

**MEMORANDUM**



**DATE:** June 30, 2006

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief *RK*  
Catherine Conlon, Supervisor *CC*  
Development Review Division

**FROM:** Richard A. Weaver, Coordinator (301) 495-4544 *RW*  
Development Review Division

**REVIEW TYPE:** Preliminary Plan Review

**APPLYING FOR:** Subdivision of 42 residential units including 6 MPDU's (15%)

**PROJECT NAME:** Olney Estates Property

**CASE #:** 120050920 (1-05092)

**REVIEW BASIS:** Chapter 50, Montgomery County Code, Subdivision Regulations

**ZONE:** RNC

**LOCATION:** Located on the south east side of Old Baltimore Road, approximately 1,000 feet south of the intersection with Sandy Spring Road (MD 108)

**MASTER PLAN:** Olney

**APPLICANT:** Oxbridge Development at Northwest, L.C.

**ENGINEER:** VIKA

**FILING DATE:** April 27 2005

**HEARING DATE:** July 13, 2006

**STAFF RECOMMENDATION:** Approval, subject to the following conditions:

- 1) Limit future development on the property to a maximum of 42 single-family units, including 6 MPDU's.
- 2) The proposed development shall comply with the conditions of the preliminary forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits. Conditions include, but are not limited to:
  - a. Approval of final forest conservation plan consistent with the approved preliminary forest conservation plan (PFCP), including a planting plan for afforestation and reforestation of approximately 5.0 acres within the stream valley buffer, prior to any clearing, grading or demolition on the site.
  - b. Split rail fencing and permanent forest conservation signage are required along the easement line that adjoins residential lots and must be shown on the final FCP.
2. Record plat shall reflect a Category I conservation easement over all areas of environmental buffer and forest conservation as shown on the preliminary forest conservation plan
- 3) The applicant shall make a payment equal to 50% of the applicable transportation impact tax for the Olney area to mitigate the additional trips contributing to exceeding Critical Lane Volume (CLV) congestion standards for Olney Policy Area at the two intersections of Old Baltimore Road with MD 108 and MD 97. This payment must be paid before any building permit is issued.
- 4) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 5) The applicant shall construct all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By \_\_\_\_\_" are excluded from this condition.
- 6) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 7) Record Plat shall reflect all areas under Homeowners Association ownership and stormwater management areas.
- 8) 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."
- 9) Record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 10) Compliance with the conditions of the MCDPS stormwater management approval dated October 13, 2005.
- 11) Compliance with the conditions of MCDPWT approval letter dated May 25, 2006, unless otherwise amended.
- 12) No clearing, grading or recording of plats prior to certified site plan approval

- 13) Final approval of the number and location of dwelling units, sidewalks, and bikepaths will be determined at site plan.
- 14) A landscape and lighting plan must be submitted as part of the site plan application for review and approval.
- 15) Final number of MPDU's as per condition #1 above to be determined at the time of site plans in accordance of with the actual number of units approved.
- 16) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.

### **PROPERTY DESCRIPTION**

The 107.35-acre property is zoned RNC and is located in the Olney Master Plan area on Old Baltimore Road (Attachment A). The surrounding uses are primarily low density residential with some religious institutions nearby. Confronting the property across Old Baltimore Road is the eastern edge of the Hallowell Subdivision, zoned R-60, that developed at a much higher density than the RNC zone allows. The property is currently vacant with some open field areas. The property has frontage on Old Baltimore Road at two locations, which are separated by intervening properties not part of this application.

This property contains headwaters of the Northwest Branch watershed. There are two streams bisecting the property, running generally north to south. Typical of headwater areas, there are extensive wetlands, as well as numerous seeps and springs. There are 32.06 acres of the site that fall within environmental (stream valley) buffers. There are also 67.35 acres of existing forest on the subject property with numerous specimen trees located throughout the forested areas. A cleared WSSC ROW runs from north to south across the middle of the property.

### **PROJECT DESCRIPTION**

The proposal requests subdivision of the property into 42 clustered lots (Attachment B). As required by the Olney Master Plan the open space for the Olney Estates Property must be a minimum of 70% if it develops using the optional (cluster) method. A stream valley buffer dictates the developable area; the applicant's layout responds to this limitation by clustering the 42 lots in the most developable area, all out of the stream valley buffers. The development proposes use of two public streets (cul-de-sacs) to gain access to Old Baltimore Road. Public sewer and water will be provided to the site by connections to existing lines that abut the property.

All proposed lots front on the newly created public streets. Stormwater management is provided in a number of dry ponds located throughout the site in close proximity to the streets and residential units. A pathway location is shown that will connect the two roads through the open space on the plan. The final location and composition of this pathway will be determined at site plan, but it is important that it provide direct access to the multi-age playground shown on the preliminary plan and that it avoid a spring head, to the maximum extent possible.

As noted above, the property is encumbered with streams and their associated stream valley buffers. Aside from the area of the lots, there is an otherwise buildable area located in the center and eastern portions of the site that will be placed in an open space easement to meet the 70% open space requirements of the RNC zone for Olney. Forest conservation will also be met on-site.

The preliminary plan contains a data table that illustrates the lot size diversity that is an important requirement of the Rural Neighborhood Cluster Zone. The plan provides a well-dispersed variety of lot sizes ranging from less than 5,000 square feet to greater than 40,000 square feet.

## **DISCUSSION OF ISSUES**

### **MPDU Calculations**

#### **Applicant's Position**

By letter dated June 15, 2006, (Attachment C) the applicant has calculated MPDU's pursuant to Chapter 25A and contends that the MPDU legislation offers an opportunity to achieve an extra market rate unit if the total market rate units which can be achieved per the specified calculations is less than the full base density of the property, inclusive of the minimum MPDU requirement. The provision that the applicant cites to in Section 25A-5(d)(2) of the Montgomery County Code states:

"If the Planning Board approves a density bonus of at least 20 percent for a development which consists of 20 or more but fewer than 50 units at one location, the number of MPDUs required must be governed by subsection (c) unless the formula in subsection (c) would not allow the development to have one bonus market rate unit. In that case, the Planning Board must reduce the required number of MPDUs by one unit and approve an additional market rate unit."

Per the formula in subsection (c), the subject development achieves 35 market rate units by providing 7 MPDUs (15%), and the base density of the property (0.33 dwelling units per acre x 107.35 acres) is 35 dwelling units. By the applicant's interpretation of subsection (d) above, the project is entitled to convert one of the required MPDUs to a market unit. The applicant maintains that the MPDU law provides this as an incentive to assure that at least one bonus market rate unit is provided when the applicant provides 15% MPDU's.

#### **Staff's Position**

The prevailing opinion of staff involved in the most recent review and revisions to the MPDU legislation is that the applicant's interpretation of the above section is the correct interpretation. In the 30-year report on the MPDU program completed by a team of County Council and Planning Board staff, there is legislative history that the County Council intended that section 25A-5(d)(2) be interpreted to permit an additional market rate unit if a development

requesting a 20 percent density bonus did not achieve at least one market rate unit above the base zone density that could have been achieved *without* the minimum MPDU requirement. The specific language is found in Chapter 9, page 9-3 of the 2004, 30-year review (Attachment D), which discusses the Council previously adjusting the MPDU requirements for smaller subdivisions to “guarantee at least one bonus market rate unit in addition to the number that would have been achieved without the MPDU requirement”.

The proposed unit mix of 36 market rate units and 6 MPDUs is consistent with this history and intent, however, it appears to certain staff that there is inconsistency with language in the MPDU law as written. In attempting to interpret the law as it is written, staff in Development Review and Community Based Planning came to a different conclusion as to MPDU requirements<sup>1</sup>. However, the overall staff recommendation, in support of the applicant’s position, defers to the interpretation reflected in the legislative history.

