping techniques to screen houses from the road.

The specific comments and recommendation regarding this property are included in the Land Use section of the Plan (#2, *Hyde and Bowns Properties*, page 27). The Plan recommended rezoning of the Property to the RNC zone on community water and sewer, if feasible, with 0.33 units per acre. At the time of Preliminary Plan approval, the Planning Board found that the use of grinder pumps to provide sewer service to the middle cluster of development was acceptable because it keeps the southern portion of the property free of any new construction and uses a location best suited for new construction due to the screening provided by existing trees on the site.

The most critical portion of the site in terms of protecting the visual quality and character of Batchellors Forest Road and the surrounding area is the southern half of the property because of its rolling topography, rural character, and high visibility from Batchellors Forest Road. The proposed Site Plan meets the Master Plan's recommendation for protecting the rustic character of Batchellors Forest Road by keeping this southern portion of the property in its current state and preserving it as Rural Open Space under the requirements of the RNC Zone. All the new houses are clustered in two areas in the central and northern portion of the site where they will be well screened from Batchellors Forest Road by existing trees on the property. The existing houses on the property (two along Batchellors Forest and the third slightly back in the woods) will contribute towards preservation of existing conditions and the character of Batchellors Forest Road. The plan also preserves open space, streams, significant forests, and the low-density character of the site by clustering development. The proposed plan meets the goals and objectives of the Master Plan

Transportation

At the time of the preliminary plan approval, it was determined that this application is not subject to a Local Area Transportation Review (LATR) since the development generates less than the threshold of 30 or more peak-hour trips during the weekday morning and evening peak-periods. Also, this application is not subject to a Policy Area Mobility Review (PAMR) because the preliminary plan application was filed before January 1, 2007.

Environment

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved by Environmental Planning Staff on December 2, 2002 (NRI/FSD 420020570).

A Final Forest Conservation Plan was approved as part of Preliminary Plan No. 120020820 for Good Counsel High School. The previously approved plan established areas of forest retention and planting for both phases of the development. The forest conservation plan associated with the Stanmore site plan does not change these areas with the exception of an area of right-of-way (ROW) dedication and a public utility easement (PUE).

The Preliminary Plan of subdivision has created an additional dedication area to the SHA that will cause an 0.12 acres of forest previously shown as saved and protected on the approved forest conservation plan for the entire property to be removed. The Applicant must revise the final forest conservation plan to provide an additional 0.12 afforestation credits, resulting from the removal of forest previously shown as saved prior to any land disturbing activities occurring on site.

The Forest Conservation Plan for the entire property retains 15.64 acres of existing forest. Good Counsel High School has already planted 3.85 acres of forest within the onsite unforested stream valley buffers. There was a 12.08 offsite planting requirement which Good Counsel has already satisfied through the planting of new forest in the Broad Run watershed.

This site plan is subject to the minimum retention requirement found in Sec. 22A-12(f)(2)(B) of the County code “*In a planned development or a site developed using a cluster or other optional method in a one-family residential zone, on-site forest retention must be equal to the applicable conservation threshold in subsection (a).*” For this property, the conservation threshold is 25%, or 12.73 acres. The property meets this requirement by retaining and planting a total of 19.59 acres.

Development Standards

The subject site is zoned RNC, which allows the proposed residential use. The intent of the RNC Zone is to preserve open land, environmentally sensitive natural resources and rural community character that would be lost under conventional, large-lot development. The proposed development meets the purpose and requirements of the zone as detailed in the Findings section of this report.

The following data table indicates the proposed development’s compliance with the Zoning Ordinance.

Project Data Table for the RNC Zone, Optional Method of Development

Development Standard	Permitted/Required	Proposed for Approval & Binding on the Applicant
Min. Area of Development 59-C-9.574(a)		

Gross Tract Area (acres)	10	50.93
Road Dedication (acres)	n/a	2.0
Net Tract Area (acres)	n/a	48.93
Density (du/ac) Per Olney Master Plan (p.28)	0.33	0.33
Max. No. of Dwelling Units	16	16
Unit Types - Proposed one-family detached units - Existing one-family detached units to remain	n/a n/a	13 3
Min. Lot Area (sq. ft.) 59-C-9.574(d)(i)		
One-family detached units	4,000	13,360
Min. Setback from Street (feet) 59-C-9.574(d)(ii)	15	20
Min. Yard Setback (feet) 59-C-9.574(d)(iii)		
- Side yard	8	8
- Rear yard	n/a	10
Min. Lot width (feet) 59-C-9.574(d)(iv)		
One-family detached unit	25	50
Max. Building Height (feet) 59-C-9.574(d)(v)	35	35
Max. Lot Coverage (%) 59-C-9.574(d)(vi)		
One-family detached unit	35	35
Accessory Structures Setbacks (feet) 59-C-9.574(d)(vii)		
Rear	5	5
Side	5	5
Street	60	60
Common Open Space 59-C-9.574(e)	n/a	<u>0.33 acres (Total)</u> 0.25 acres (Parcel B) 0.08 acres (Parcel C)
Min. Rural Open Space ^(a) 59-C-9.574(h)	65% (32.7 acres)	<u>34.62 acres (Total) (68.8%)</u> 7.33 acres (Lot 14) 12.21 acres (Lot 15) 14.75 acres (Parcel A) 0.33 acres (Parcel H)
Parking Spaces 59-E One-family detached	2 spaces/d.u. (32)	32 (2-car garages)

^(a) The rural open space is calculated on the net tract area calculated by deducting the rights-of-way for roads classified as major highways or freeways from the gross tract area of the property. Doctor Bird Road is classified as a major highway per the 2005 Olney Master Plan.

