



**Preliminary and Site Plans, Bowie Mill Property, 120110120 & 820110050**

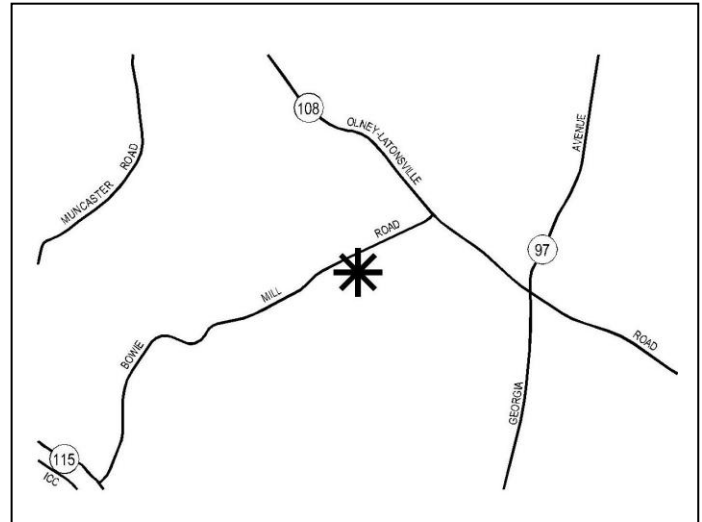
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**description**

Bowie Mill Property

- A. Preliminary Plan 120110120  
Staff recommendation: Approval with Conditions
- B. Site Plan 820110050  
Staff recommendation: Approval with Conditions

- 18241 Bowie Mill Road, opposite the intersection with Thornhurst Drive
- 32.74 acres zoned PD-3 in the Olney Master Plan
- Former Montgomery County School site
- Proposal to subdivide an unplatted parcel into 114 lots for 57 one-family detached units and 57 attached units (including 34 MPDUs and 34 Work Force Housing Units)



**summary**

Staff recommends **approval** of the Preliminary Plan and Site Plans **with conditions**. Staff’s analysis addresses the following issues:

- The Property is owned by Montgomery County, and it was designated as a future school site by the 1980 Olney Master Plan. The 2005 Olney Master Plan eliminated the school site designation and continued to apply the R-200 base zone, but it recommended a PD-3 Zone by Local Map Amendment.
- Under a negotiated agreement with the County, the developer of the Property is required to provide 40% of the units as market rate, 30% as MPDUs, and 30% as Work Force Housing units.
- The Local Map Amendment for this Property was approved under District Council Resolution 16-1681 for Application No. G-885. That Resolution established Binding Elements which are enumerated in this staff report.
- A waiver of frontage pursuant to Section 50-38 of the Subdivision Regulations for Lot 11, Block 9, is supported by Staff.
- Compatibility with adjoining communities is addressed through lot size, orientation, and landscape screening.
- The request for a waiver of the 100-foot setback from adjoining one-family detached zone land (i.e. R-200), located to the west and north of the project site was shown on the Development Plan, and it is acceptable because this land comprises a 250-foot wide PEPCO utility easement, and the 80-foot wide Bowie Mill Road right-of way.
- There are no community comments to date.

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# SECTION 1: CONTEXT AND PROPOSAL

## SITE DESCRIPTION

### Vicinity

The subject property is located at 18241 Bowie Mill Road, approximately one-half mile west of Laytonsville Road (MD 108), in Olney, Maryland. Local Map Amendment G-885 rezoned the Property from R-200 to PD-3 (Planned Development).



Vicinity Map

The predominant land use in the surrounding area is residential, one-family detached in the R-200, RE-1 and RE-1/TDR zones. A 250-foot wide PEPCO power line easement runs north-south and bisects the western portion of the area surrounding the property. The Property abuts this PEPCO power line easement to the west, which is zoned R-200. Confronting the PEPCO easement are residential properties in the R-200 zone. The property adjoins residential properties to the south and east in the R-200 Zone. Confronting the Property on Bowe Mill Road to the north are also one-family residences in the R-200 zone, developed under the TDR option. The area includes local recreational facilities and neighborhood parks. Some retail and light commercial uses are located at the eastern end of the neighborhood along MD 108 as one approaches the Olney Town Center.

### Site Analysis

The Subject Property consists of approximately 32.74 acres of unimproved land with 950 feet of frontage on Bowie Mill Road. The site is generally rectangular in shape, with a small notch in the northeast corner of the property. There is a first order stream that flows from northeast to southwest through the property, and there are approximately 1.20 acres of wetlands associated with the stream. Approximately 6.23 acres of the 6.79 acres of high priority forest on-site exists within the environmental buffer and is dominated by red maple and ash. A WSSC right-of-way also runs through the environmental buffer. The environmental buffer covers about 10.96 acres, or approximately one-third of the site.