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<sup>1</sup> In Development Review (DRD) and Community Based Planning (CBP) staff’s opinion, the proposed project achieves the bonus, market rate units referred to in the section without converting an MPDU to a bonus market rate unit. At the maximum base density of 0.33 units per acre, the proposed site has a maximum base density of 35 units ( $107.35 \times 0.33 = 35.4$  rounded down to 35). Since the number of requested units exceed 19, the proposed development is subject to the MPDU law, which requires a minimum of 12.5% of the units to be MPDUs if no bonus density is proposed, which translates into 5 MPDUs ( $35 \times 0.125 = 4.37$ , rounded up to 5). The developer has the option to achieve a density bonus in exchange for additional MPDUs on a sliding scale prescribed in the MPDU law. The maximum density bonus of 22% requires the provision of 15% of the total units as MPDUs.

The proposed development requests a maximum density bonus of 22% with 15% MPDUs. Therefore  $35 \times 1.22 = 42.7$ , rounded down to 42 units total is the maximum density allowed with the bonus. MPDU’s are therefore required at 15%:  $42 \times 0.15 = 6.3$ , rounded up to 7 MPDUs. The density calculation chart for this property is as follows:

Density scenario	Total units	Market rate	MPDUs
Base density (12.5% MPDUs)	35	30	5
With 22% bonus (15%MPDUs)	42	35	7
<u>Additional units</u>	7	5 (bonus)	2

Based on this scenario, the proposed development achieves 5 bonus, market rate units by providing 2 additional MPDU units above the minimum requirement of 5 MPDUs.

DRD and CBP staff believe that because the density bonus is optional, any bonus scenario must be considered against the base density requirement calculated at the 12.5% MPDU provision. Only when the maximum base density would not require the minimum 12.5% MPDUs can this provision of the law be applied to achieve one additional market rate bonus unit by reducing the required MPDUs by one.

## ANALYSIS

### TRANSPORTATION

#### Local Area Transportation Review

Two local intersections and site access points were identified as critical intersections for analysis to determine whether they meet the applicable congestion standard of 1,475 C LV for the Olney Policy Area. The proposed development trips were added to the existing and the background traffic (trips generated from approved but unbuilt developments) to determine the total future traffic. The total future traffic was assigned to the critical intersections to calculate the total future CLVs. The result of the CLV calculation is shown in the following table.

	Existing		Background		Total	
	AM		AM	PM	AM	PM
Old Baltimore Road/MD 108	1,291	1,044	1,473	1,189	1,481	1,196
Old Baltimore Road/MD 97	1,498	1,170	1,525	1,259	1,534	1,265
Old Baltimore Road/Street "A"					723	552
Old Baltimore Road/Street "B"					701	533

As shown in the above table, the intersections of Old Baltimore Road and MD 108 will operate at a CLV value that exceeds the congestion standard of 1,475 in the morning peak hour under the total traffic condition. The intersection of Old Baltimore Road and MD 97 also operates at a CLV value that exceeds the congestion standard of 1,475 for this area during the morning peak hours under the existing, background and total traffic conditions. In order to mitigate their impact, the applicant has proposed to pay a payment equal to 50% of the applicable transportation impact tax before any building permit is issued. The FY 2006 Growth Policy under section TL1, Standards and Procedures allows for developments generating between 30 and 49 peak hour trips to pay only half the applicable impact tax to satisfy the requirements of Local Area Transportation Review. The applicant has chosen this alternative as opposed to other methods of reducing Local Area Transportation Impact (i.e. providing maximum number of bus shelters and/or "real time transit information signs") due to DPWT's uncertainty in identifying the location of such shelters or signs and accepting the funds for these improvements in the near future. Other methods of non-automobile transportation amenities beside bus shelters and "real time transit information signs" could not provide accumulatively for the number of trip credits needed to satisfy the Local Area Transportation Review (LATR)

requirements. For these reasons, staff has agreed and recommends to the Planning Board acceptance of monetary funds as the chosen method of satisfying LATR requirements.

Overlength Cul-de-sacs

Section 50-26 (d) of the Subdivision Regulations limits the use of cul-de-sacs in new subdivisions unless their use results in an improved street layout because of the unusual shape, size or topography of the subdivision. The section also limits the maximum length of a cul-de-sac to 500 feet, unless the Planning Board finds that a greater length is justified because of shape, size, topography, large lot size, or improved street alignments.

For the subject application, the shape of the property is such that the two points of tangency with Old Baltimore Road are separated by an intervening property necessitating two separate intersections with Old Baltimore to serve the new lots. The subject property is essentially bisected by the intervening properties, and the stream buffer located in the center and southern portions of the site. A connection of the two proposed cul-de-sacs was discussed, however, it is not possible without paving within the stream valley buffer. Staff considered the language in the master plan that placed a premium on preservation of forest and recognition of the environmental sensitivity of this site. The Olney Master Plan recommended clustering of lots near Old Baltimore Road. In staff's opinion, with the development located in this portion of the site, the plan is best served by the road alignments as proposed. Both cul-de-sacs exceed 500 feet in length, but staff finds that the length of the cul-de-sacs is essential to reach the developable portions of the property and give all lots direct frontage, without the use of pipestems, on a public right-of-way. Fire and Rescue have approved the road configuration; a trail connection as previously discussed will provide pedestrian access between the two cul-de-sacs.

**ENVIRONMENT**

**Forest Conservation**

There are 67.35 acres of forest on the subject property. The recently approved Olney Master Plan includes a specific recommendation for this property which includes the following sentence: ***“Any housing development must be clustered near Old Baltimore Road to protect environmental resources, including the entire forest stand, on this property.”*** The only forest clearing on this property is directly associated with a sewer connection resulting in 0.12 acres of forest impacted, which will be reforested.

The applicant is afforesting 4.93 acres, so the entire environmental (stream valley) buffer will be forested. An additional 3.90 acres is designated as a natural regeneration area so it can develop into forest. All forest, afforestation areas, and stream valley buffers will be placed in a Category I forest conservation easement.

A path is proposed to connect the north arm of the development with recreation amenities on the south arm. The exact path location and composition will be determined at site plan. A field-located natural surface path is strongly recommended since it would cause the least disturbance to both forest and sensitive environmental features in the area. There is a spring in the area of the proposed path that must be avoided and any impacts minimized.

## **Environmental Buffers**

The subject property has two perennial streams and multiple wetlands with 32.06 acres of stream valley buffer. Currently, 26.93 acres of this buffer is forested, and 4.93 acres will be afforested as part of the proposed plan. The entire buffer will be protected by a Category I forest conservation easement. Stream valley buffer impacts for stormwater management outfalls have been minimized and these areas will be afforested.

## **OLNEY MASTER PLAN**

The proposed development of approximately 107 acres is zoned RNC and located in the Southeast Quadrant of Olney within the 2005 Olney Master Plan area. The property is identified as site #12 in the Specific Property Recommendations section of the Plan on page 36. The Plan recommended a maximum base density of 0.33 units per acre for an optional method (cluster) development on community sewer and water on this property. At the density proposed (35 units), MPDU's must be provided in accordance with the MPDU law. This maximum permitted density can be increased through the bonus density provisions of the law. The property contains the headwaters of the Northwest Branch and significant forest resources.

The Plan recommends "any housing development must be clustered near Old Baltimore Road to protect environmental resources, including the entire forest stand, on this property." The proposed layout clusters the proposed housing units in two areas along Old Baltimore Road, which are currently unforested, and preserves more than 70% of the site as Rural Open Space in accordance with the provisions of the RNC Zone. The proposed plan achieves lot size diversity, required by the RNC Zone, by providing lot sizes ranging approximately from 4,580 square feet to 58,830 square feet.

In Community-Based Planning staff's opinion, the proposed layout is consistent with the goals and recommendations of the 2005 Olney Master Plan.

## **CITIZEN CORRESPONDENCE**

The submission of this application predated any specific requirements for meetings between the applicant and interested parties, however, proper notice of the submittal of the application and the public hearing were given. As of the date of this staff report, no citizen correspondence has been received concerning the application.

## **CONFORMANCE WITH THE ZONING ORDINANCE**

The plan, as proposed, conforms to all sections of the Zoning Ordinance. Please refer to the attached Data Table for details.

## **CONFORMANCE TO THE SUBDIVISION REGULATIONS**



The plan, as proposed, conforms to all sections of the Subdivision Regulations. Please refer to the attached Data Table for details.

