

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

MCPB  
Item #

**Staff Report: Preliminary Plan 120061100, Stanmore (Hyde Property)**

**MCPB HEARING**

**DATE:** April 2, 2009

**REPORT DATE:** March 20, 2009

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief  
Development Review Division

**FROM:** Catherine Conlon, Subdivision Supervisor  
Development Review Division  
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**LOCATION:** On the east side of Batchellors Forest Road, approximately 400 feet south of Dr. Bird Road (MD 182)

**MASTER PLAN:** Olney

**APPLYING FOR:** Subdivision to create 19 lots for 19 one-family detached residential dwelling units, three of which are existing and will remain

**REVIEW BASIS:** Montgomery County Code Chapter 50, Subdivisions Regulations and Chapter 59, Zoning Ordinance

**APPLICANT:** Stanmore Limited Partnership

**ENGINEER:** Loiederman Soltesz Associates, Inc.

**ATTORNEY:** Linowes and Blocher

**FILING DATE:** April 28, 2006  
Latest Revision February 3, 2009

**RECOMMENDATION:** Approval of 16 lots, with conditions

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

- 1) Approval under this preliminary plan is limited to sixteen (16) lots for sixteen (16) residential dwelling units, three of which are existing and will remain.
- 2) The Applicant must revise the preliminary plan prior to certification to remove three lots by reconfiguring the internal lot lines of proposed lots on Private Street "A" and/or Private Street "B".
- 3) No clearing, grading, or recording of plats prior to site plan approval.
- 4) Final approval of the number and location of buildings, dwelling units, sidewalks, and bikepaths will be determined at site plan.
- 5) The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan dated March 16, 2009. The applicant must meet all conditions prior to the recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permit(s), as applicable. Conditions include, but are not limited to:
  - a) Split rail fencing is required along lots 5-7, 13, 14, and 16, directly adjacent to areas of reforestation.
- 6) The final record plat must show dedication as well as centerline for the following rights-of-way, consistent with the 2005 Approved and Adopted *Olney Master Plan*:
  - a) Batchellors Forest Road – 35 feet from the road right-of-way centerline or full-width dedication of 70 feet along property frontage, as appropriate.
  - b) Dr. Bird Road – 60 feet from the road right-of-way centerline. Access to the subdivision from Batchellors Forest Road shall be restricted to the proposed interior residential private streets and the two existing private driveways.
- 7) The Applicant must construct a five-foot wide sidewalk within the right-of-way for Dr. Bird Road along the entire property frontage. The sidewalk must be constructed prior to the release of building permit for the 14<sup>th</sup> new single-family dwelling unit and must be located fully within the right-of-way, offset a minimum of two feet from the new property line.
- 8) The applicant must construct any other necessary improvements within the road right-of-way for Dr. Bird Road (MD 182) along the property frontage to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes.
- 9) The applicant must construct the proposed private roads to the structural standards of a public tertiary street and provide an engineer's certification to the MCDPS, Roadway Permitting Section prior to issuance of access permits to verify that this condition has been met.
- 10) The applicant must comply with conditions of the Montgomery County Department of Transportation (MCDOT) letter dated June 20, 2006. These conditions may be amended by MCDOT provided the amendments do not conflict with any other conditions of the preliminary plan approval.
- 11) The applicant must comply with the conditions of MCDPS, Well and Septic Section approval. These conditions may be amended by MCDPS, Well and Septic provided the amendments do not conflict with any other conditions of the preliminary plan approval.
- 12) The applicant must comply with the conditions of the MCDPS stormwater management approval dated February 10, 2009. These conditions may be amended by MCDPS

provided the amendments do not conflict with any other conditions of the preliminary plan approval.

- 13) The applicant must comply with any MCDOT requirements for access and improvements for Batchellors Forest Road prior to recordation of plat(s), and with any Maryland State Highway Administration (MDSHA) requirements for improvements for Dr. Bird Road (MD 182).
- 14) The record plat must reflect a public use and access easement over Private Streets "A" and "B".
- 15) The record plat must reflect "denied access" to Dr. Bird Road (MD 182) along the property frontage.
- 16) The record plat must reflect a Category I conservation easement over all areas of stream valley buffer and forest conservation.
- 17) The record plat must reflect delineation of Rural Open Space areas and make note of the Liber and Folio of an easement agreement or covenant recorded in the land records which restricts the uses in the rural open space to those set forth in the RNC zone and establishes procedures for the management of natural or agricultural features as set forth in the approved site plan. Record plat to have the following note: "The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted after the property is developed."
- 18) The record plat must reflect common ingress/egress and utility easements over any shared driveways.
- 19) The record plat must reflect all parcels under Homeowners Association control, and separately designate stormwater management parcels.
- 20) 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.
- 21) Other necessary easements must be shown on the record plat.