*Aerial Photo with approximate site boundary outlined in red*

The Applicant's land use report describes the topography as follows:

The topography of the property is reasonably level but drops downward from the grade of Bowie Mill Road that abuts the northern side of the property. The center of the site is the location with the least variation in topography from which the land slopes towards an intermittent watercourse that traverses diagonally across the western half of the property.

The property is in the North Branch of the Rock Creek watershed, which is classified by the State of Maryland as Use III waters. The 2003 update of the *Countywide Stream Protection Strategy*

(Montgomery County Department of Environmental Protection) identifies the property as being in the Williamsburg Run subwatershed; this watershed has “fair” water quality. The site will be served by municipal water and sewer.

## PROJECT DESCRIPTION

### Previous Approvals

On September 21, 2010, the County Council approved Zoning Application No. G-885 for the reclassification of the property from the R-200 Zone to the PD-3 Zone (Resolution No. 16-1481) [Appendix A] with the following binding elements:

BINDING ELEMENTS	
CATEGORY	BINDING ELEMENT
Density	There will be not more than 114 dwelling units constructed on the subject property.
Unit Affordability	At least one-half of the units to be constructed will be deemed affordable under the County's moderate priced dwelling unit and/or work force housing programs.
Screening	Landscape screening at the rear of proposed Lots 1 through 4, Block A, and along the east side of proposed Street A (behind existing Lots 16-19, Block E, OLNEY SQUARE subdivision), will be provided. Details of such plantings (e.g., quantity, species, caliper, and spacing) shall be determined at the time of site plan review.
Unit Type	No dwelling units commonly known as "two over twos" will be permitted.
Lot Use / Lot Size	The dwelling units to be located on the perimeter of the subject site abutting single family detached homes on Darnell Drive and Daly Manor Place will all be single family detached units and the lot sizes will be approximately the same size as shown on the Development Plan. There may be open play area on the southern property line abutting existing Darnell Drive homes.

### Proposal

The Applicant proposes to develop the property with a total of 114 one-family detached and attached/townhouse units. Development of the site is under a negotiated agreement with the county government who owns the property. The agreement commits the Applicant to provide 40% of the units as market-rate units, 30% MPDUs, and 30% Workforce Housing (WFH) units. The lot layout shown on the preliminary and site plan drawings substantially follows the layout which was shown on the Development Plan approved with Zoning Application No. G-885. The proposal conforms to all the binding elements of G-885.

Access to the site will be from Bowie Mill Road at two locations; one opposite existing Brightwood Road and the other opposite existing Thornhurst Drive. The access point opposite Brightwood Road will be a newly constructed private drive, with parking, to accommodate twenty-seven townhomes including

sixteen MPDU's. The entrance opposite Thornhurst Drive will accommodate the majority of the new development, and it will be a publically dedicated road connected to an internal network of public streets and private drives. The section of the site in the northwest corner is separated from the larger development pod by a stream valley and associated buffers. The plan shows a trail connection from the larger area of development to the townhomes in the northwest corner and to the recreation area also located in the northwest corner. Other trails connect this new development with existing sidewalks in adjacent developments. The street network and associated sidewalk and trail system will provide adequate traffic and pedestrian circulation. All of the dwelling units will be connected to public water and sewer lines which currently abut or cross the Property.



*Illustrative site plan*

The location of the units avoids encroachment into the stream valley buffer, existing utility easements on the property, and follows the proposed street layout. A variety of unit types including attached, detached, front-, rear- and side-loaded, add variety and address the unique conditions of the site's layout. The project exceeds the parking requirement of 228 spaces (2 per unit) by providing 243 spaces. Additionally, the project shows public roads with a pavement width of 28 feet which will accommodate approximately 78 spaces of on-street, parallel parking.

The stream valley and associated buffers make up a large portion of the 14.7 acres of green space provided on site. The plan provides a combined total of 45 percent of the net lot area as green space. The development meets all the recreation requirements on-site. The recreation facilities provided