## **CONCLUSION**

Staff review of the preliminary plan reveals that the number of units proposed can be adequately served by the existing road infrastructure. Water and sewer facilities are also adequate. Stormwater management and drainage will be controlled by a stormwater system approved by MCDPS. The lots meet the minimum dimensional requirements of the RNC zone and the density of lots proposed is within the maximums established by the Zoning Ordinance. In addition, the plan conforms to the requirements of the Olney Master Plan to place a cluster development at this location, and to preserve the significant natural features that exist on the site.

Staff also finds that the proposed size, width, shape and orientation of the lots are appropriate, and that the use of over-length cul-de-sacs is justified by the shape and environmental features of the property. Therefore, staff recommends approval of the plan with the conditions cited above.

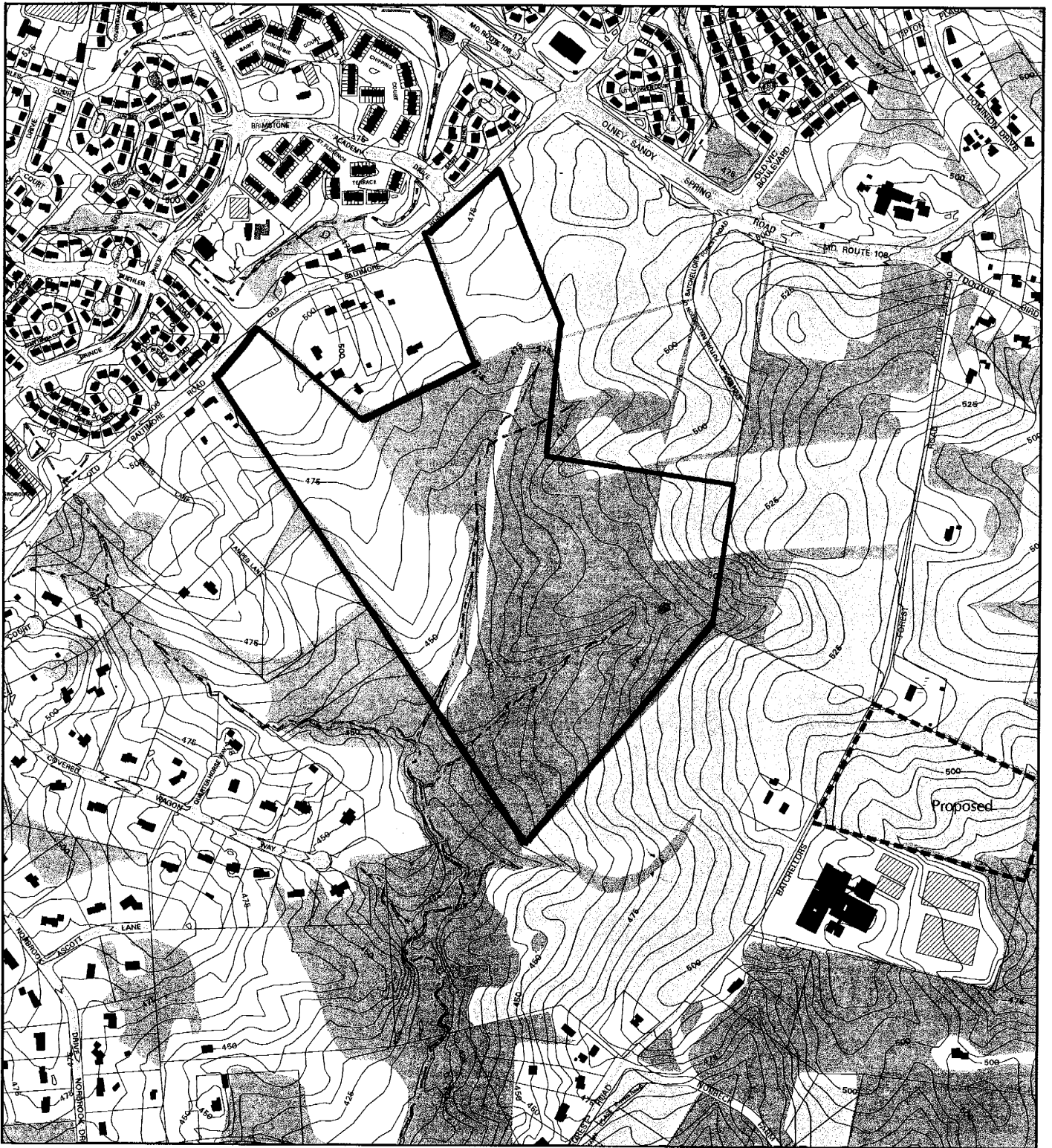
## **ATTACHMENTS:**

- Attachment A Vicinity Map
- Attachment B Preliminary Plan
- Attachment C Applicant Letter Regarding MPDUs
- Attachment D Legislative History
- Attachment E Agency Approvals

Preliminary Plan Data Table and Checklist

<b>Plan Name: Olney Estates</b>				
<b>Plan Number: 120050920 (formerly 1-05092)</b>				
<b>Zoning: RNC</b>				
<b># of Lots: 42</b>				
<b># of Outlots: 0</b>				
<b>Dev. Type: Cluster Residential</b>				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval on the Preliminary Plan	Verified	Date
Minimum Lot Area	4,000 sq.ft.	4,580 sq.ft. is minimum proposed	RW	6/30/06
Lot Width	N/A	N/A		6/30/06
Lot Frontage	25 ft.	Must meet minimum	RW	6/30/06
Setbacks				6/30/06
Front	15 ft. min.	Must meet minimum	RW	6/30/06
Side	8 ft. min. or meet adjacent zone	Must meet minimum	RW	6/30/06
Rear	10 ft. min. or meet adjacent zone	Must meet minimum	RW	6/30/06
Height	35 ft. Max.	May not exceed maximum	RW	6/30/06
Max Resid'l per Zoning	42	42	RW	6/30/06
MPDUs	Yes	6	RW	6/30/06
TDRs	No			
Site Plan Req'd?	Yes	Pending	RW	6/30/06
<b>FINDINGS</b>				
<i>SUBDIVISION</i>				
Lot frontage on Public Street	Yes		RW	6/30/06
Road dedication and frontage improvements	Yes		Agency Memo	5/25/06 and 6/1/06
Environmental Guidelines	Yes		Staff memo	6/2/06
Forest Conservation	Yes		Staff memo	6/2/06
Master Plan Compliance	Yes		RW	6/26/06
<i>ADEQUATE PUBLIC FACILITIES</i>				
Stormwater Management	Yes		Agency memo	10/13/05
Water and Sewer (WSSC)	Yes		Agency memo	6/26/06
10-yr Water and Sewer Plan Compliance	Yes		Agency memo	6/26/06
Well and Septic	N/A			
Local Area Traffic Review	Yes		Staff memo	6/1/06
Fire and Rescue	Yes		Agency memo	5/12/06
Other (i.e., schools)	N/A			

## OLNEY ESTATES (1-05092)



Map compiled on May 25, 2005 at 9:34 AM | Site located on base sheet no - 223NW03

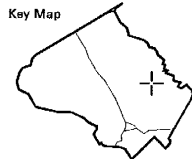
### NOTICE

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Key Map



Research & Technology Center

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1 inch = 800 feet  
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**PRELIMINARY PLAN**  
Olney Estates

**GENERAL NOTES:**

- THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE REVIEW AND APPROVAL OF THE MONTGOMERY COUNTY BOARD OF PLANNING AND ZONING.
- ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE MONTGOMERY COUNTY ZONING REGULATIONS, THE SUBDIVISION REGULATION ACT, AND ALL APPLICABLE LAWS AND ORDINANCES.
- THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
- THE DEVELOPER SHALL MAINTAIN ACCURATE RECORDS OF ALL DEVELOPMENT ACTIVITIES AND SHALL MAKE THEM AVAILABLE FOR REVIEW BY THE COUNTY DEPARTMENT OF PLANNING AND ZONING.
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**DEVELOPMENT TABULATIONS**