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff has not received correspondence on this matter.

FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

Neither a development plan, diagrammatic plan, schematic development plan, nor a project plan were required for the subject site.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The proposed use is allowed in the RNC Zone and the site plan fulfills the purposes of the zone by preserving open land, environmentally sensitive natural resources, and rural community character. This is accomplished by providing residential development in clusters and maintaining broad vistas of open space.

As the project data table on page 8 indicates, the site plan meets all of the development standards of the RNC Zone. With respect to density, the zone allows the maximum density on a property to be set in the master plan. The Olney Master Plan sets the maximum density on this property at 0.33 units per acre under the optional method of development, resulting in a maximum of sixteen units. The Site Plan proposes 16 units with a density of 0.33 units per acre, which is within the maximum density allowed. With respect to building height and lot coverage the proposed development is under all the maximum standards allowed. With respect to setbacks, lot area, and lot width, the proposal is above all minimum standards allowed. The open space proposed consists of approximately 0.33 acres of common open space and approximately 34.62 acres (68.8% of the net tract area) of rural open space that allows a greater amount of rural features and character to be protected.

As required by the zone, the development proposes a variety of lot sizes. The lots containing the existing dwellings will range from 2.2 to 14.7 acres in size. The size of the proposed lots varies between 13,360 square feet (0.31 acres) for the smallest and 17,783 square feet (0.41 acres) for the largest. Although the zone also encourages a diversity of house sizes, it is not a requirement and is more difficult to achieve with smaller developments. Other projects have addressed this recommendation by providing different unit types, such as one-family detached units and townhouses. This site plan only proposes 13 units, which makes it exempt from the requirement to provide MPDUs. These units are all single family detached, but this is in keeping with the neighboring communities.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a) Locations of Buildings and Structures

The 13 proposed one-family detached units will be clustered on two proposed private cul-de-sac streets in the northern and central portions of the Property located at a lower elevation away from Batchellors Forest Road. The elevation and location of the units have been sited appropriately to maintain broad vistas of open space and to preserve the rustic character of the Batchellors Forest Road as envisioned by the Master Plan. The proposal also responds to the natural resources onsite and takes advantage of the existing forest line to screen some units from the road.

The northern cluster, with 7 units, has maintained a similar setback from the road as the existing house to the north, and has located only 3 units along the northern property boundary to minimize impacts on surrounding properties. The cluster to the south has the units fronting onto an area of common open space, which strengthens the community by providing a gathering place for the residents of the neighborhood. Three existing dwellings will continue to use their existing private driveways, one of which is shared by two of the dwellings. The locations of the buildings and structures are adequate, safe and efficient, while maintaining the rural character of the area and preserving environmentally sensitive natural resources.

b) Open Space

The open space provided is divided into Common Open Space, intended for common use by the residents of the neighborhood, and Rural Open Space, intended to protect rural features and other sensitive areas and to maximize common boundaries with rural open space on adjacent tracts. The most significant common open space, located at the cul-de-sac of Street B, is surrounded by houses and has amenity features (gazebo, benches, and picnic tables), making it an effective gathering point for the neighborhood residents. The other common open space, located beyond the cul-de-sac for Street A, is mostly open lawn and signals the beginning of the path connecting the two clusters.

The 34.62 acres of Rural Open Space are located primarily along Batchellors Forest Road in order to maintain the existing broad vistas of open space and to preserve the rural character of this road. Environmentally sensitive natural resources are also protected, since the stream valley and existing forest are included in the Rural Open Space. The open space provided satisfies the provisions of the zoning and is safe, adequate and efficient in addressing the needs of the proposed use and the recommendations of the Master Plan.

c) Landscaping and Lighting

The landscaping is intended to soften and screen the proposed development from Batchellors Forest Road and adjacent properties. Thus, a mix of shade trees, ornamental trees, deciduous and evergreen shrubs are provided at the two access points to this development. In addition, a massing of evergreens is provided at the northern property line as a buffer between the proposed units (especially on Lot 1) and the existing house to the north. Landscaping on individual lots consists of a traditional foundation planting area for each house. The remaining landscaping screens the storm water management facilities and defines the areas where the public amenities are located.

The areas of rural open space adjacent to Batchellors Forest Road are integral to the character of the road and will remain open without plantings. Street trees are provided along the two private streets, however no lighting is provided in order to maintain the rural character of this area. The landscaping and lighting are adequate, safe, and efficient.

d) Recreation facilities

The proposed development is exempt from meeting the adequacy test for recreation because it proposes less than 25 single-family homes. Nonetheless, the development will provide three picnic/sitting areas, a nature trail, and natural areas. The recreation facilities provided are adequate, safe and efficient.

e) Pedestrian and Vehicular circulation systems

Access to the development is proposed from Batchellors Forest Road, which is a rustic roadway. The new one-family detached clusters will be served via two separate private roads; the northern roadway serving seven proposed lots and the southern driveway serving six proposed lots. Proposed Lots 14, 15, and 16, consisting of existing residences, will be served via separate existing driveways.