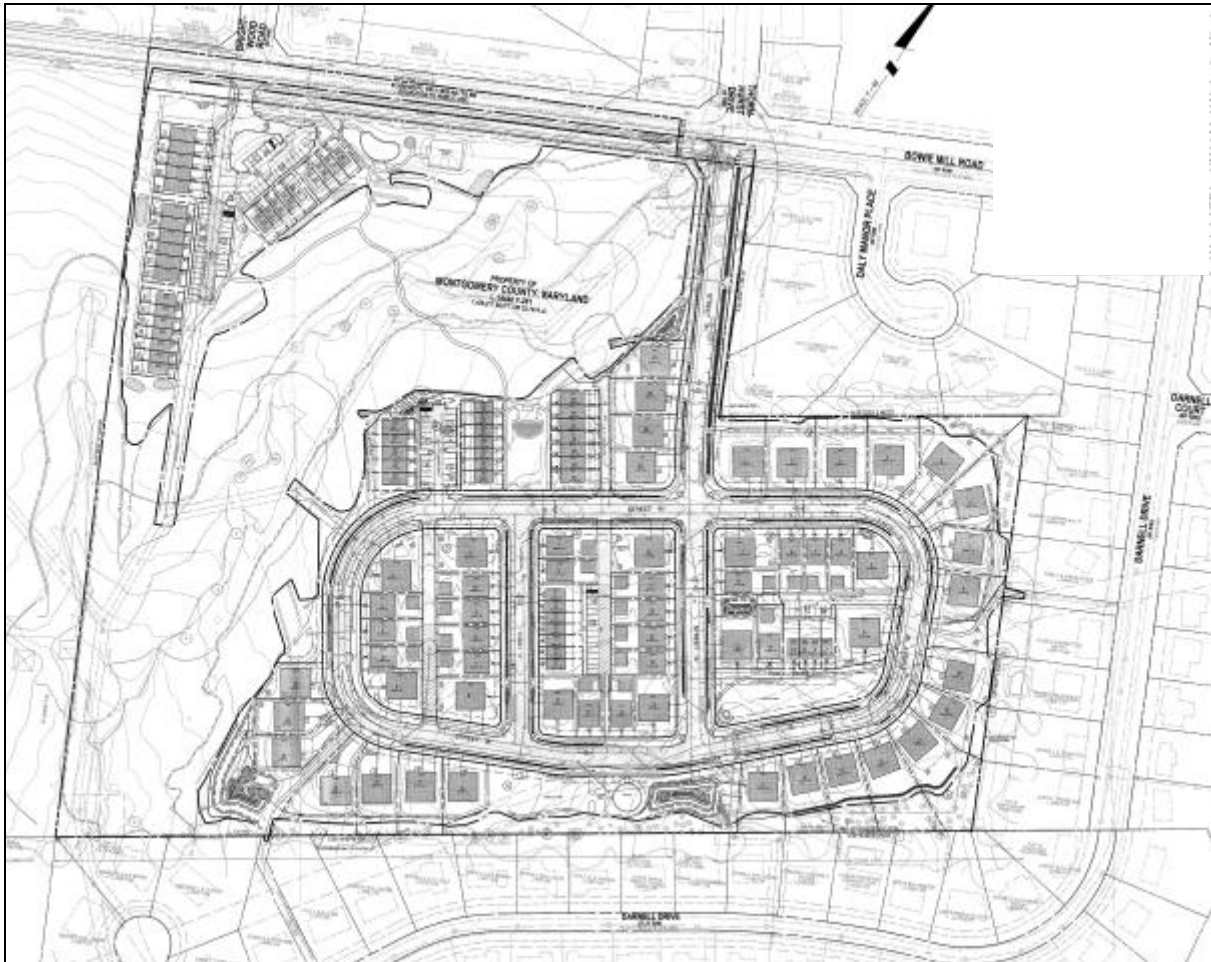
include a tot lot, a play lot, 2 picnic/sitting areas, an open play area, a half basketball/multi-purpose court, a pedestrian system, and a natural area with nature trails between the two clusters of units.

Compatibility with adjoining communities is addressed through lot size, orientation, and landscape screening. The PD Zone has setback requirements to ensure compatibility. The Applicant has requested a waiver of the 100-foot setback from adjoining one-family detached zoned land (i.e. R-200), located to the west and north of the project site [Appendix C]. This land comprises a 250-foot wide PEPCO utility easement, and the 80-foot wide Bowie Mill Road right-of-way. Both the easement and the right-of-way are designated in the Master Plan and not intended for one-family detached uses.

## **COMMUNITY OUTREACH**

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

## SECTION 2: PRELIMINARY PLAN REVIEW



*Preliminary Plan*

### ANAYSIS AND FINDINGS

#### Master Plan Conformance

The preliminary plan for the Bowie Mill Property conforms to the recommendations in the 2005 Olney Master Plan. The Master Plan, "Plan" makes specific recommendations for this Property, (pages 37 and 38) of the Plan. The Plan recommends that the Property, which has been publicly owned, be used for affordable housing in a design compatible with the existing residential communities that surround it. It proposes a floating, Planned Development Zone for the Property, with a density of three units to the acre. The Plan also listed five objectives to be met in order to achieve the full yield allowed in the PD-3 Zone:

- 1) At least half the units are affordable
- 2) The development's design preserves environmental resources that comprise a significant portion of the 32-acre property



- 3) The density proposed does not have a negative impact on “the area’s already strained public facilities”
- 4) Lot sizes and housing types are compatible with adjacent neighborhoods
- 5) There is no commercial development proposed