**APPLICABLE ZONING REGULATIONS**

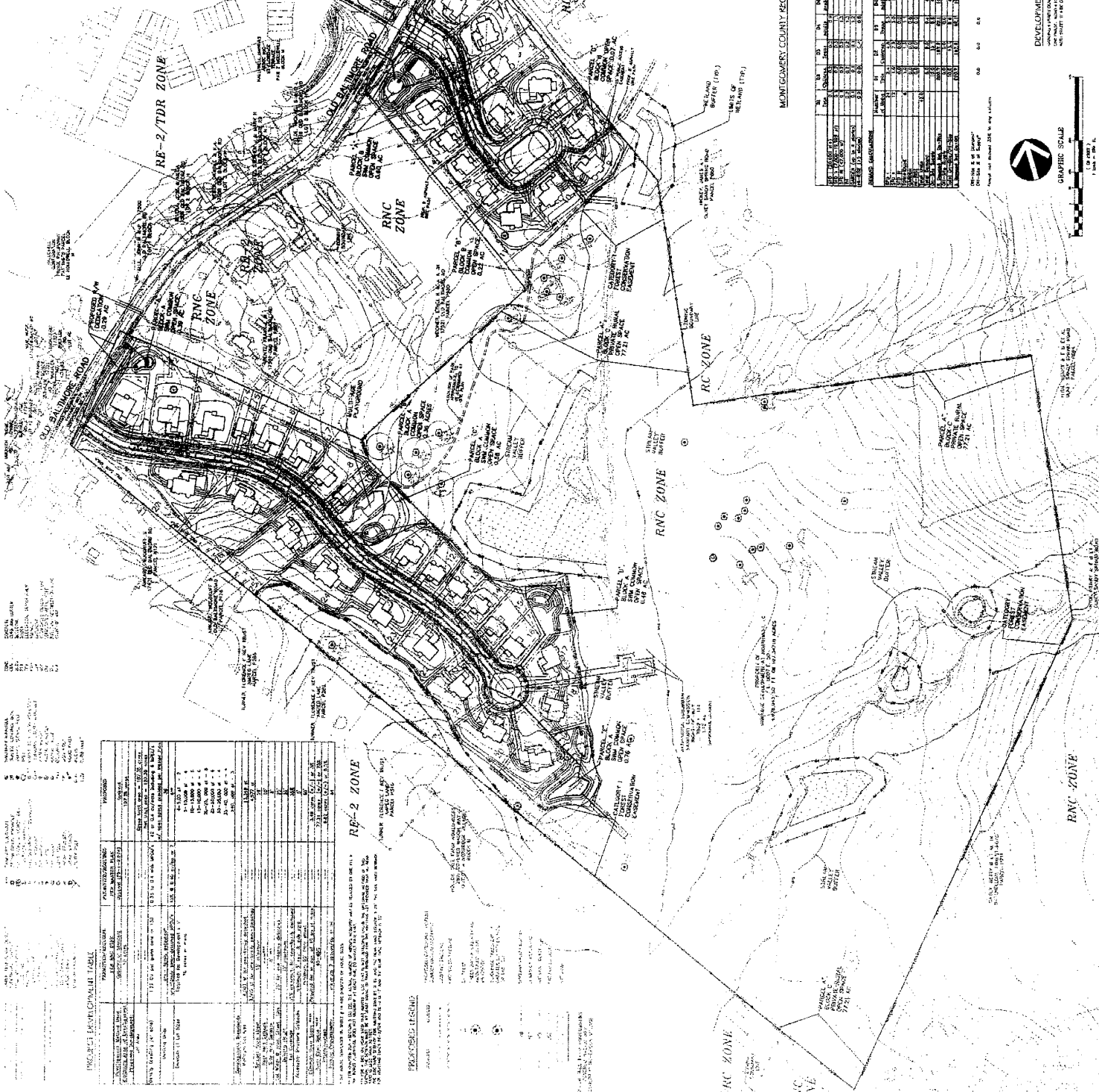
Zone	Use	Min. Lot Area	Min. Front Setback	Min. Side Setback	Min. Rear Setback	Max. Building Height	Max. Coverage	Max. Floor Area Ratio
RE-2/TDR	Residential Single-Family	10,000 sq. ft.	25 ft.	5 ft.	10 ft.	35 ft.	30%	0.25
RNC	Residential Neighborhood Center	5,000 sq. ft.	10 ft.	5 ft.	10 ft.	25 ft.	20%	0.20
AC	Arts and Crafts	10,000 sq. ft.	25 ft.	5 ft.	10 ft.	35 ft.	30%	0.25

**APPLICABLE ZONING REGULATIONS**

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AC	Arts and Crafts	10,000 sq. ft.	25 ft.	5 ft.	10 ft.	35 ft.	30%	0.25

**DEVELOPMENT PROGRAM**

ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE MONTGOMERY COUNTY ZONING REGULATIONS, THE SUBDIVISION REGULATION ACT, AND ALL APPLICABLE LAWS AND ORDINANCES.

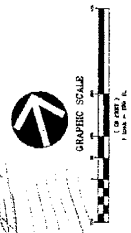


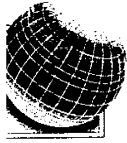
**PROJECT DEVELOPMENT TABLE**

Lot No.	Area (sq. ft.)	Zone	Use	Notes
1	10,000	RE-2/TDR	Residential Single-Family	
2	5,000	RNC	Residential Neighborhood Center	
3	10,000	AC	Arts and Crafts	

**MONTGOMERY COUNTY RECREATION CALCULATIONS**

Lot No.	Area (sq. ft.)	Zone	Use	Notes
1	10,000	RE-2/TDR	Residential Single-Family	
2	5,000	RNC	Residential Neighborhood Center	
3	10,000	AC	Arts and Crafts	





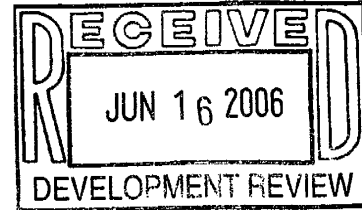
the  
**Oxbridge**  
group

Residential Developers  
Commercial Builders  
Real Estate Investors

600 Jefferson Plaza  
Suite 550  
Rockville, MD 20852

Attachment "C"  
Telephone: 301-294-4150  
Facsimile: 301-294-4151  
oxbridge@oxbridgedev.com

**COPY**  
Copy Filed



June 15, 2006

Montgomery County Planning Board  
Attn: Derick Berlage, Chairman  
8787 Georgia Avenue  
Silver Spring, MD 20910

**Re: Olney Estates Preliminary Plan #1-05092  
MPDU/Density Calculation Methodology**

Chairman Berlage:

Since our submission of the above referenced Preliminary Plan, we have worked with Park & Planning staff ("Staff") and believe we have successfully designed a layout for the site that is in accordance with the Olney Master Plan objectives, that is respectful of the site's environmental sensitivities, and that will result in a subdivision in-line with the intent of the RNC zone. However, within the past 30 days, Staff questioned the plan's density calculations and subsequently took the position that the yield was computed erroneously. Accordingly, please accept this correspondence as a clarification of the density calculations associated with this Preliminary Plan application.

As you are aware, Montgomery County's MPDU legislation provides for bonus densities to those subdivisions that exceed the 12.5% minimum MPDU requirement. More specifically, overall site densities are increased by as much as 22% when the ratio of MPDUs to total units rises to 15%. Exhibit A attached hereto provides a brief mathematical analysis of this density bonus program. For the purposes of the clarification provided herein, it is important to note that in the event of a 22% bonus density, the builder of any project is understood to receive more market rate units than the project would have even if it had been able to realize its full base density purely in the form of market-rate units. In other words, the builder/developer is incentivized to provide 15% MPDUs and in return it is able to benefit by receiving market rate units over and above that base density. In fact, the Montgomery County Department of Housing and Community Affairs' website states that when the MPDU bonus is pursued by a builder, "the builder normally obtains some additional market rate units equal to the difference between the density bonus and the MPDU requirement."