## **I. SITE DESCRIPTION:**

The subject property, identified as Parcels P452, P459, P239 and P401, contains approximately 51 acres in the Rural Neighborhood Cluster (RNC) Zone ("Subject Property" or "Property"). The Property, shown below and in Attachment A, is located on the east side of Batchellors Forest Road in the southeast quadrant of its intersection with Dr. Bird Road (MD 182). The site is mostly undeveloped and contains a mix of forested area and open fields, plus three existing residential dwelling units. Surrounding land uses are residential in the RE-2, Rural Cluster and RNC zones to the east, north, southwest and southeast. The adjacent property to the south is designated for a future local park, and the abutting property to the west contains the existing Good Counsel High School. Also located in close proximity to the Subject Property are the Olney Theater and Olney Inn to the north of the Property on MD 108, and Farquhar Middle School to the south of the Property along Batchellors Forest Road.

The Property lies within the Northwest Branch watershed (a Use IV stream). Two streams begin on the Property; one that bisects the northern part of the site, and one that flows from the southeast corner. These two streams converge offsite to the east of the Subject Property. Both one-hundred year floodplains and wetlands lie within the approximately 20-acre onsite buffer area associated with these streams. The stream valleys contain slight to moderate slopes and



associated forest. These environmentally sensitive areas limit the amount of buildable area on the site.

There are about 16 acres of forest on the site and several specimen size trees. The three existing houses are currently served by private septic systems and wells. The Property is eligible to receive public sewer and water upon approval of a preliminary plan using the RNC zoning.

**Figure 1. Vicinity Map**

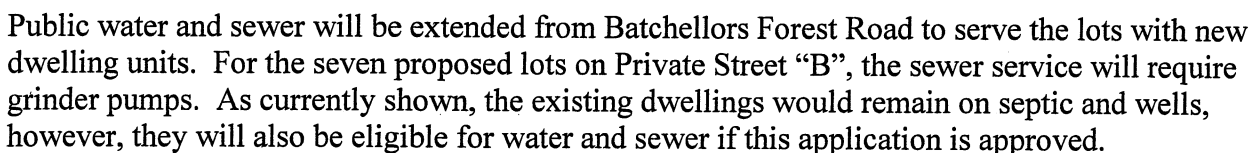


## II. PROJECT DESCRIPTION

This is an application to subdivide the Property, as shown below and in Attachment B, into 19 lots, one large rural open space parcel, and several small parcels for additional community open



### Figure 2. Preliminary Plan



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Most of the proposed lots will have access from Batchellors Forest Road via the two previously mentioned private cul-de-sacs. The three existing dwellings will continue to use their existing private driveways, one of which is shared by two of the dwellings. The proposed lots have been clustered to preserve all the onsite stream buffer areas. The forest conservation plan (FCP), which was done as a part of the Good Counsel High School development on the adjacent property, reflects retention of all the existing forest and approximately 3.7 acres of reforestation within the stream buffers.

### **III. ANALYSIS AND FINDINGS**

#### **A. Number of Lots**

##### Background

The subject application proposes a total of 19 lots in the RNC zone. In order to achieve this density, the applicant is requesting the Planning Board's approval to transfer density from the adjacent Good Counsel High School property which was owned by the applicant prior to being subdivided for the school. The school property lies within the Rural Cluster (RC) zone.

The approved preliminary plan for the Good Counsel High School property (Preliminary Plan No. 120020820) included all of the approximately 100-acre property owned by the Hyde family on both sides of Batchellors Forest Road. It created one lot on approximately 50 acres that consolidated the entire school campus on the west side of the road, and envisioned recording the remainder of the property as outlots until later review of a residential phase of development. It was staff's opinion at the time that looking at both sides of the road provided a better opportunity to protect the environmental resources on the property. And from the applicant's perspective, it reserved the future possibility of transferring residential density. On page 3 of the December 1, 2003 Amended Opinion for the preliminary plan (Attachment C), the Board found that:

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

The Opinion goes on to say:

"However, there is no guarantee that the Master Plan recommendations will result in rezonings that allow this density allocation and that there is no guarantee that all of the combined potential density will be achieved."

