

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 units 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>Total # of</u>		
<u>Units</u>	<u>12.5% MPDUs</u>	<u>Market Rate</u>
20	3	17
21	3	18
22	3	19
23	3	20
24	3	21
25	4	21
26	4	22
27	4	23
28	4	24
29	4	25
30	4	26
31	4	27
32	4	28
33	5	28
34	5	29
35	5	30
36	5	31
37	5	32
38	5	33
39	5	34
40	5	35
41	6	35
42	6	36
43	6	37
44	6	38
45	6	39
46	6	40
47	6	41
48	6	42
49	7	42

<u>Density Bonus Case</u>			
<u>Total # of</u>	<u>Total # of Units w/22%</u>		
<u>Units</u>	<u>Bonus Density</u>	<u>15% MPDUs</u>	<u>Market Rate</u>
20	24	4	20
21	25	4	21
22	26	4	22
23	28	5	23
24	29	5	24
25	30	5	25
26	31	5	26
27	32	5	27
28	34	6	28
29	35	6	29
30	36	6	30
31	37	6	31
32	39	6	33
33	40	6	34
34	41	7	34
35	42	7	35
36	43	7	36
37	45	7	38
38	46	7	39
39	47	8	39
40	48	8	40
41	50	8	42
42	51	8	43
43	52	8	44
44	53	8	45
45	54	9	45
46	56	9	47
47	57	9	48
48	58	9	49
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 50 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 in MPDU requirement will result in a net increase in market rate units. Indeed, the law base MPDU requirement of 12.5 percent without providing any density bonus. In law to subdivisions between 35 and 49 units, the Council intended that these developments 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 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.

7 **25A-5A. Alternative payment agreement.**

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

APPENDIX B



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.



APPENDIX C

Srinivas, Laxmi

From: Afzal, Khalid
Sent: Friday, July 07, 2006 9:14 AM
To: Srinivas, Laxmi
Subject: Olney Estates

Here is the language from my memo to Rich. The full memo had detailed comments on the MPDU issue that don't need to be repeated in site plan as well, so I am sending you the appropriate language only.

Khalid

Master Plan Comments--Olney Estates, Preliminary Plan # 1-05092

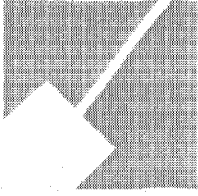
The proposed development of approximately 107 acres is zoned RNC and located in the Southeast Quadrant of Olney within the 2005 Olney Master Plan. The property is identified as site #12 in the Specific Property Recommendations section of the Plan on page 36. The plan recommended a maximum base density of 0.33 units per acre for an optional method development on community sewer on this property. This maximum permitted density can be increased through bonus density provisions of the MPDU 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.

The Community-Based Planning staff believes that the proposed layout is consistent with the goals and recommendations of the 2005 Olney Master Plan.

APPENDIX D

Attachment "E"



**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

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 ± 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.

APPENDIX E