Pedestrian access and circulation through the site overlaps with the vehicular circulation except for a natural surface trail connecting the two residential clusters. No sidewalks are provided along Batchellors Forest Road because, as a rustic road, any changes or improvements that could alter its character (including the construction of sidewalks) are prohibited. No sidewalks are provided along the private cul-de-sac streets because there is no existing sidewalk system along Batchellors Forest Road, limited vehicular traffic on the private streets makes them safe for pedestrians, and impervious surfaces are minimized. The vehicular and pedestrian circulation systems provide safe, adequate and efficient access to the developable portions of the property, while allowing for the preservation of forest, environmentally sensitive areas, and open space.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed residential use is compatible with the adjacent residential uses and confronting institutional uses. This development proposes grouping the units into two residential clusters, which minimizes the fragmentation of forest, the impacts on environmentally sensitive areas, and the access points onto Batchellors Forest Road. The two clusters are located away from this road so as to be only partially visible, which preserves exceptional vistas of open fields, a central element to the rustic character of Batchellors Forest Road.

The landscape buffer along the northern property boundary will enhance compatibility between the proposed units and the existing house to the north. The diversity in lot sizes, ranging from 0.31 to 14.7 acres in size, is compatible with the surrounding development and rustic character of this area, and is consistent with the purpose and intent of the zone.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

A Final Forest Conservation Plan was approved as part of Preliminary Plan No. 120020820 for Good Counsel High School. The previously approved plan established areas of forest retention and planting for both phases of the development. The forest conservation plan associated with the Stanmore site plan does not change these areas with the exception of an area of right-of-way (ROW) dedication and a public utility easement (PUE).

The Applicant must revise the Final Forest Conservation Plan to provide an additional 0.12 afforestation credits, resulting from the removal of forest previously shown as saved prior to any land disturbing activities occurring on site. This site plan is subject to the minimum retention requirement found in Sec. 22A-12(f)(2)(B) of the County code. For this property, the conservation threshold of 25% (or 12.73 acres) is met by retaining and planting a total of 19.59 acres. The plan, as amended by Staff's conditions of approval, will comply with the County Forest Conservation Law.

The Department of Permitting Services approved the stormwater management concept for the proposed development on May 8, 2006. The concept consists of on-site water quality control via construction of six water quality facilities. Onsite recharge is to be provided via the use of open section roadways and by using storage below the stormwater facilities wherever practical. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan No. 820060390, Stanmore, for 16 one-family detached dwelling units, including 3 existing houses to remain, on 50.93 gross acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on February 26, 2010, are required except as modified by the following conditions:

Conformance with Previous Approvals

1. Preliminary Plan Conformance
The proposed development must comply with the conditions of approval for Preliminary Plan No. 120061100 as listed in the Planning Board Resolution dated September 17, 2009 [Appendix A]. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DPWT [now DOT] conditions, and DPS stormwater conditions.

Environment

2. Forest Conservation & Tree Save

The proposed development must comply with the conditions of approval for the Final Forest Conservation Plan, as per the M-NCPPC Environmental Planning memorandum dated July 6, 2010 [Appendix B].

3. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated May 8, 2006, unless amended and approved by the Montgomery County Department of Permitting Services [Appendix B].

Parks, Open Space, & Recreation

4. M-NCPPC Department of Parks

The Applicant must provide a safe pedestrian access from the existing and proposed homes to the adjacent parkland and Farquhar Middle School to the south. This community access, which shall be adequately identified and signed, could be in the form of a natural surface trail outside the right-of-way for Batchellors Forest Road. The final alignment and surfacing must be established in coordination with staff prior to Certified Site Plan approval.

5. Common Open Space Covenant

Record plat of subdivision must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 (“Covenant”). The Applicant must provide verification to M-NCPPC staff prior to issuance of the 10th building permit that the Applicant’s recorded Homeowners Association Documents are incorporated by reference in the Covenant.

6. Rural Open Space

A Rural Open Space Easement must be recorded in the Montgomery County Land Records for the 34.62-acre area designated as private Rural Open Space (Parcels A, Parcel H, Lot 14, and Lot 15, as shown on the Certified Site Plan). Reference to the recorded easement is to be noted on the record plat(s).

7. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to picnic/sitting areas, nature trails, and natural areas.

Site Plan

8. Landscape Surety

The Applicant must provide a performance bond in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a) The amount of the surety must include plant material, site furniture, and recreational facilities within the development. Surety to be posted prior to issuance of first building permit and shall be tied to the development program.
- b) Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.

- c) Completion of plantings by block, to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d) Provide a screening/landscape amenities agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

9. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- b) Provide each section of the development with necessary roads.
- c) Street tree planting may wait until the next growing season after street construction is completed.
- d) The development program must provide phasing for installation of on-site landscaping.
- e) Community-wide pedestrian pathways and recreation facilities, including picnic/sitting areas, a gazebo, a nature trail, and natural areas, must be completed prior to release of the 12th building permit.
- f) Landscaping associated with each dwelling unit shall be completed as construction of each building is completed.
- g) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

10. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b) Add a note to the site plan stating that “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading”.
- c) Modify data table on plans to reflect development standards enumerated in the staff report.
- d) Ensure consistency of all details and layout between site plan and landscape plan.
- e) Provide typical foundation planting.