The 50-acre eastern half of the property was not platted during the validity period of the original preliminary plan, so it is now being reviewed under the subject new preliminary plan application.

### Request for Combined Cluster

Under the development standards of Chapter 59 of the County Code, density within the RNC zone is limited to 0.33 dwelling units per acre, and density within the RC zone is limited to one dwelling unit per 5 acres. The Good Counsel High School property and the Subject Property are each approximately 50 acres in size. Thus, under the applicable zoning, the maximum residential density that can be achieved is 10 dwelling units for the RC-zoned Good Counsel property and 16 units for the RNC-zoned Subject Property.

The development standards for the RC and RNC zones are included in Division 59-C-9 of the County Code, which covers Agricultural Zones. The only provisions for density transfer in this section are for transferable development rights (TDRs) that can be transferred from RDT zoned land and used in specified TDR receiving zones. Therefore, the applicant is requesting Board approval to use density from the Good Counsel site under the provisions of Division 59-C-1 of the County Code, which covers Residential Zones. The provisions for Combined Cluster Development are in Section 59-C-1.526, which states:

“The planning board may permit the combining of 2 or more cluster developments as follows:

- (a) In the same zone. The planning board may waive the minimum areas specified in subsection 59-C-1.532 if the tract abuts an existing cluster development in the same zone and approval of the proposed subdivision will make possible a compatible extension thereof.
- (b) In different zones. The planning board may permit a combined cluster in 2 or more zones, each of which has provisions for cluster development; provided that each of the following conditions is complied with:
  - (1) The tracts to be combined for development share a common boundary with one another sufficient to provide a unified development which will achieve the purposes of cluster development.
  - (2) The total area of the combined tracts meets the largest minimum area requirement for cluster development found in the zoning classifications of the individual tracts.
  - (3) No uses shall be permitted in any part of the combined tract except those that are permissible in the zone in which the part is classified.
  - (4) The total number of dwelling units in the combined development does not exceed the total number that would be permitted if the component areas of the combined tracts were developed separately.
  - (5) The amount of green area in the combined development is not less than the

total amount that would be required if the component areas of the combined tracts were developed separately.”

The applicant believes that this provision, and the previous Board findings regarding density transfer, support its request to create 19 lots for residential dwellings on the Subject Property. In staff’s opinion, the request does not comply with either the conditions of the previous Board finding, or the Zoning Ordinance provisions.

## Discussion

### ***Applicant’s Position***

The applicant’s position is summarized in the attached November 26, 2008, letter from Mr. Stephen Z. Kaufman of the law firm of Linowes and Blocher LLP (Attachment D). In this letter, Mr. Kaufman cites three points as justification for permitting density transfer.

#### (a) History

Mr. Kaufman states that the applicant’s acceptance of the staff’s recommendation to locate the school entirely on the west side of Batchellors Forest Road would not have happened if certain assurances had not been given. Specifically, that the preliminary plan would be viewed as two phases with the school being the first phase followed by a second phase with a cluster residential community, and second that the residential density from the west side would be permitted to be used for the residential community. Mr. Kaufman points to a note that was included on the approved record plat for the school lot as evidence of this agreement. The note states:

“Any and all residential development rights attributed to Lot 1 and Parcel A (10.77 DU) are expressly reserved for the benefit of and to be transferred to the balance of the property shown on Preliminary Plan No. 1-02082 entitled “Our Lady of Good Counsel High School”, such a balance of the property is being designated as Outlot Parcel “B” on Preliminary Plan No. 1-02082.”

#### (b) Combined Cluster

In Mr. Kaufman’s opinion, the fact that there are provisions for cluster development in the RC and RNC zones makes them eligible for combined cluster under the Zoning Ordinance. Although the combined cluster provisions are contained within the division of the ordinance that covers residential zones, Mr. Kaufman believes these provisions can be applied to any zone that has provisions for cluster provided the specific conditions noted above are met.