The Plan recommends that open space with active recreation be included in any development of the Property and that newly created open space be accessible to the adjoining communities. The County Council approved a Local Map Amendment reclassifying the property to the PD-3 Zone in September 2010. The Council concluded that the Development Plan submitted with the application met each of the Olney Master Plan’s objectives. The preliminary plan remains relatively unchanged from the development plan and, therefore, it also remains in substantial conformance with the objectives of the Olney Master Plan for the following reasons:

- 1) Sixty percent of the units proposed are moderately priced dwelling units or workforce housing units
- 2) The proposed development preserves as open space, a substantial area along a small tributary of the North Branch of Upper Rock Creek, providing, along with other open play areas, 45 percent of the property as open space
- 3) The proposed density is less than the allowed maximum for the zone and, under the applicable Growth Policy standard, public facilities are adequate
- 4) The project has been designed with attached units away from existing communities and detached units along the property edges, where it abuts existing houses, to provide compatibility with existing neighborhoods
- 5) No commercial uses are proposed

In addition to meeting each of the five objectives enumerated above, the preliminary plan, as well as the site plan, provide several areas for formal or informal active recreation and paths that traverse the preserved open space, adhering to the master plan’s recommendations for these amenities. Finally, a path connects the proposed development to the existing community to the east and south, offering access to the preserved open space and its pedestrian paths.

#### **Adequate Public Facilities Review (APF)**

**Roads and Transportation Facilities** - The roadway network has been evaluated by Staff, staff of the Montgomery County Department of Transportation (MCDOT) and the Montgomery County Department of Fire and Rescue Services (MCFRS). All agencies support the road system shown on the preliminary plan and site plan. The road network provides an efficient, continuous loop of traffic with no public cul-de-sacs. Sidewalks are provided along all public streets for adequate pedestrian access.

Internal private streets are designed to function as public streets; all have adequate turnarounds at their terminus. The private street system will be constructed to meet tertiary road construction standards and the standards of MCFRS which mandates that their heaviest rescue vehicles can safely use all paved road surfaces. The road and transportation facilities will be adequate to serve the proposed lots.

**Local Area Transportation Review (LATR)** - Five intersections were identified as critical intersections affected by the proposed development and were examined in a submitted traffic study to determine whether they meet the applicable congestion standard. The congestion standards for the Olney Policy Area and the Rural East Policy Area are 1,450 and 1,350 Critical Lane Volumes (CLV), respectively. The result of the CLV analysis is summarized in the following table.

Intersection Capacity Analysis with CLV						
<i>During the Peak Hour</i>						
Intersection	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
MD 108/ Queen Elizabeth Drive	1090	1120	1014	1056	1018	1059
MD 108/ Bowie Mill Road	1328	1251	1207	1143	1217	1154
Bowie Mill Road/ Wickham Drive/ Cashell Road	1036	985	1041	996	1084	1079
Bowie Mill Road/ Muncaster Mill Road	1274	987	1187	948	1200	965
MD 97/ Emory Lane	1197	1339	1110	1288	1121	1289

As shown in the table, all analyzed intersections are currently operating within acceptable congestion standards for the background and total future development conditions. Therefore, the subject preliminary plan application meets the LATR requirements of the APF review.

**Policy Area Mobility Review (PAMR)** - The site is located within the Olney Policy Area where there is a 10% PAMR trip mitigation requirement according to the County's Growth Policy. The Applicant proposes to construct 1,385 feet of 5-foot wide off-site sidewalks to mitigate 7 of the 11 peak-hour trips and make a lump sum payment of \$45,200.00 to mitigate the remaining 4 peak-hour trips which represents 10% of new trips generated by the proposed development. Thus, the preliminary plan application meets the PAMR requirements of the APF review.

**Other Public Facilities** - 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 and they have determined that the property has appropriate access for fire and rescue vehicles. Electrical and telecommunications services are also available to serve the Property. Washington Suburban Sanitary Commission recommends approval of the plan finding that local lines exist, and they are of adequate size to serve the proposed number of homes. Local health clinics, police stations and fire stations are all operating within acceptable levels as established by the Growth Policy. The Property is located in the Sherwood High School cluster. Sherwood High School, and all middle and elementary schools within this cluster are operating at acceptable capacities; therefore, no school facilities payment is required.

## Environment

**Natural Resource Inventory/Forest Stand Delineation (NRI/FSD)** - The site is subject to the Montgomery County Forest Conservation Law. NRI/FSD No. 420100430 was approved on November 17,

2009. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property.

**Final Forest Conservation Plan and Environmental Guidelines** - A Final Forest Conservation Plan (FCP) for the project was submitted with the Preliminary Plan and Site Plan applications. The Applicant proposes to retain 5.94 acres of the 6.79 acres of existing forest generating a planting requirement of 1.31 acres. The Applicant proposes to plant approximately 4.31 acres of forest within the environmental buffer area which exceeds the required planting amount by 3.0 acres. The Applicant proposes to use the 3.0 acres of “excess” forest planting as a forest mitigation bank, which Staff supports.