APPENDICES

- A. Preliminary Plan Resolution
- B. Agency Letters

Appendix A



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

SEP 17 2009

MCPB No. 09-42
Preliminary Plan No. 120061100
Stanmore
Date of Hearing: April 2, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on April 28, 2006, Stanmore Limited Partnership ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 30 lots on 50.93 acres of land located on the east side of Batchellors Forest Road, approximately 400 feet south of Dr. Bird Road (MD 182) ("Property" or "Subject Property"), in the Olney master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120061100, Stanmore ("Preliminary Plan" or "Application"); and

WHEREAS, a final revision to the Application was submitted by the Applicant on February 3, 2009 to create 19 lots on the Property; and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated March 20, 2009, setting forth its analysis, and recommendation for approval, of the revised Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on April 2, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on April 2, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Robinson seconded by Commissioner Presley, with a vote of 4-0, Commissioners Cryor, Hanson, Presley and Robinson voting in favor, and Commissioner Alfandre absent.

Approved as to
Legal Sufficiency: 

8787 Georgia Avenue, Suite 200, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120061100 to create a maximum of 17 lots on approximately 51 acres of land located on the east side of Batchellors Forest Road approximately 400 feet south of Dr. Bird Road (MD 182) ("Property" or "Subject Property"), in the Olney master plan area ("Master Plan"), including a waiver of the requirement to construct a sidewalk along the Dr. Bird Road (MD 182) property frontage pursuant to Chapter 49 of the Montgomery County Code, and subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to a maximum of seventeen (17) lots for seventeen (17) residential dwelling units, including the three existing units. To achieve seventeen lots, prior to preliminary plan certification the Applicant must provide a survey of the Subject Property that is certified by a registered Land Surveyor and verifies that the net tract area of the Property is at least the minimum area necessary for 17 lots under the RNC zone. Absent the submission of such a survey, the maximum density that can be achieved on this Property is limited to sixteen (16) dwelling units, including the three existing units.
- 2) The Applicant must revise the Preliminary Plan prior to certification to bring it into conformance with condition 1 by removing an appropriate number of lots and reconfiguring the internal lot lines of proposed lots on Private Street "A" and/or Private Street "B."
- 3) No clearing, grading, or recording of plats prior to site plan approval.
- 4) Final approval of the number and location of buildings, dwelling units, sidewalks, and bikepaths will be determined at site plan.
- 5) The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan dated March 16, 2009. The applicant must meet all conditions prior to the recording of plat(s) or Montgomery County Department of Permitting Services ("MCDPS") issuance of sediment and erosion control permit(s), as applicable. Conditions include, but are not limited to:
 - a) Split rail fencing is required along lots 5-7, 13, 14, and 16, directly adjacent to areas of reforestation.
- 6) The final record plat must show dedication as well as centerline for the following rights-of-way, consistent with the 2005 Approved and Adopted *Olney Master Plan*:
 - a) Batchellors Forest Road – 35 feet from the road right-of-way centerline or full-width dedication of 70 feet along Property frontage, as appropriate.
 - b) Dr. Bird Road – 60 feet from the road right-of-way centerline. Access to the subdivision from Batchellors Forest Road shall be restricted to the proposed interior residential private streets and the two existing private driveways.
- 7) The Applicant must construct any necessary road improvements, except a sidewalk within the road right-of-way for Dr. Bird Road (MD 182), along the

Property frontages to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes.

- 8) The Applicant must construct the proposed private roads to the structural standards of a public tertiary street and provide an engineer's certification to the MCDPS, Roadway Permitting Section prior to issuance of access permits to verify that this condition has been met.
- 9) The Applicant must comply with conditions of the Montgomery County Department of Transportation (MCDOT) letter dated June 20, 2006. These conditions may be amended by MCDOT provided the amendments do not conflict with any other conditions of the Preliminary Plan approval.
- 10) The Applicant must comply with the conditions of MCDPS, Well and Septic Section approval. These conditions may be amended by MCDPS, Well and Septic provided the amendments do not conflict with any other conditions of the Preliminary Plan approval.
- 11) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated February 10, 2009. These conditions may be amended by MCDPS provided the amendments do not conflict with any other conditions of the Preliminary Plan approval.
- 12) The Applicant must comply with any MCDOT requirements for access and improvements for Batchellors Forest Road prior to recordation of plat(s), and with any Maryland State Highway Administration (MDSHA) requirements for improvements for Dr. Bird Road (MD 182).
- 13) The record plat must reflect a public use and access easement over Private Streets "A" and "B."
- 14) The record plat must reflect "denied access" to Dr. Bird Road (MD 182) along the Property frontage.
- 15) The record plat must reflect a Category I conservation easement over all areas of stream valley buffer and forest conservation.
- 16) The record plat must reflect delineation of Rural Open Space areas and make note of the Liber and Folio of an easement agreement or covenant recorded in the land records which restricts the uses in the rural open space to those set forth in the RNC zone and establishes procedures for the management of natural or agricultural features as set forth in the approved site plan. Record plat to have the following note: "The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted after the Property is developed."
- 17) The record plat must reflect common ingress/egress and utility easements over any shared driveways.
- 18) The record plat must reflect all parcels under Homeowners Association control, and separately designate stormwater management parcels.
- 19) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board opinion.