#### (c) Maryland Case Law

Finally, Mr. Kaufman states that case law supports the transfer of density from the west to the east side of the overall Hyde property because the entire property was included in the original preliminary plan.



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

Staff acknowledges that the potential for transfer of density between the two sides of the overall Hyde property was recognized as part of the review of Preliminary Plan No. 1-02082, however, the Board's approval of the plan did not include approval to transfer density. The Planning Board's written opinion for the case clearly indicates that any density transfer was contingent upon the entire property being "rezoned to one cluster zone, or to two different cluster zones that qualify under the Zoning Ordinance as combined cluster development". It is staff's position that the zones in question do not qualify for combined cluster development under the Zoning Ordinance.

In staff's opinion, the development standards of one section cannot be applied to another section of the ordinance and, therefore, the combined cluster provisions for the Residential Zones are not general provisions that can apply to Agricultural Zones. There are no similar provisions for combining density in the Agricultural Zones, so the RC and RNC zones don't qualify under the ordinance for combined cluster. It is also staff's opinion that even if the Board found that the combined cluster provisions of the Residential Zones could be applied generally, it is not appropriate to apply them to the RNC zone. In the RNC zone, density on a property using the optional method of development (i.e., cluster development on sewer) must conform to the recommendations and guidelines of the applicable master or sector plan. The Olney Master Plan recommends a density of 0.33 dwelling units per acre for the RNC zoned portion of the Hyde property, with no provision for transfer of density from the RC zoned portion of the site. Therefore, it is staff's opinion that under the RNC zone development standards density on the Hyde property must not exceed 0.33 dwelling units per acre, or 16 dwelling units.

### **B. Conformance to the Olney Master Plan**

The Subject Property is identified as #2, Hyde and Bowns Properties (page 27) in the Land Use section of the 2005 Olney Master Plan ("Master Plan" or "Plan"). The Plan has general recommendations for the Southeast Quadrant of Olney, where this property is located, and specific recommendations about this property.

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

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

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

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

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

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

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

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

The applicant filed a sewer category change request as part of the application for this preliminary plan. That request, which was accompanied by an earlier 30 lot plan for development, was reviewed by the Planning Board in early 2006. The Planning Board recommended denial of the sewer category change to the County Council based on the proposed development’s reliance on grinder pumps to provide sewer. The Council initially deferred action on the request to give the Planning Board and staff the opportunity to reach consensus on a development plan that would be consistent with the Olney Master Plan. On September 28, 2006, the Planning Board recommended the Council approve the category change request with the following conditions:

“Maintain W-6 and S-6, with approval of W-3 and S-3 conditioned on the Planning Board's approval of a preliminary plan that:

- Uses the RNC optional cluster development method;
- Fully satisfies each of the purposes and objectives of the RNC zone, the 2005 Olney Master Plan and the Rustic Road statute;
- Provides sewer service only through access to existing main to the west of the site; and

- If the Planning Board finds appropriate the use of grinder pumps, such use must be minimized and limited to access the existing main to the west of the site.

This conditional water and sewer category change shall not be construed as a recommendation, suggestion, or other effort to influence any decision of the Planning Board concerning the preliminary plan or site plan for the remainder of the Hyde property, including without limitation:

- The total number and location of units that may be constructed on the Hyde property;
- Whether or not grinder pumps may be used on the site and, if the Planning Board permits the use of grinder pumps, the number or percentage of units on the Hyde property that may use grinder pumps; and
- The number of units that may be transferred from the Good Counsel High School portion of the Hyde property to the remainder of the Hyde property.”

Subsequently, the Council gave a conditional approval to the category change request contingent upon the Board’s approval of a preliminary plan.

The most critical portion of the site in terms of protecting the visual quality and character of Batchellors Forest Road and the surrounding area is the southern half of the property because of its rolling topography, rural character, and high visibility from Batchellors Forest Road. The proposed Preliminary Plan meets the Master Plan’s recommendation for protecting the rustic character of Batchellors Forest Road by keeping this southern portion of the property in its current state and preserving it as Rural Open Space under the requirements of the RNC Zone. All the new houses are clustered in two areas in the central and northern portion of the site where they will be well screened from Batchellors Forest Road by existing trees on the property. The existing houses on the property (two along Batchellors Forest and the third slightly back in the woods) will contribute towards preservation of existing conditions and the character of Batchellors Forest Road. Staff supports providing sewer service to the middle cluster on grinder pumps since the use of grinder pumps helps keep the southern portion free of any new construction. The proposed use of grinder pumps will allow clustering about half of the new houses in a location best suited for new construction due to the screening provided by existing trees on the site.