Section 22A-12(f)(2)(B) of the Forest Conservation Law applies to the project since the property is zoned PD-3. The law requires minimum on-site forest retention for a planned development:

“In a planned development or a site development using a cluster or other optional method of development in a one-family residential zone, on-site forest retention must equal the applicable conservation threshold in subsection (a)...”

Section 22A-12(f)(3) allows for the combination of on-site forest retention and forest planting to be maximized if the Planning Board finds that the required on-site forest retention cannot be provided:

“If the Planning Board or Planning Director, as appropriate, finds that forest retention required in this subsection is not possible, the Applicant must provide the maximum possible on-site retention in combination with on-site reforestation and afforestation, not including landscaping.”

Staff finds that there are circumstances related to the existing site conditions that allow the Planning Board to make the necessary findings that prohibit meeting forest retention on-site. The applicable forest conservation threshold for this project is 6.57 acres and there are 6.79 acres of existing forest. The Applicant proposes to retain 5.94 acres of forest and plant the required 1.31 acres of reforestation onsite. The Applicant is not able to retain the conservation threshold amount of forest because of the location where the proposed main access road must go to access the site. The easternmost access point into the site must come from Bowie Mill Road at the point shown and as approved by MCDOT. This location, opposite Thornhurst Drive maximizes public safety, provides adequate site distance and avoids other sensitive environmental features, such as the stream and its buffer. Because the road must enter the Property at this location, some forest clearing is necessary and unavoidable. This road location is in the best location to minimize impact to the most sensitive forest within the adjacent environmental buffer, and it avoids direct impact to the stream. This access point is the only available location along the entire Bowie Mill Road frontage that can provide access to the southern portions of the site, south of the stream, while avoiding any direct impact to the stream. Approximately 0.75 acres of the total 0.85 acres of forest clearing on the Property will result from the construction of this access road. The remaining 0.10 acres of forest clearing is the result of construction of necessary water and sewer lines to meet WSSC requirements.

The Applicant proposes to plant forest within the currently unforested portions of the environmental buffer that are not within any proposed road right-of-way. Any forest planting that exceeds the required amount determined by the Forest Conservation Worksheet is to be set up as a forest mitigation bank.

In conclusion, Staff recommends that the Applicant be allowed to provide the maximum combined forest retention and forest planting on-site since forest retention to meet the conservation threshold on this Property is not possible or desirable. This is consistent with the June 23, 2010 approval of the Preliminary Forest Conservation Plan. Staff finds that this application does comply with Chapter 22A of the Montgomery County Code.

### **Stormwater Management**

The proposed stormwater management concept approved on June 28, 2011, meets the required stormwater management goals by the use of environmentally sensitive design (ESD) measures to the maximum extent practicable. Treatment is provided by a combination of micro-scale practices, non-structural measures, porous pavement and structural measures, as needed.

### **Compliance with the Subdivision Regulations**

**Waiver of the frontage requirement (50-29(a)(2)) pursuant to Section 50-38** - Section 50-29(a)(2) of the Subdivision Regulations requires that for one family detached lots:

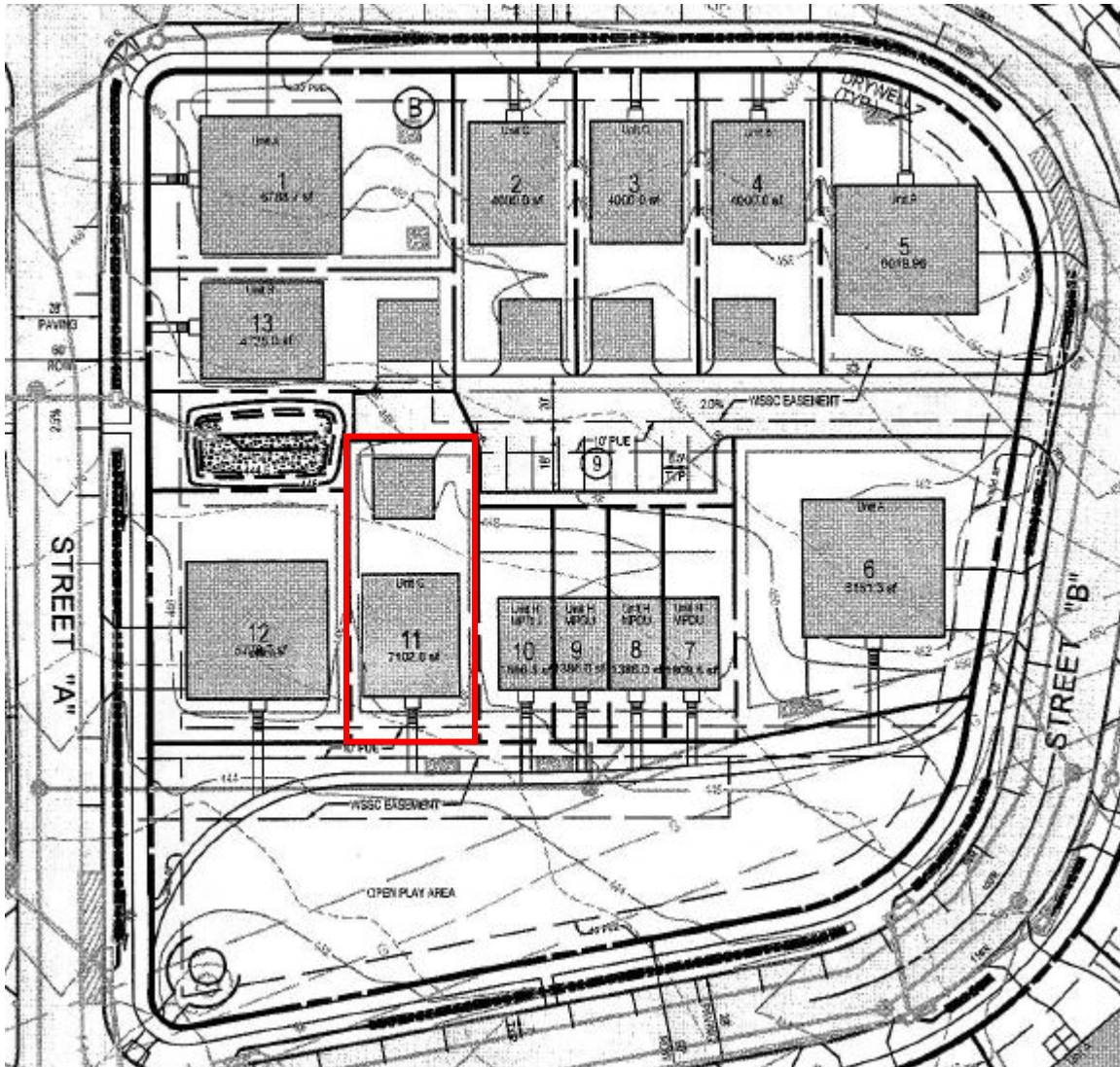
“every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road. In exceptional circumstances, the Board may approve *not more than two (2) lots on a private driveway or private right-of-way*; [emphasis added] provided that proper showing is made that such access is adequate to serve the lots for emergency vehicles, and for installation of public utilities, is accessible for other public services, and is not detrimental to future subdivision of adjacent lands.”

Lot 11, Block B, is a lot for a one-family detached house which under the Regulations must have frontage on a public street unless the Planning Board finds that it is appropriate to approve not more than two (2) such lots on a shared driveway. Because of the design of this particular section of the subdivision, the lot will access a private drive, but share that access drive with four other townhouse lots, exceeding the limit of *not more than two (2)*. Since this driveway/parking lot is the only frontage provided for the lot, a waiver of Section 50-29(a)(2) is needed to permit the proposed configuration. Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirements.

The preliminary plan reflects the general layout and road network that was reviewed by the Planning Board and the District Council as part of the Development Plan approved with the rezoning of the Property. While the Development Plan did show a pipestem for this lot that would provide adequate frontage, for reasons of design and harmonious development, the applicant has removed the pipestem from the preliminary and site plan because it conflicted with a stormwater management feature that is required to be in that location. Staff and the applicant reviewed alternatives to provide a pipestem for this lot, but all feasible alternatives resulted in the pipestem being encumbered with public features, i.e., stormwater, community open space or a private driveway. Staff agrees that it is not prudent to encumber private property with uses such as these.

Staff supports a waiver of the lot frontage requirement because it supports desirable design principles for the subdivision. The waiver facilitates a plan with better layout and design that avoids potential conflict between public and private interests.

In support of the waiver, MCFRS has determined that they can access the home as can other utility and public service vehicles. There will be a public access easement on all of the private streets and drives which will assure perpetual access for all homeowners. Based on these findings, staff recommends a waiver of the frontage requirement for proposed Lot 11, Block B. The waiver is the minimum needed, it is not contrary to the recommendations of the General Plan, and it is not adverse to the public interest.



The application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all other applicable sections. The size, width, shape and orientation of the lots are appropriate for the location of the subdivision, given the recommendations of the Olney Master Plan and because of the attention afforded to the perimeter lots during the review of the Development Plan.