20) Other necessary easements must be shown on the record plat.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, except as modified herein, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

- 1. The maximum allowable density on the Subject Property is limited to 0.33 dwelling units per acre as calculated on the net tract area of the Subject Property. The transfer of density from the adjacent, RC-zoned Good Counsel High School property (Preliminary Plan No. 120020820) is not permitted.*

The Application proposed a total of 19 lots in the RNC zone. In order to achieve this density, the Applicant requested the Planning Board's approval to transfer density from the adjacent Good Counsel High School property, which was owned by the Applicant prior to being subdivided for the school and is in the Rural Cluster (RC) zone, by treating this as a combined cluster development. The Application does not comply with the express requirements established by the Board when it previously considered the potential for density transfer between the Good Counsel property and the Subject Property. More importantly, because the Zoning Ordinance does not permit the transfer of density between the RC zone and the RNC zone, in which the subject property is located, the Board cannot allow the proposed density transfer.

The Board contemplated the possibility of a density transfer between the Good Counsel site and the Subject Property when it approved the preliminary plan for the Good Counsel property. But in contemplating the possibility of a density transfer between the sites, the Board made clear that a transfer could happen only under certain circumstances that this Application does not satisfy. When the Board considered Preliminary Plan No. 120020820 for Good Counsel, the Olney Master Plan, which covers the Subject Property, was in the process of being drafted. The Board recognized at that time that the Subject Property would likely be rezoned, but did not know what the zoning would be or whether it would allow for transfer of density through combined clustering. Therefore, in its opinion approving the Good Counsel preliminary plan, which included all of the approximately 100-acre property owned by the Hyde family on both sides of Batchellors Forest Road, including the Subject Property, the Board stated that "there is no guarantee that the Master Plan recommendations will result in rezonings that allow this density allocation and that there is no guarantee that all of the combined potential density will be achieved." Further, in an Amended Opinion for this preliminary plan, the Board made clear that a density transfer would be allowed only if two legal prerequisites were met:

"density associated with the School Site may be considered across the entire Property, provided that 1) the entire Property is rezoned to one cluster zone, or to two different cluster zones that qualify under the Zoning Ordinance as combined cluster development; and 2) the School Site is included in any future preliminary plan application."¹

The Application meets neither of these conditions. The Good Counsel site and the Subject Property were neither rezoned to one cluster zone nor to two different cluster zones that qualify under the Zoning Ordinance for combined cluster development. Moreover, the Good Counsel site was not included in this Application. Therefore, the Board cannot permit a transfer of density between the two properties.

The Applicant makes two arguments for why the Board should extend the combined cluster provision of the Residential Zones to the Agricultural Zones, neither of which is correct. First, it argues that there is nothing in the Zoning Ordinance stating that the combined cluster provisions of the Residential Zones apply only to Residential Zones. Second, it argues that language in Section 59-C-1.1, which lists the zones included under the Residential Zone umbrella, noting that "[r]esidences are also permitted in certain other zones, including the central district zones, the planned unit development zones and the rural zone" means that the provisions of Section 59-C-1 are intended to apply in any zone that permits residential uses.

With respect to the Applicant's first argument, the Board finds that the negative inference that the Applicant seeks to draw from the lack of a statement in the zoning ordinance specifying that the combined clustering provision of the zoning ordinance does not apply in the Agricultural Zones is incorrect. Except where otherwise specified, the development standards that appear in one section of the zoning ordinance – in this case Section 59-C-1 (Residential Zones) – do not apply in another – in this case Section 59-C-9 (Agricultural Zones). Each family of zones, including the Residential Zones and Agricultural Zones has a different purpose. Similarly, each specific zone within a family of zones has a different purpose. Further, each family of zones and each zone has its own detailed set of development standards designed to meet its intended purpose. Thus, the requirements of each zone must be read separately. The Applicant's attempt to read the provisions of one set of zones to apply to another set of zones makes no sense within the structure of the zoning ordinance, and, if accepted, would lead to a great deal of confusion about what development standards apply to a

¹ At the time of the approval of Preliminary Plan No. 120020820, the Good Counsel High School side of the property was zoned RC and the remainder of the property was zoned RE-2.

given zone. Finally, the fact that the Residential Zones expressly allow combined clustering under certain circumstances highlights the absence of such an allowance in the Agricultural Zones.

With respect to the Applicant's second argument, none of the language in Section 59-C-1 suggests that the clustering provisions of Section 59-C-1.526 apply to the Agricultural Zones, as the Applicant claims. In support of this contention, the Applicant points to language in Section 59-C-1.1 that follows a list of Residential Zones. This language serves merely to clarify that although there are a limited number of zones that are called "Residential Zones" there are other zones that also allow residential development. This language does not extend any of the development standards of Section 59-C-1 to other zones or families of zones where residential development is also allowed. Moreover, even if the Applicant were correct in reading Section 59-C-1.1 to extend the development standards of the Residential Zones to other zones, the precise language upon which the Applicant relies does not mention Agricultural Zones. It mentions the "rural zone," a specific zone within the Agricultural Zone family that is distinct from the RC and RNC zones.