In staff’s opinion, the proposed plan meets the goals and objectives of the Master Plan except for its total number of proposed 19 units (three existing and sixteen new), which is contrary to the Master Plan recommended maximum density. Per the standards of the RNC Zone, which allows the maximum density on a property to be set in the master plan, the Olney Master Plan sets the maximum density on this property at 0.33 units per acre under the optional method of development, resulting in a maximum of sixteen units. As previously discussed, the applicant is proposing to transfer density for the three additional units from the adjoining Good Counsel High School site based on the assumption that some density from the RC-zoned Good Counsel High School property can be transferred to the RNC-zoned Hyde property. Staff finds that this transfer is not consistent with the Olney Master Plan

since the RNC Zone allows the master plan to set the maximum density limit, and the Olney Master Plan does not include any provision for transfer of density between the two sites. Therefore, Staff recommends that approval of the preliminary plan be limited to a maximum of sixteen dwelling units, including the three existing dwellings. The reduction in units should be reflected on the certified preliminary plan by reconfiguring the lots around the two proposed cul-de-sacs without increasing the overall lot area currently shown on the plan. This Property is also required to undergo site plan review, so the final configuration and number of units in each of the two clusters will be determined at that stage.

### **C. Transportation**

#### **Site Location, Access, and Public Transportation Facilities**

The development is proposed within the southeast quadrant of the Olney-Sandy Spring Road (MD 108), Dr. Bird Road (MD 182), and Batchellors Forest Road intersections in Olney. Good Counsel High School and Olney Theater are located to the north/northwest of the site and the Farquhar Middle School is located approximately 1,300 feet south of the site along Batchellors Forest Road. Sandy Spring Friends School is located approximately 4,000 feet to the southeast of the site along Dr. Bird Road/Norwood Road and Sherwood Elementary School is located approximately 3,800 feet to the northeast of the site along MD 108.

Access to the development is proposed from Batchellors Forest Road, which is a rustic roadway. The new single-family dwelling units will be served via two separate private roads; the northern roadway serving nine proposed lots and the southern driveway serving seven proposed lots. Proposed Lots 17, 18, and 19, consisting of existing residences, will be served via separate existing driveways. Metrobus Route Z2, running between Colesville and Ashton, service roadways to the north of the site (MD 108 and Dr. Bird Road).

#### **Master Plan Roadways and Pedestrian/Bikeway Facilities**

The Approved and Adopted 2005 *Olney Master Plan* includes the following nearby recommended master-planned transportation facilities:

1. Olney-Sandy Spring Road (MD 108), as a four-lane divided major highway (M-60) with a minimum right-of-way width of 150 feet between Laytonsville and Dr. Bird Road. A Class I bikeway (shared use path; SP-35) is recommended for MD 108, and currently exists along both sides of MD 108 between Olney and Dr. Bird Road.
2. Batchellors Forest Road, as a two-lane rustic road (R-60) with a minimum right-of-way width of 70 feet between 1,200 feet east of Georgia Avenue and Dr. Bird Road. A Class III bikeway (shared road; B-1) is recommended for Batchellors Forest Road between Emory Church Road and Dr. Bird Road.
3. Old Vic Boulevard Extended, as a two-lane primary street (P-16) with a minimum right-of-way width of 70 feet between MD 108 and Batchellors Forest Road. A Class I bikeway (shared use path, B-24) is recommended in the master plan for Old Vic



Boulevard between MD 108 and Batchellors Forest Road, and one currently exists along the west side of the built portion of the roadway.

4. Dr. Bird Road/Norwood Road (MD 182), as a two-lane major highway (M-60) with a minimum right-of-way width of 120 feet between Layhill Road (MD 182)/Ednor Road and MD 108. A Class I bikeway (shared use path; SP-38) is recommended in the master plan for this section of MD 182, sections of which currently exist to the north side of the roadway.