Further, please note that the proposed density on the subject property is between 20 and 49 units and is therefore subject to the revised MPDU legislation enacted in May of 2005. This legislation (Expedited Bill No. 4-05) lowered the density threshold for provision of

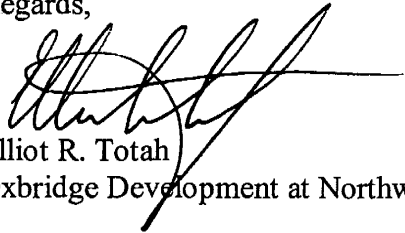
MPDUs to 20 units in applicable subdivisions throughout the County. In doing so, the bill stood to negate the aforementioned density bonus since the percentage difference between the density bonus and the MPDU requirement yielded no market-rate units when multiplied by certain unit numbers less than 50. In recognition of this deficiency, language was included in the finally adopted bill stating that **“If the Planning Board approves a density bonus of at least 20 percent for a development which consists of 20 or more but fewer than 50 units at one location, [and] the number of MPDU’s required . . . would not allow for the development to have one bonus market rate unit, . . . the Board must reduce the required number of MPDU’s by one unit and approve an additional market rate unit.”**

With regard to the subject property, the base density of .33 units/acre allows for 35 units to be constructed thereon. When the 22% bonus and associated 15% MPDUs are calculated, they result in a total of 42 units, of which 35 are market-rate. In accordance with the previously quoted language from the MPDU bill, since no bonus market rate units are provided over the 35 base density lots, an MPDU must be converted to a market rate unit resulting in 36 market-rate units and 6 MPDUs for a total of the 42 units.

Contrary to what we believe is a clear statement of the methodology intended to apply by the Council action and is presented herein, Staff expressed a different interpretation to the effect that since the 35 market-rate units that result from the density bonus calculation are in excess of the number of market rate units that would have resulted had no density bonus been applied, a bonus market rate unit is inherently realized. Not only is this interpretation of the legislation not in keeping with the spirit and intent of the MPDU program as previously presented herein, but it renders the previously quoted language of the MPDU bill entirely inapplicable *under any circumstances* (See Exhibit B). Respectfully we suggest that Staff’s interpretation of the bill would render Section 25A-5(d)(2) of the Montgomery County Code entirely superfluous and deny applicants the density bonus that the MPDU legislation otherwise intends to provide.

The issue presented herein is a very technical and mathematically intricate one. I am more than happy to provide further clarification as necessary at your convenience.

Regards,



Elliot R. Totah  
Oxbridge Development at Northwest, LC

cc: Steve Kaufman  
Richard Weaver  
Catherine Conlon  
Khalid Afzal

## Exhibit A

For the purposes of this analysis, a property's base density is deemed to be  $x$ .

	<u>MPDU Calculations assuming no bonus density</u> <i>Ratio of MPDUs: 12.5%</i>	<u>MPDU Calculation assuming full bonus density</u> <i>Ratio of MPDUs: 15%</i>
Total Density:	$x$	$1.22 * x = 1.22x$
MPDU Density	$0.125 * x = 0.125x$	$0.15 * 1.22x = 0.183x$
Market Rate Density:	$x - 0.125x = 0.875x$	$1.22x - 0.183x = 1.037x^1$

<sup>1</sup> The market-rate density achieved when the density bonus is pursued is not only greater than the market-rate density otherwise ( $1.037x$  vs.  $.875x$ ), but is also greater than the property's base density overall ( $1.037x$  vs.  $x$ ). In effect, by taking advantage of the density bonus, a builder is able to realize his full base density in the form of market rate units as well as receive additional market-rate density over and above the base.

## Exhibit B

Section 25A-5(d)(2) of the Montgomery County Code:

"If the Planning Board approves a density bonus of at least 20 percent for a development which consists of 20 or more but fewer than 50 units at one location, the number of MPDUs required must be governed by subsection (c) unless the formula in subsection (c) would not allow the development to have one bonus market rate unit. In that case, the Board must reduce the required number of MPDUs by one unit and approve an additional market rate unit."

<u>Base Case</u>			<u>Density Bonus Case</u>			
<u>Total # of</u>			<u>Total # of</u>	<u>Total # of Units w/22%</u>		
<u>Units</u>	<u>12.5% MPDUs</u>	<u>Market Rate</u>	<u>Units</u>	<u>Bonus Density</u>	<u>15% MPDUs</u>	<u>Market Rate</u>
20	3	17	20	24	4	20
21	3	18	21	25	4	21
22	3	19	22	26	4	22
23	3	20	23	28	5	23
24	3	21	24	29	5	24
25	4	21	25	30	5	25
26	4	22	26	31	5	26
27	4	23	27	32	5	27
28	4	24	28	34	6	28
29	4	25	29	35	6	29
30	4	26	30	36	6	30
31	4	27	31	37	6	31
32	4	28	32	39	6	33
33	5	28	33	40	6	34
34	5	29	34	41	7	34
35	5	30	35	42	7	35
36	5	31	36	43	7	36
37	5	32	37	45	7	38
38	5	33	38	46	7	39
39	5	34	39	47	8	39
40	5	35	40	48	8	40
41	6	35	41	50	8	42
42	6	36	42	51	8	43
43	6	37	43	52	8	44
44	6	38	44	53	8	45
45	6	39	45	54	9	45
46	6	40	46	56	9	47
47	6	41	47	57	9	48
48	6	42	48	58	9	49
49	7	42	49	59	9	50

\*Planning Staff's analysis of whether one bonus market rate unit is achieved is based on a comparison of the orange column to the yellow column. You will note, however, that the orange column is **never** less than the yellow column; accordingly, the portion of the code presented above would never come into play since the Planning Board would never have to approve an additional market rate unit. This portion of the code becomes entirely ineffectual based on this approach.

\*\*The correct method of analysis to determine whether one bonus market rate unit is achieved is a comparison of the orange column to the blue column. This method shows that for all developments, regardless of zoning, with less than 40 base units, the 22% bonus density does not provide for a bonus market rate unit and therefore, one MPDU must be converted.



**CHAPTER 9**  
**MINIMUM SUBDIVISION SIZE**

***POLICY QUESTION: What should be the smallest subdivision where MPDUs are required?***

**A. Current Law**

The MPDU law applies to every subdivision with 35 or more residential units that is located in a zone where the MPDU requirement applies. Last year, the Council amended the MPDU law to reduce the minimum subdivision size where MPDUs are required from 50 to 35 units. The purpose of this amendment was to increase the production of new MPDUs from in-fill and other small developments.

The MPDU requirement only applies to developments of 35 to 49 units if the property can accommodate a 20 percent density bonus and the Planning Board finds that achieving the bonus density would not conflict with environmental standards and regulatory requirements and would not significantly reduce neighborhood compatibility. In addition, when the Planning Board approves a subdivision of 35 to 49 units, the number of MPDUs required must be reduced by one unit if necessary to assure that the subdivision includes at least one bonus market rate unit.

**B. Policy Considerations**

Reducing the minimum subdivision size where MPDUs are required would result in greater production of MPDUs. However, pursuing this policy goal raises several corollary policy considerations.

*1. What is the relationship between subdivision size and the number of MPDUs?*

In reducing the minimum subdivision size last year, the Council sought to assure that application of the law to smaller subdivisions would generate an increase in both MPDUs and market rate units. To achieve this goal, the Council added the provisions that: (a) limit application of the law to developments of 35 to 49 units which can accommodate a 20 percent density bonus; and, (b) adjust the number of MPDUs so that the development includes at least one bonus market rate unit.

For subdivisions of 50 units or more, the current law does not guarantee that imposing the MPDU requirement will result in a net increase in market rate units. Indeed, the law imposes a base MPDU requirement of 12.5 percent without providing any density bonus. In extending the law to subdivisions between 35 and 49 units, the Council intended that these developments gain at least one bonus market rate unit. Under the formula in the existing law, small subdivisions rarely would qualify for an increase in market rate units, even with the maximum number of MPDUs.

2. *How do subdivisions benefit from MPDU development standards?*

Independent of whether application of the MPDU law results in a net increase in market rate units, the property owner and developer benefit by being able to develop the property under the MPDU standards in the Zoning Ordinance. The Zoning Ordinance includes development standards for subdivisions with MPDUs that provide more flexibility and options than are generally permitted under the base zone. For example, the MPDU development standards often allow smaller lot sizes and different unit types than otherwise would be permitted in the base zone. Subdivisions of all sizes can take advantage of these standards which reduce development costs and often let a property accommodate more units than would be achievable under the base zone.