(See Data Table in Site Plan Findings)

## PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS

The Preliminary Plan meets all requirements established in the Subdivision Regulations and it is in substantial conformance with the recommendations of the Olney Master Plan. Staff recommends approval of the Preliminary Plan, subject to the following conditions:

1. Total development is limited to 114 residential units for 57 one-family detached and 57 one-family attached units as shown on the preliminary plan.
2. To mitigate 7 peak-hour trips for Policy Area Mobility Review (PAMR), construct the following 5-foot wide, off-site sidewalks within the existing public right-of-way:
  - a) On the north side of Bowie Mill Road from Brightwood Road to Wickham Drive (1,100 feet)
  - b) On the south side of Bowie Mill Road from the easternmost Property line to Daly Manor Place (285 feet)

These sidewalks are in addition to the 5-foot wide sidewalk required to be constructed by the Applicant along the Property's frontage within the Bowie Mill Road right-of-way. The construction of sidewalks must be complete and open to pedestrian use prior to obtaining the 58<sup>th</sup> building permit.

3. To mitigate the remaining 4 peak-hour trips for Policy Area Mobility Review (PAMR), make a lump sum payment of \$45,200.00 prior to obtaining the first building permit.
4. Comply with the conditions of approval of the Final Forest Conservation Plan prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable. Conditions include but are not limited to:
  - a) No clearing or grading prior to staff approval of the financial instrument securing all obligations under the forest conservation plan.
  - b) No clearing or grading prior to recordation by plat of all easements shown on the forest conservation plan.
  - c) The limits of disturbance shown on the final Sediment Control Plan must be consistent with the limits of disturbance shown on the Final Forest Conservation Plan.
  - d) The record plat(s) must show a Category I conservation easement over all areas of forest retention, forest planting, and environmental buffers that lie outside a public road right-of-way or a WSSC easement.
  - e) Forest planting that exceeds the planting requirement as determined in the Final Forest Conservation Plan Worksheet may be used for forest banking.
  - f) Any approved forest banking area must be planted concurrently with the planting required by the approved Final Forest Conservation Plan.
  - g) Permanent Category I Forest Conservation Easement signs must be placed along the perimeter of the conservation easement area.
5. Dedicate all road rights-of-way as shown on the approved preliminary plan.
6. Construct all road improvements within the 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.
7. Comply with the conditions of the MCDPS stormwater management approval dated June 28, 2011. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
8. Comply with the conditions of the MCDOT letter dated June 28, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
9. Satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).

10. No plats may be recorded prior to certification of the site plan.
11. Final approval of the number and location of buildings, on-site parking, site circulation, and sidewalks will be determined at site plan.
12. The record plat must show necessary easements.
13. The certified preliminary plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures, and hardscape will be determined at the time of site plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

## SECTION 3: SITE PLAN REVIEW

### FINDINGS

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

The site plan conforms to all non-illustrative elements and binding elements of the Zoning Application G-885 approved by the County Council on September 21, 2010, with the Resolution No. 16-1481 [Appendix A]. The binding elements, as set forth below, limited the density of this site and established parameters for unit affordability, screening, unit type, and lot use/lot size.

BINDING ELEMENTS	
CATEGORY	BINDING ELEMENT
Density	There will be not more than 114 dwelling units constructed on the subject property.
Unit Affordability	At least one-half of the units to be constructed will be deemed affordable under the County's moderate priced dwelling unit and/or work force housing programs.
Screening	Landscape screening at the rear of proposed Lots 1 through 4, Block A, and along the east side of proposed Street A (behind existing Lots 16-19, Block E, OLNEY SQUARE subdivision), will be provided. Details of such plantings (e.g., quantity, species, caliper, and spacing) shall be determined at the time of site plan review.
Unit Type	No dwelling units commonly known as "two over twos" will be permitted.
Lot Use / Lot Size	The dwelling units to be located on the perimeter of the subject site abutting single family detached homes on Darnell Drive and Daly Manor Place will all be single family detached units and the lot sizes will be approximately the same size as shown on the Development Plan. There may be open play area on the southern property line abutting existing Darnell Drive homes.

The site plan conforms to these binding elements by proposing a maximum of 114 dwelling units; providing 59.6% of the units (or 68 units) as a combination of MPDUs and workforce housing units; screening the rear of proposed Lots 1 through 4, Block A, and along the east side of proposed street A (as further discussed in the landscaping finding below); providing a unit type mix that includes one-family detached units, one-family attached units and townhouse units, and excludes "two over twos"; and locating one-family detached units in comparable lot



sizes as existing abutting lots along Darnell Drive and Daly Manor Place (as further discussed in the compatibility finding below).

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

The Site Plan meets all of the requirements of the Planned Development (P-D) Zone and satisfies the design, housing, amenity, circulation, and other purposes of the PD Zone. The project will provide a range of dwelling types consistent with the purpose of the zone. The development provides for a unified form of development at an overall density and mixture of unit types that is generally consistent with the recommendations in the Olney Master Plan. The proposed development also encourages preservation of the sensitive environmental resources existing on site and includes measures that are designed to enhance natural stormwater filtration and recharge. The design and layout of the proposed development also provides maximum social and community interaction through pedestrian and vehicular linkages, provides for the safety, convenience and amenity of residents, and assures compatibility with the surrounding residential land uses.