In addition to the bikeway specified above, the standard cross-section for Dr. Bird Road also includes a five-foot sidewalk on the south side of the road. Consistent with Section 50-24(a) of the Subdivision Regulations, the applicant must construct this sidewalk along the Property frontage. If the Planning Board's action on this application includes granting approval to transfer density from the Good Counsel High School site, the applicant should also be required to construct the missing five-foot wide sidewalk along Dr. Bird Road's Good Counsel High School frontage between MD 108 and Batchellors Forest Road.

#### Over-length Cul-de-sacs

The roadway design for the property includes the creation of two cul-de-sac roads which will be greater than 500 feet in length. Per Section 50-26(d) of the Montgomery County Code, a cul-de-sac road should be no longer than 500 feet unless a greater length is justified by reason of property shape, size, topography, large lot size, or improved street alignment.

In staff's opinion, design of these two over-length cul-de-sacs are justified by the shape of the Property and the fact that the proposed street alignment provides protection of environmentally sensitive areas and avoids stream and wetland crossings. If a roadway loop or other connection were required for these roads, sensitive environmental areas would be impacted. Therefore, staff supports the roadways as proposed.

#### **D. Adequate Public Facilities Test**

##### **1. Local Area Transportation Review**

The 19 single-family dwelling units (16 "new" plus three "existing") proposed on the property are estimated to generate 18 peak-hour trips during the weekday morning peak-period (6:30 a.m. to 9:30 a.m.) and 21 peak-hour trips during the weekday evening peak-period (4:00 p.m. to 7:00 p.m.). A traffic study is therefore not required for the subject development since the development generates less than the threshold of 30 or more peak-hour trips during the weekday morning and evening peak-periods. The subject development thus passes the Local Area Transportation Review portion of the APF test.

##### **2. Policy Area Mobility Review**

The proposed development did not require a Policy Area Mobility Review test because the preliminary plan application was filed prior to January 1, 2007.

### 3. Other Public Facilities and Services

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

### **E. Environment**

The Property includes 16.03 acres of high priority forest and two streams, wetlands, floodplains and associated environmental buffers. The property is within the Northwest Branch watershed; a Use IV watershed.

### **Environmental Guidelines**

The applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) to M-NCPPC for review and approval as part of the prior preliminary plan application. Environmental Planning staff approved NRI/FSD 420020570 on December 2, 2002. Two first order tributaries to the Northwest Branch originate on the property. The associated environmental buffers are currently partially forested but will be reforested as part of this plan. The only encroachment into the environmental buffers is for necessary stormwater management conveyances. There are no stormwater management facilities or drywells proposed for the environmental buffer. All environmental buffers are to be included in a Category I conservation easement.

### **Forest Conservation**

From the forest conservation perspective, this is the second phase of the Final Forest Conservation Plan that was approved in conjunction with the initial preliminary plan. The previously approved plan established areas of forest retention and planting. The current application is consistent with the overall approved forest conservation plan with the exception of an area of ROW dedication. This dedication does not conflict with the forest conservation requirements. All 16.03 acres of existing forest will be retained and an additional 3.85 acres of forest has already been planted within the stream valley buffers.

As per Sec. 22A-12(f)(2)(B) of the Forest Conservation Law, *"In a planned development or a site developed using a cluster or other optional method in a one-family residential zone, on-site forest retention must be equal the applicable conservation threshold in subsection (a).* For this property, the conservation threshold is 25%, or 12.73 acres. This property meets this requirement by retaining and planting a total of 19.88 acres. Thus, the application continues to comply with the Forest Conservation Law.

## Stormwater Management

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

### **F. Compliance with the Zoning Ordinance and Subdivision Regulations**

This application has been reviewed for compliance with the Montgomery County Code, Chapter 59, the Zoning Ordinance and Chapter 50, the Subdivision Regulations. The application meets most of the applicable sections, and can be amended to bring it into compliance with all sections. Access and public facilities will be adequate to support the proposed lots and uses. The proposed lot sizes, widths, shapes and orientation are appropriate for the location of the subdivision. The lots as proposed will meet all the dimensional requirements for area, frontage, width and setbacks in the RNC zone, but the overall number of lots must be reduced to sixteen to conform with the density requirements of the zone. With this reduction in lots, the proposed subdivision will meet the requirements for the RNC zone as specified in the Zoning Ordinance.