The Board's reading of the Zoning Ordinance not to allow the transfer of density through combined clustering between the RC and RNC zones is fully consistent with its decision in Preliminary Plan No. 120020820. In the Amended Opinion approving that plan – specifically, when the Board stated that transferring density would require rezoning the Good Counsel site and the Subject Property either to a single cluster zone or two different cluster zones that qualify under the Zoning Ordinance as combined cluster development – the Board recognized that there are some cluster zones that allow combined clustering and some that do not. If all cluster zones allowed combined clustering, as the Applicant implicitly argues,² there would have been no reason for the Board to say in its Amended Opinion that the Good Counsel site and the Subject Property would have to be rezoned to two cluster zones that allow combined clustering. The Board would have simply stated that the two properties had to be rezoned to one or more cluster zones.

At the public hearing, the Applicant further argued that the transfer of residential density from the Good Counsel site to the Subject Property would have been allowed if the property had been subdivided at the same time with one plan, and the fact that they are not being subdivided at the same time should not stand in the way of the density transfer. The premise of this argument is fundamentally

² The Applicant has not argued that all cluster zones allow combined clustering per se, but implicitly so argues because only the Residential Zones and Agricultural Zones contain clustering provisions, and the Applicant argued that the combined clustering provisions in the Residential Zones apply in the Agricultural Zones.

flawed. If the applicable zoning does not allow the transfer of density through combined clustering, transfer of density is not permitted across the zone boundary in any circumstance, regardless of whether the property were to be subdivided under a single plan or separate plans.

Finally, in response to the Applicant's argument that a transfer of density should be permitted because it reflects the previous agreement made between Staff and the Applicant, the Board finds that nothing that occurred in any discussions between the staff and the Applicant at the time of the Good Counsel subdivision created any rights or in any way bound the Planning Board. Moreover, the Board specifically found at that time that any potential future density transfer was not guaranteed. At the public hearing, the Applicant argued that at the time the Good Counsel preliminary plan was approved there was a gentlemen's agreement between the Applicant and the Planning Board's staff that the density transfer would be permitted in the future. Even if such an agreement existed, an agreement made by Staff does not bind the Planning Board. Moreover, as discussed above, the Board made clear its position on the possibility of a density transfer in the Good Counsel preliminary plan resolution. Therefore, the Applicant has long been on notice of what would be required to obtain approval of a plan that called for combined clustering.

The Board further finds that potential density on the Subject Property is limited by the Master Plan. In the RNC zone, density on a property using the optional method of development (i.e., cluster development on sewer) must conform to the recommendations and guidelines of the applicable master or sector plan. The Olney Master Plan recommends a density of 0.33 dwelling units per acre for the RNC zoned portion of the Hyde property, with no provision for transfer of density from the RC zoned portion of the site. Therefore, the Board finds that under the RNC zone development standards, density on the Hyde property must not exceed 0.33 dwelling units per acre. The transfer of density proposed by the Applicant would exceed this limit.

2. The Preliminary Plan substantially conforms to the Olney Master Plan.

The Subject Property is identified as #2, Hyde and Bowns Properties (page 27) in the Land Use section of the Olney Master Plan. The Plan has general recommendations for the Southeast Quadrant of Olney, where this property is located, and specific recommendations about this property.

The Plan's comments about the Southeast Quadrant focus on preserving the existing low-density residential character of the area in general and the character of Batchellors Forest Road in particular. The Plan states:

"this road has visual character and other attributes to qualify it as a Rustic Road and should be designated as such, precluding any change or improvement that may alter the character of the road" (page 22, second paragraph).

"Preserve open space, streams, significant forests, and the low-density character of the Southeast Quadrant through cluster development, on community sewer where appropriate.

Protect the rustic character of Batchellors Forest Road by using topography, clustering of houses away from the road, and landscaping to preclude, or minimize, the visibility of new development from Batchellors Forest Road."(Page 23)

On page 25, Design Guidelines for all RNC properties in the Southeast Quadrant, the Plan states, among others:

"Minimize new driveway entrances on Batchellors Forest Road to preserve its rustic character."

"Preserve exceptional vistas of open fields on larger properties from Batchellors Forest Road, especially on Casey, Hyde and Polinger properties by clustering homes in such a way that they are not visible from the road. If that is not feasible, use landscaping techniques to screen houses from the road."

The specific comments and recommendation regarding this Property are included in the Land Use section of the Plan (#2, Hyde and Bowns Properties, page 27). The Plan recommended rezoning of the Property to the RNC zone on community water and sewer, if feasible, with 0.33 units per acre. The Plan states that the "feasibility of providing public sewer through gravity to this property should be determined at the time of subdivision. The property should be placed in the recommended sewer envelope. However, putting it in the sewer envelope would not automatically entitle this property to development on public sewer."

The Board finds that the most critical portion of the site in terms of protecting the visual quality and character of Batchellors Forest Road and the surrounding area is the southern half of the Property because of its rolling topography, rural character, and high visibility from Batchellors Forest Road. The proposed Preliminary Plan meets the Master Plan's recommendation for protecting the rustic character of Batchellors Forest Road by keeping this southern portion of the Property in its current state and preserving it as Rural Open Space under the requirements of the RNC Zone. All the new houses are clustered in two areas in the central and northern portion of the site where they will be well screened from Batchellors Forest Road by existing trees on the Property. The existing houses

on the property (two along Batchellors Forest and the third slightly back in the woods) will contribute towards preservation of existing conditions and the character of Batchellors Forest Road. The Plan also preserves open space, streams, significant forests, and the low-density character of the site by clustering development.