3. *Is there a critical mass of units necessary to make the MPDU requirement feasible in certain zones?*

In most single family subdivisions with more than 50 units, the MPDU requirement is fulfilled by constructing townhouses. The MPDU development standards allow townhouses in single-family detached zones. Townhouses typically are built in a group of at least five or six attached units. It is often economically infeasible to construct a row of attached homes with fewer than five or six units in a manner compatible with other units in the subdivision. In a few cases, developers in single family zones have met their MPDU requirement by building small detached units or duplexes with a façade similar to adjacent non-MPDU detached units. However, alternative unit types generally are more expensive to design and build than standard townhouses.

4. *How would changing the minimum subdivision size affect MPDU production?*

Council Staff asked Planning Staff to estimate how many MPDUs would have been produced if the County reduced the minimum subdivision size five years ago. As illustrated in the table below, if the minimum subdivision size been reduced to 10 units five years ago, the 34 subdivisions approved between 1998 and 2002 would have produced between 83 and 99 new MPDUs (depending on achieved density bonus), *assuming that the law did not guarantee a minimum number of market rate units*. If the minimum subdivision size had been reduced to 20 units, the 15 approved subdivisions would have produced between 47 and 56 new MPDUs using the same assumptions.

**Number of MPDUs That Would Have Been Produced  
With Reduced Minimum Subdivision Size (1998 - 2002)  
(assuming no minimum number of market rate units)**

	10 to 34 units	20 to 34 units
Number of Subdivisions	34	15
Number of MPDUs assuming:		
No Density Bonus	83	47
Maximum Density Bonus	99	56

As mentioned, when it lowered the minimum subdivision size to 35 units, the Council limited the requirement to subdivisions that could achieve the maximum density bonus without compromising neighborhood compatibility and environmental standards. Moreover, the MPDU formula for subdivisions of between 35 and 49 units was adjusted to guarantee at least one bonus market rate unit in addition to the number that would have been achieved without the MPDU requirement.

For subdivisions below 35 units, the MPDU requirement and density bonus formulae would almost never produce even one bonus market rate unit without further reducing the number of required MPDUs. No subdivision with 31 or fewer units could ever achieve a net increase of market rate units (even under the maximum density bonus) through application of the current formula. The only cases in which application of the formula would produce a net increase of one market rate unit would be for subdivisions of 32 or 33 units under the maximum 22 percent density bonus.

If the minimum subdivision size had been lowered in 1998 to ten units with a guaranteed bonus market rate unit, the 34 subdivisions would have produced up to 57 new MPDUs, assuming all subdivision achieved the maximum density bonus. If the minimum subdivision size had been lowered to 20 units, then the 15 subdivisions would have produced up to 40 new MPDUs. In either case, no MPDUs would have been produced in any subdivision that could not receive the maximum density bonus.

**Number of MPDUs That Would Have Been Produced  
With Reduced Minimum Subdivision Size (1998 - 2002)  
(assuming guarantee of at least one bonus market rate unit)**

	10 to 34 units	20 to 34 units
Number of Subdivisions	34	15
Number of MPDUs assuming:		
No Density Bonus	0	0
Maximum Density Bonus	57	40

5. *What was the effect of reducing the minimum subdivision size from 50 to 35 units?*

In the year since the Council reduced the minimum subdivision size to 35 units, the Planning Board has not reviewed any new project between 35 and 49 units.

6. *What effect does the minimum subdivision size have on geographic dispersal of affordable housing?*

As mentioned in Chapter 3, a primary purpose of the MPDU program is to achieve economic integration through geographical dispersal of affordable housing. The law establishes a link between the geographic location of new housing development and the location of affordable housing. However, this link exists only in subdivisions large enough to be subject to the MPDU law. As the County moves closer to build-out, large new single-family subdivisions

27 (2) If the Planning Board approves a density bonus of at least 20  
 28 percent for a development which consists of 20 or more but fewer  
 29 than 50 units at one location, the number of MPDU's required  
 30 must be governed by subsection (c) unless the formula in  
 31 subsection (c) would not allow the development to have one  
 32 bonus market rate unit. In that case, the Board must reduce the  
 33 required number of MPDU's by one unit and approve an  
 34 additional market rate unit.

35 \* \* \*

36 (m) Nothing in this Chapter prohibits an applicant from voluntarily building  
 37 MPDUs, as calculated under subsection (c), in a development with  
 38 fewer than ~~[[35]]~~ 20 dwelling units at one location, and in so doing from  
 39 qualifying for an optional method of development under Chapter 59. A  
 40 development with fewer than ~~[[35]]~~ 20 dwelling units where an  
 41 applicant voluntarily builds MPDUs must comply with any procedures  
 42 and development standards that apply to a larger development under  
 43 this Chapter and Chapter 59. Sections 25A-5A, 25A-5B, and 25A-6(b)  
 44 do not apply to an applicant who voluntarily builds MPDU's under this  
 45 subsection and in so doing qualifies for an optional method of  
 46 development.

47 **25A-5A. Alternative payment agreement.**

48 (a) The Director may approve an MPDU agreement that allows an  
 49 applicant, instead of building some or all of the required number of  
 50 MPDUs in the proposed subdivision, to pay to the Housing Initiative  
 51 Fund an amount computed under subsection (b), only if an Alternative  
 52 Review Committee composed of the Director, the Commission's



**THE MARYLAND-NATIONAL CAPITAL PARK AND  
PLANNING COMMISSION**

Department of Park & Planning, Montgomery County, Maryland  
8787 Georgia Avenue, Silver Spring, Maryland 20910

**MEMORANDUM**

TO: Rich Weaver, Development Review

VIA: Stephen Federline, Supervisor, Environmental Planning *SF*

FROM: Amy Lindsey, Planner, Environmental Planning *AL*

DATE: June 2, 2006

SUBJECT: Preliminary Plan 1-05092 Olney Estates

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The subject plan has been reviewed by Environmental Planning to determine if it meets the requirements of Chapter 22A of the Montgomery County Code (Forest Conservation Law), the Environmental Guidelines, Noise Guidelines, and other related requirements. The following determination has been made:

**RECOMMENDATION: Approval subject to the following conditions:**

1. The proposed development shall comply with the conditions of the preliminary forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits:
  - a. Approval of final forest conservation plan consistent with the approved preliminary forest conservation plan (PFCP), including afforestation and reforestation planting of  $\pm 5.05$  acres within the stream valley buffer, prior to any clearing, grading or demolition on the site.
  - b. Split rail fencing and permanent forest conservation signage will be required along the easement line that adjoins residential lots and must be shown on the final FCP.
  - c. Required MNCPPC site inspections per Section 110 of the Forest Conservation Regulations.
  - d. Submittal of financial security to M-NCPPC prior to clearing or grading.
  - e. Maintenance and management agreement to be reviewed and approved by M-NCPPC staff prior to first inspection of planted areas.
2. Record plat of subdivision shall reflect a Category I conservation easement over all areas of environmental /stream valley buffer and forest conservation, except WSSC ROW. Prior to plat recordation, MNCPPC staff must approve any amended language to easements or agreements.

## **BACKGROUND**

The 107.35-acre property is located in the Olney Master Plan area on Old Baltimore Road. The surrounding uses are primarily residential with some religious institutions nearby as well. The property is currently vacant land, with some open field areas. This property contains the headwaters of the Northwest Branch watershed. There are two streams running across the property running generally north to south. Typical of headwater areas, there are extensive wetlands as well as numerous seeps and springs. There are 32.06 acres in environmental (stream valley) buffers. There are 67.35 acres of existing forest on the subject property with numerous specimen trees located throughout the forested areas. A cleared WSSC ROW runs from north to south across the middle of the property.

### **Forest Conservation**

There are 67.35 acres of forest on the subject property. The recently approved Olney Master Plan includes a specific recommendation for this property which includes the following sentence: “*Any housing development must be clustered near Old Baltimore Road to protect environmental resources, including the entire forest stand, on this property.*” The only forest clearing on this property is directly associated with a sewer connection and minimized to 0.12 acres of forest impacted, which will be reforested.