The plan protects the portion of the site recommended as the most appropriate for open space in the Olney Master Plan, and minimizes disturbance to environmentally sensitive area. The plan will substantially conform to the Master Plan given the recommended deletion of lots. The proposed cluster development will be compatible with surrounding development in that the proposed lots will be appropriately located and sized. The plan exceeds the minimum requirement of 65% rural open space, and the location of the open space will protect environmentally sensitive areas, scenic vistas, and priority forest. The spatial relationship between houses and the open space protects the rustic character of Batchellors Forest Road by keeping the southern portion of the Property in its current state and clustering new homes in areas where they will be well screened from the road.

The Property will be eligible for the extension of public water and sewer upon Planning Board approval of this preliminary plan. The proposed lots can be served from the existing sewer line along Batchellors Forest Road with a combination of gravity and grinder pump systems. Staff supports the use of grinder pumps as proposed because it permits a lot layout that fully meets the Master Plan goals to protect rural character and views from Batchellors Forest Road. Grinder pumps may also be used to extend sewer to the existing houses, if it is necessary to deal with failing or inadequate existing septic fields.

The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan (see Attachment F for referenced agency correspondence).

## **F. Citizen Correspondence and Issues**

The development proposals associated with the Hyde property have been discussed in many forums over the years. As previously mentioned, the property on both sides of Batchellors Forest Road was the subject of previous Preliminary Plan No 120020820. That plan created the lot for Good Counsel High School and discussed potential residential development scenarios. That preliminary plan was followed by the adoption of the Olney Master Plan update which includes the previously discussed recommendations for this Property. The original application for residential development was submitted as a pre-preliminary plan (720060100) for staff review which proposed a total of 31 lots. The subject preliminary plan application was originally filed in June, 2006, along with the request for sewer category change that was discussed above.

The original application pre-dated any requirement for pre-submission meetings with interested parties, however, the applicant held an informational meeting on October 10, 2007. Written notice of the original application and all subsequent major revisions have been sent by the applicant to all individuals on the notice list. Only a few specific letters have been received concerning the preliminary plan application (Attachment G), but staff has met or spoken with several individuals and there has been a significant amount of citizen participation during all of the previously noted steps in this development. The major citizen concerns have consistently been related to the proposed subdivision layout and protection of the rural-rustic character of Batchellors Forest Road; specifically:

- Number of lots
- Visibility of new houses from Batchellors Forest Road
- Configuration of the rural open space
- Location of new houses in relation to existing

Other concerns included:

- Transfer of density
- Use of grinder pumps

In staff's opinion, the current iteration of the preliminary plan has addressed most of these concerns and can be revised to address them all. The total number of proposed lots in the application has been significantly reduced, and the proposed layout now clusters lots for new houses in two areas in the middle and northern portion of the site where they will be well screened from Batchellors Forest Road. Although some of these new lots will be served by grinder pumps, this keeps these lots from being located on the southern portion of the property where they would have been most visible. Staff's recommended conditions address the citizen concern about the proposed transfer of density to this property, and while there are still new lots located adjacent to existing houses at the intersection of Batchellors Forest Road and Dr. Bird Road, staff believes this is the most appropriate location. The number and size of these proposed lots will be further scrutinized as part of the site plan review to ensure that there is a compatible relationship. It may be appropriate that the three lots that staff is recommending for deletion be removed from the northern cluster, but this should be finally



decided as part of site plan.

#### **IV. CONCLUSION**

Staff finds that Preliminary Plan #120061100, Stanmore, does not, as proposed, conform to the density requirements of the Zoning Ordinance or the recommendations of the Olney Master Plan, but can be revised to meet these requirements by deleting three lots. With this change, staff supports the plan and finds that it will conform to the Subdivision Regulations and Zoning Ordinance. As such, Staff recommends approval of the preliminary plan, subject to compliance with the above conditions.

#### **ATTACHMENTS:**

Attachment A	Vicinity Map
Attachment B	Preliminary Plan
Attachment C	Planning Board Opinion of Preliminary Plan 120020820
Attachment D	Applicant Letter
Attachment E	General Explanation of Water and Sewer Categories
Attachment F	Agency Correspondence
Attachment G	Citizen Correspondence