3. *The Plan satisfies the conditions of the Montgomery County Council's category change action for WSCCR 06A-OLN-01 under Council Resolution 14-1638.*

The Planning Board finds the Preliminary Plan satisfies the Montgomery County Council's conditions for water and sewer category change to W-3 and S-3. The Preliminary Plan uses the RNC optional cluster development method and, with the conditions of approval, fully satisfies each of the purposes and objectives of the RNC zone, the 2005 Olney Master Plan and the Rustic Road statute. Sewer service to the Property will be provided only through access to the existing main to the west of the site. The Board finds that the use of grinder pumps to provide sewer service to the middle cluster of development is acceptable because it keeps the southern portion of the Property free of any new construction and uses a location best suited for new construction due to the screening provided by existing trees on the site.

4. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

Roads and Transportation Facilities

The Board finds that the existing and proposed roadways will provide safe and adequate access and circulation for vehicles and pedestrians. The vehicle trips from the proposed development during the weekday morning and evening peak-periods will not exceed 30 trips. Therefore, a traffic study was not required and the Application passes the Local Area Transportation Review portion of the Adequate Public Facilities (APF) test. The proposed development does not require a Policy Area Mobility Review test because the Application was filed prior to January 1, 2007. The Property has frontage on Batchellors Forest Road and Dr. Bird Road (MD 182). Batchellors Forest Road is classified as a two-lane rustic road with a 70-foot-wide right-of-way. Consistent with the Functional Master Plan for Rural and Rustic Roads, Batchellors Forest Road will not be improved as part of this Application. The roadway provides the shared road bikeway recommended in the Master Plan. Dr. Bird Road is classified as a two-lane major highway with a minimum 120-foot-wide right-of-way. A Class I bikeway is recommended on the northern side of the roadway and the standard cross-section calls for the Applicant to construct a 5-foot sidewalk along the Subject Property's southern frontage. The Planning Board finds that a waiver of

this requirement is justified because the resulting section of sidewalk does not connect to the closest existing path and would be unsafe because it would require a dangerous crossing of Dr. Bird Road to reach that path. The Board also finds that retaining the existing mature forest that would be removed by constructing the sidewalk will be more beneficial to the area than providing a sidewalk that would not be used for the foreseeable future.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and sewer systems, although two of the existing houses have been approved to remain on wells and/or standard septic systems. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Electrical and telecommunications services are also available to serve the Property. Other public facilities and services, such as schools, police stations, firehouses and health services are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the Property. The Application is not within a school moratorium area and is not subject to payment of School Facilities Payment.

5. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The lots as proposed will meet all the dimensional requirements for area, frontage, width and setbacks in the RNC zone. The lot layout protects the portion of the site recommended as the most appropriate for open space in the Olney Master Plan, and minimizes disturbance to environmentally sensitive area. The Plan exceeds the minimum requirement of 65% rural open space, and the location of the open space will protect environmentally sensitive areas, scenic vistas, and priority forest. The spatial relationship between houses and the open space protects the rustic character of Batchellors Forest Road by keeping the southern portion of the Property in its current state and clustering new homes in areas where they will be well screened from the road. The required reduction in the number of lots should be carried out in a manner that further promotes creation of open spaces and buffering, especially in the northern portion of the site.

6. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

From the forest conservation perspective, this is the second phase of the Final Forest Conservation Plan that was approved in conjunction with the preliminary plan for the Good Counsel site. The previously approved forest conservation plan established areas of forest retention and planting. The current application is consistent with the overall approved forest conservation plan. A total of 16.03 acres of existing forest is retained and an additional 3.85 acres of forest has already been planted within the stream valley buffers.

The Application meets the minimum on-site forest requirements of Sec. 22A-12(f)(2)(B) of the Forest Conservation Law for this property by retaining and planting a total of 19.88 acres of forest which exceeds the conservation threshold of 25%, or 12.73 acres.

7. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS's standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on February 10, 2009. The proposed stormwater management plan includes on-site water quality control via construction of six structural water quality facilities. On-site recharge is provided via the use of open section roadways and storage areas that will be incorporated below the stormwater facilities wherever practical. Channel protection volume is not required because the one-year post development peak discharge from the site is less than or equal to 2 cubic feet per second.

8. *Due to topography and location of natural features on the Property, overlength cul-de-sacs are required to provide street access to the site.*

The roadway design for the property includes the creation of two private cul-de-sac roads which will be greater than 500 feet in length. Per Section 50-26(d) of the Montgomery County Code, a cul-de-sac road should be no longer than 500 feet unless a greater length is justified by reason of property shape, size, topography, large lot size, or improved street alignment. The Planning Board finds that the design of these over-length roadways are justified by the topography and location of natural features on the property, and the fact that the proposed street alignment minimizes views of new houses from Batchellors Forest Road, provides protection of environmentally sensitive areas, and avoids stream and wetland crossings. If a roadway loop or other connection were required for these roads, sensitive environmental areas would be impacted.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

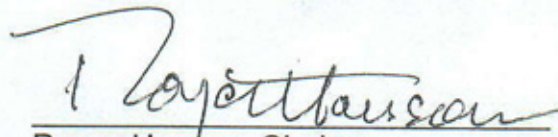
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 17 2009 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Wells-Harley, seconded by Commissioner Presley, with Commissioners Hanson, Alfandre, Presley, and Wells-Harley voting in favor of the motion, and with Commissioner Cryor absent, at its regular meeting held on Thursday, September 10, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board