The applicant is afforesting 4.93 acres, so that the entire environmental (stream valley) buffer will be forested except for the 5’ on either side of the sewer line within the WSSC ROW. An additional 3.90 acres is designated as a natural regeneration area so that it can develop into forest. All forest, afforestation areas, and stream valley buffer will be placed in a Category I Forest Conservation Easement, except for the WSSC ROW.

A path is proposed to connect the north arm of the development with recreation amenities on the south arm. This is shown as a dashed line on the preliminary forest conservation plan (PFCP). The exact path location and details will be shown at site plan and the PFCP revised at that time if necessary. A field-located natural surface path is strongly recommended, as it will cause the least disturbance to both the forest and sensitive environmental features in the area. There is a spring in the area of the proposed path that must be avoided and any impacts minimized.

### **Environmental Buffers**

The subject property has two perennial streams and multiple wetlands with 32.06 acres of stream valley buffer. Currently, 26.93 acres of this buffer is forested. 4.93 acres of stream valley buffer will be afforested and the entire buffer protected by a Category I Forest Conservation Easement, except for the WSSC ROW. The WSSC ROW will be afforested within 5’ of the sewer line, on both sides. Stream valley buffer impacts for stormwater management outfalls have been minimized and these areas will be afforested.



DEPARTMENT OF PUBLIC WORKS  
AND TRANSPORTATION

Douglas M. Duncan  
*County Executive*

Arthur Holmes, Jr.  
*Director*

May 25, 2006

Ms. Catherine Conlon, Subdivision Supervisor  
Development Review Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 1-20050920  
Olney Estates

Dear Ms. Conlon:

We have completed our review of the revised preliminary plan dated April, 2006. The original preliminary plan for this site was reviewed by the Development Review Committee at its meeting on June 6, 2005. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to MCDPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Necessary dedication for future widening of Old Baltimore Road in accordance with the master plan.
2. Full width dedication and construction of all interior public streets.
3. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
4. Grade establishments for all new public streets and/or pedestrian paths must be approved prior to submission of the record plat.



Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878  
240/777-6000, TTY 240/777-6013, FAX 240/777-6030

Ms. Catherine Conlon  
Preliminary Plan No. 1-20050920  
May 25, 2006  
Page 2

5. A Public Improvements Easement may be necessary along West Old Baltimore Road and the proposed interior public streets, in order to accommodate the required sidewalk construction. Prior to submission of the record plat, the applicant's consultant will need to determine if there is sufficient right of way to permit this sidewalk construction. If not, the applicant will need to either dedicate additional right of way or execute a Declaration of Public Improvements Easement document. That document is to be recorded in the Land Records of Montgomery County, with the liber and folio referenced on the record plat.
6. Submit storm drain study prior to submission of the record plat. Analyze the capacity of the existing downstream public storm drain system and the impact of the post-development fifty (50) year storm runoff on same. Demonstrate where the runoff from the west end of the site (along Old Baltimore Road) will outfall – is a cross-culvert needed under Old Baltimore Road?
7. Grant a continuous ten (10) foot wide Public Improvement Easement around the perimeter of Parcel B, Block B (oval-shaped private common area at the terminus of proposed Street "B").
8. Size storm drain easements prior to record plat. No fences will be allowed within the storm drain easements without a revocable permit from the Department of Permitting Services and a recorded Maintenance and Liability Agreement.
9. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
10. Waiver from the Montgomery County Planning Board for overlength cul-de-sac(s).
11. Waiver from the Montgomery County Planning Board to delete sidewalk(s) on a tertiary classification roadway. In consideration of the length of the proposed streets, DPWT recommends sidewalks be required on both sides of the proposed public streets.
12. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.

The on-site paths (outside of the public rights-of-way) are to be privately maintained.



Ms. Catherine Conlon  
Preliminary Plan No. 1-20050920  
May 25, 2006  
Page 3

13. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
14. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Fred Lees of our Traffic Control and Lighting Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
15. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Robert Gonzales of our Traffic Management Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
16. Trees in the County rights of way - species and spacing to be in accordance with the applicable MCDPWT standards. A tree planting permit is required from the Maryland Department of Natural Resources, State Forester's Office [(301) 854-6060], to plant trees within the public right of way.
17. Public Improvements Agreement (PIA) will be an acceptable method of ensuring construction of the required public improvements within the County right of way. The PIA details will be determined at the record plat stage. The PIA will include, but not necessarily be limited to, the following improvements:
  - A. Street grading, paving, shoulders, sidewalks and handicap ramps, side drainage ditches and appurtenances, and street trees along proposed interior public streets per DPWT design standard no. MC-210.05.
  - B. Across the Old Baltimore Road site frontage, construct sod shoulder ten (10) wide\*, construct parallel and adjacent side drainage ditch, plant street trees, construct a five (5) foot wide concrete sidewalk, and grade back to natural ground at a 2:1 slope\*\* per DPWT design standard no. MC-212.05. Sod or seed as directed all other areas from the edge of the shoulder to the property line.

**NOTES:**

\* **The back hinge point of the shoulder is to be located twenty two (22) feet from the centerline of the existing pavement – which may result in a wider-than-typical interim shoulder section.**

\*\* **The Public Utilities Easement is to be graded on a side slope not to exceed 4:1.**

Ms. Catherine Conlon  
Preliminary Plan No. 1-20050920  
May 25, 2006  
Page 4

- C. Additional road improvements may be required as a result of the aforementioned storm drainage capacity/impact study for Old Baltimore Road.
- D. Enclosed storm drainage and/or engineered channel (in accordance with the MCDPWT Storm Drain Design Criteria) within all drainage easements.
- E. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- F. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Montgomery County Department of Permitting Services (MCDPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the MCDPS.
- G. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- H. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDPWT Division of Traffic and Parking Services.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at [greg.leck@montgomerycountymd.gov](mailto:greg.leck@montgomerycountymd.gov) or (240) 777-2190.

Sincerely,



Gregory M. Leck, Manager  
Development Review Group  
Traffic Engineering and Operations Section

m:/subd/docs/gml/pp/1-20050920, Olney Estates, AST, gml revs

Enclosures (2)

cc: Elliot Totah; Oxbridge Development at Northwest, LC  
Kathleen Kulenguski; VIKA  
Stephen Kaufman; Linowes & Blocher  
Richard Weaver; M-NCPPC DRD  
Shahriar Etemadi; M-NCPPC TP  
Joseph Y. Cheung; DPS RWPPR  
Christina Contreras; DPS RWPPR



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## FIRE MARSHAL COMMENTS

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**DATE:** 5-12-06  
**TO:** PLANNING BOARD, MONTGOMERY COUNTY  
**VIA:**  
**FROM:** CAPTAIN JOHN FEISSNER 240.777.2436  
**RE:** APPROVAL OF ~ *OLNEY ESTATES #1-05092*

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**1. PLAN APPROVED.**

- a. Review based only upon information contained on the plan submitted 5-12-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
- b. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

cc: Department of Permitting Services



**MONTGOMERY COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
WATERSHED MANAGEMENT DIVISION**

Rockville Center - 255 Rockville Pike, Suite 120 - Rockville, Maryland 20850-4166  
Telephone No. 240-777-7700 - FAX No. 240-777-7715

**SUBDIVISION PLAN REVIEW: MNCPPC Development Review Committee (DRC)  
Comprehensive Water Supply and Sewerage Systems Plan Issues**

MNCPPC File Number: **1-05092**

DRC Meeting Date: **06/06/2005**

Subdivision Plan Name: **Olney Estates**

Proposed Development: **36 SFH, 6 TH**

Watershed: **Northwest Branch**

Zoning: **RNC**

Planning Area: **Olney**

Site Area: **107.36 acres**

Location: **Old Balt Rd**

Engineer: **VIKA Inc. 703-442-7800**

**Water Supply and Sewerage Systems** (as specified on the subject subdivision plan or plan application)

**Proposed Water Supply:**

**Proposed Wastewater Disposal:**

Community (public) WATER system

Community (public) SEWER system

Existing Service Area Categories: Water: **W - 6**

Sewer: **S - 6**

Water/Sewer Plan Map Amendment: **WSSCR 05A-OLN-03**

**Water Supply Comments:**

**Sewerage System Comments:**

No; the water supply system is NOT consistent with the existing water service area category\*

No; the sewerage system is NOT consistent with the existing sewer service area category\*

**\*Additional Comments:**

1-05092 (DRC 06/06/2005): Under the existing W-6 and S-6 service area categories, this site is not currently eligible for public water and sewer service. The applicant has requested a category change to W-3 and S-3 (WSSCR 05A-OLN-03), now under review by DEP. Category changes for RNC-zoned projects are usually addressed through the administrative delegation process. We expect our next administrative hearing to occur in late summer or early fall 2005. (We assume that since this plan is proceeding to the DRC, the zoning change to RNC has been completed, consistent with the recommendations in the Olney Master Plan.)