Appendix B



MEMORANDUM

TO: Sandra Pereira, Development Review

VIA: Mark Pfefferle, Acting Chief, Environmental Planning

FROM: Amy Lindsey, Environmental Planning

DATE: July 6, 2010

SUBJECT: Site Plan 820060390
Stanmore Subdivision

RECOMMENDATION:

Environmental Planning staff recommends approval of the site plan subject to the following conditions:

1. The proposed development shall comply with the staff recommended conditions of approval for the final forest conservation plan, as per the letter dated July 6, 2010.
2. Applicant must revise the final forest conservation plan to provide an additional 0.12 afforestation credits, resulting from the removal of forest previously shown as saved, prior to any land disturbing activities occurring on site.
3. Applicant must record a category I conservation easement by record plat over all areas of environmental/stream valley buffer, forest retention, and forest planting.

BACKGROUND

The subject property is located east of Batchellors Forest Road at Doctor Bird Road just outside of Olney. This property is the second phase of a two-part subdivision initiated with preliminary plan 120020820, Good Counsel High School. Good Counsel High School is located entirely west of Batchellors Forest Road and the subject site plan, Stanmore, is entirely east of Batchellors Forest Road.

The property owners submitted a final forest conservation plan in conjunction with preliminary plan 120020820 that covered approximately 112 acres of land on both sides of Batchellors Forest Road. That final forest conservation plan resulted in an 18.57 acre forest planting which included the retention of existing forest and planting of all unforested stream buffers. This still left a 12.08 acre off site forest planting requirement. The applicant is creating new forest in another watershed that is under their control. This site plan complies with the previously

approved final forest conservation plan.

The property subject to this site plan includes 15.74 acres of high priority forest and two streams, wetlands, floodplains and associated environmental buffers. The property is within the Northwest Branch watershed; a Use IV watershed of fair water quality.

DISCUSSION

Environmental Guidelines

The applicant submitted a natural resource inventory/forest stand delineation (NRI/FSD) to M-NCPPC for review and approval. Environmental Planning staff approved NRI/FSD 420020570 on December 2, 2002. Two first order tributaries to the Northwest Branch originate on the property. The associated environmental buffers are currently partially forested but will be forested. The only encroachment into the environmental buffers is for necessary stormwater management conveyances. There are no stormwater management facilities or drywells proposed for the environmental buffer. All environmental buffers are included in a Category I forest conservation easement.

Forest Conservation

A final forest conservation plan was approved as part of preliminary plan 120020820 for Good Counsel High School. The previously approved plan established areas of forest retention and planting for both phases of the development. This forest conservation plan associated with the Stanmore site plan does not change these areas with the exception for an area of right-of-way (ROW) dedication and a public utility easement (PUE).

The preliminary plan of subdivision has created an additional dedication area to the SHA that will cause an 0.12 acres of forest previously shown as saved and protected on the approved forest conservation plan for the entire property to be removed. The applicant needs to compensate for the removal of this forest by obtaining 0.12 acres of forest credits. The applicant will need to modify the final forest conservation plan to show how and where the 0.12 acres of forest credits will be obtained. This modification must occur prior to any land disturbing activities occurring on the land area subject to this site plan.

The forest conservation plan that is for the entire property retains 15.64 acres of existing forest. Good Counsel High School has already planted 3.85 acres of forest within the onsite unforested stream valley buffers. There was a 12.08 offsite planting requirement which Good Counsel has already satisfied through the planting of new forest in the Broad Run watershed.

This site plan is subject to the minimum retention requirement found in Sec. 22A-12(f)(2)(B) of the County code *"In a planned development or a site developed using a cluster or other optional method in a one-family residential zone, on-site forest retention must be equal the applicable conservation threshold in subsection (a).* For this property, the conservation threshold is 25%, or 12.73 acres. This property meets this requirement by retaining and planting a total of 19.59 acres.

CONCLUSION

Environmental Planning staff is recommending approval of the site plan and the forest conservation plan with conditions.



MAY 10 2006

DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

May 8, 2006

Mr. Ed Wallington
Loiederman Soltesz Associates, Inc.
1390 Piccard Drive, Suite 100
Rockville, MD 20850

Re: Stormwater Management **CONCEPT** Request
for Hyde Property
Preliminary Plan #: Pending
SM File #: 221608
Tract Size/Zone: 50.93 acres / RNC
Total Concept Area: 12 acres
Lots/Block: N/A
Parcel(s): 452, 459, 239, 401
Watershed: Northwest Branch

Dear Mr. Wallington:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control via construction of six water quality facilities. Onsite recharge is to be provided via the use of open section roadways and by using storage below the stormwater facilities wherever practical. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

The following items will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. The stormwater management parcels between the lots are a minimum of 20 feet wide. This should allow adequate area for the storm drain to be located within the parcel and not interfere with stormwater maintenance access. Please attempt to locate the storm drains as far to one side of the access area as possible. We understand these will all be private storm drains, since the proposed streets are private streets.
5. The proposed water quality facilities will be designed as either Montgomery County Sand Filters (MCSF's) or as Bio Filters.

This list may not be all-inclusive and may change based on available information at the time.



Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Mark Etheridge at 240-777-6338.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm mce

cc: C. Conlon
S. Federline
SM File # 221608

QN -ON; Acres: 12
QL - ON; Acres: 12
Recharge is provided