Prepared by: **Shelley Janashek/Alan Soukup**

Date prepared: **06/01/2005**



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan  
County Executive

Robert C. Hubbard  
Director

October 13, 2005

Mr. Barry Smith  
Vika, Inc.  
20251 Century Boulevard, Suite 400  
Germantown, MD 20874

Re: Stormwater Management **CONCEPT** Request  
for Olney Estates  
Preliminary Plan #: 1-05092  
SM File #: 217890  
Tract Size/Zone: 107.35 acres / RNC  
Total Concept Area: 107.35 acres  
Lots/Block: N/A  
Parcel(s): P240  
Watershed: Northwest Branch

Dear Mr. Smith:

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 channel protection measures via construction of two dry detention ponds; on-site water quality control via construction of 5 Montgomery County Sand Filters (MCSF's); and onsite recharge via open section roadways and storage below the proposed facilities. Channel protection volume is not required for some of the drainage areas because the one-year post development peak discharge is less than or equal to 2.0 cfs. One area of proposed paving, at the intersection of existing Old Baltimore Road and proposed Public Street "B" will be waived of the water quality control requirement, conditioned upon the installation of a hydrodynamic structure to provide some quality pretreatment for that area.

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. A waiver of the water quality control requirement for a portion of the proposed Public Street "B" is hereby conditionally granted. The condition is that a hydrodynamic device must be installed to provide water quality pretreatment for this area. Due to the nature of the area being waived, the associated waiver contribution must be paid prior to approval of the sediment control plans.
5. Do not install overflow structures on the sand filters except where it is absolutely necessary to do so. It does not appear they are necessary in the proposed facilities. Please refer to the Montgomery County Flow Splitting Guidelines.



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 required, as outlined above.

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,

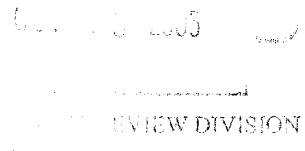


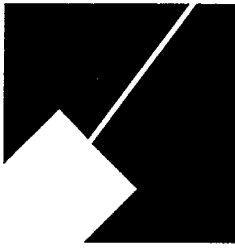
Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB:dm mce

cc: C. Conlon  
S. Federline  
SM File # 217890

QN -ON; Acres: 30  
QL - ON; Acres: 30  
Recharge is provided





June 1, 2006

**MEMORANDUM**

TO: Richard Weaver, Planner/Coordinator  
Community-Based Planning Division

FROM: Shahriar Etemadi, Supervisor  
Transportation Planning

SUBJECT: Preliminary Plan # 1-05092  
Olney Estates

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This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject Preliminary Plan application. The site is located along the southeast side of Old Baltimore Road, between MD 97 and MD 108 in Olney Policy Area. The subject site will consist of 36 Single-Family homes and six townhouse residential units called Olney Estates.

**RECOMMENDATIONS**

Based on our review of the submitted traffic analysis, Transportation Planning staff recommends the following conditions as part of the APF test for transportation requirements related to approval of this Preliminary application.

1. Total development under this preliminary plan application is limited to 36 Single-family units and six townhouses.
2. The applicant shall make a payment equal to 50% of the applicable transportation impact tax for Olney area to mitigate their additional trips contributing to the exceeding Critical Lane Volume (CLV) congestion standards for Olney Policy Area at the two intersections of Old Baltimore Road with MD 108 and MD 97. This payment must be paid before any building permit is issued.
3. The applicant shall dedicate ten more feet of right-of-way for a total of 80 feet along Old Baltimore Road.

4. Construct an eight-foot master planned shared-use path (B-22) along Street “B” connecting to the adjacent property on the east side as shown on the plan. This improvement shall be complete before the 36<sup>th</sup> building permit is issued.
5. Provide a crosswalk across Old Baltimore Road at Public Street “B”/Brimstone Academy Drive (to the south side of the intersection) to connect bike paths B-22 and B-6 on the opposite side of the road. This improvement shall be complete before the 36<sup>th</sup> building permit is issued.
6. Provide a five-foot sidewalk along Old Baltimore Road site frontage and extend it east to connect with the existing sidewalks on the adjacent property (St. Andrew Kim Church) frontage. This improvement shall be complete before 36<sup>th</sup> building permit is issued.
7. Provide appropriate handicapped ramps at the intersections of Old Baltimore Road and Streets “A” and “B”.
8. Satisfy all requirements by Maryland State Highway Administration and Montgomery County Department of Public Works and Transportation (DPWT).

## **DISCUSSION**

### **Site Access, Vehicular, and Pedestrian Circulation**

The proposed Olney Estates development will gain two full access points from Old Baltimore Road. These access points provides for safe and easy vehicular and pedestrian access. A crosswalk shall be provided on Old Baltimore Road at Street “B,” A bike path along Street “B” connecting to adjacent site to the east for future extension to a master planned bike path in the vicinity of the site.

Staff finds that implementation of recommended internal pedestrian circulation and walkways, as well as bike paths and crosswalk along adjacent streets and internal roadways will provide for a safe and adequate movement of pedestrian bicycle traffic.

### **Local Area Transportation Review**

Two local intersections and site access points were identified as critical intersections for analysis to determine whether they meet the applicable congestion standard of 1,475 C LV for the Olney Policy Area. The proposed development trips were added to the existing and the background traffic (trips generated from approved but unbuilt developments) to determine the total future traffic. The total future traffic was assigned to the critical intersections to calculate the total future CLVs. The result of CLV calculation is shown in the following table.



	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
Old Baltimore Road/MD 108	1,291	1,044	1,473	1,189	1,481	1,196
Old Baltimore Road/MD 97	1,498	1,170	1,525	1,259	1,534	1,265
Old Baltimore Road/Street "A"					723	552
Old Baltimore Road/Street "B"					701	533

As shown in the above table, the intersections of Old Baltimore Road and MD 108 will operate at a CLV value that exceeds the congestion standard of 1,475 in the morning peak hour under the total traffic condition. The intersection of Old Baltimore Road and MD 97 also operates at a CLV value that exceeds congestion standard of 1,475 for this area during the morning peak hours under the existing, background and total traffic conditions. In order to mitigate their impact, the applicant has proposed to pay a payment equal to 50% of the applicable transportation impact tax before any building permit is issued. The FY 2006 Growth Policy under section TL1, Standards and Procedures allows for the developments generating between 30 and 49 peak hour trips to pay this amount to satisfy the requirements of Local Area Transportation Review. The applicant has chosen this alternative as opposed to other methods of reducing Local Area Transportation Impact (i.e. providing maximum number of bus shelters and/or "real time transit information signs") due to DPWT's uncertainty in identifying the location and accepting the funds for these improvements in the near future. Other methods of non-automobile transportation amenities beside bus shelters and "real time transit information signs" could not provide accumulatively for the number of trip credits needed to satisfy the Local Area Transportation Review (LATR) requirements. For these reasons, staff has agreed and recommends to the Planning Board to accept the monetary funds as the chosen method of satisfying LATR requirements.

## CONCLUSION

Other improvements conditioned in this memorandum will provide for a safer and more efficient operation of the transportation system in the area and upon implementation of those requirements, staff supports approval of this application as it relates to the transportation requirements.

SE:gw