The site is zoned PD-3 consistent with Local Map Amendment G-885 approved by the County Council and specifically recommended in the 2005 Olney Master Plan. The PD-3 Zone allows the proposed residential uses. The density allowed in the PD-3 Zone is three dwelling units per acre, which is equivalent to a maximum base density of 98 units on the entire site. However, consistent with the Subsection 59-C-7.14(c), the Applicant is entitled to a bonus density of 22% because it will provide more than 15% MPDUs onsite. As a result, the maximum density for the site is 119 dwelling units, however, consistent with the binding elements, this project proposes a maximum of 114 dwellings units.

The PD-3 Zone contains setback requirements to ensure compatibility with existing uses adjacent to or in the vicinity of the site. Section 59-C-7.15 specifically states that only one-family detached homes may be constructed within 100 feet of any adjoining one-family detached zone. It also prohibits buildings constructed to a height greater than its distance from such adjoining land. Because the site plan proposes a cluster of townhouses and attached units at the northwestern corner that are located within 100 feet of the adjoining R-200 zoned property, the Applicant is seeking a waiver of this setback requirement [Appendix C]. Consistent with the waiver provisions in Section 59-C-7.15(c), the 100-foot setback may be waived if “the area master plan recommends other than a one-family detached use for the property immediately adjoining the area where the waiver is to occur,” and “the immediately adjoining property will not be adversely affected by the waiver for present or future use.” Staff supports the waiver because the property immediately adjoining this townhouse cluster to the west comprises a 250-foot wide PEPCO utility easement, and the property immediately to the north includes the 80-foot wide Bowie Mill Road right-of way. Both the easement and the right-of-way are designated in the Master Plan and not intended for one-family detached uses. None of these properties, either present or future uses will be adversely affected by the waiver.

As demonstrated in the Data Table below, the project meets all of the applicable requirements of the PD-3 Zone.

Data Table for the PD-3, Optional Method of Development

Development Standard	Zoning Ordinance Permitted/ Required	Binding Elements per G-885	Proposed for Approval & Binding on the Applicant
<b>Gross Tract Area (GTA)</b>	n/a	n/a	32.74 acres
<b>Density</b>			
<b>Max. Residential Density (du/acres)</b> 59-C-7.14(a)	3 <sup>(a)</sup>	3.48 (including 22% density bonus)	3.48 (including 22% density bonus)
<b>MPDUs (%)</b>	15%		30%
<b>Max. Number of Dwelling Units</b> - Market Rate - Workforce Housing - MPDUs	119 (including 22% density bonus)	114	<u>114</u> (46) (34) (34)
<b>Housing Mix (59-C-7.13)</b> Min. one-family detached Min. one-family attached/townhouses	35% 35%	n/a	50% (57 units) 50% (57 units)
<b>Min. Setbacks</b>			
<b>Main Building (ft)</b>			
Adjoining one-family detached zoned land (59-C-7.15)	100 <sup>(b)</sup>	n/a	47 <sup>(c)</sup>
From public street - One-family detached - One-family attached	n/a	n/a	0
Front yard - One-family detached - One-family attached	n/a	n/a	10 10
Rear yard (opposite front door) - One-family detached Adjacent to property boundary Not adjacent to property boundary - One-family attached	n/a	n/a	30 5 15
Side yard - One-family detached - One-family attached	n/a	n/a	3 0
<b>Accessory Buildings (ft)</b>			
Rear and side lot lines - Detached garages - All other structures	n/a n/a	n/a n/a	5 5
<b>Max. Building Height (feet)</b>			
- One-family detached on the perimeter of the property (Lots 1-22, 42-25 Blk. A)	n/a	n/a	40 (2 stories)
- Remaining lots (one-family attached/detached)	n/a	n/a	45 (3 stories)

<b>Min. Green Area</b>			
(% of GTA) (59-C-7.16)	30% (9.8 acres)	n/a	45% (14.7 acres)
<b>Land Devoted to Public Use</b>			
(59-C-7.17) (acres) - MCDOT Public Roads	n/a	n/a	5.8
<b>Parking Spaces (59-E)</b>			
Residential	<u>228</u>	n/a	<u>243</u>
- One-family detached	114 (2 sp/du)		114 (2 sp/du)
- One-family attached	114 (2 sp/du)		129 (2.26 sp/du)

<sup>(a)</sup> Per Sec. 59-C-7.14(c), the maximum density may be increased to accommodate the construction of MPDUs and workforce housing units.

<sup>(b)</sup> Applicable to all buildings other than a one-family detached residence.

<sup>(c)</sup> Consistent with the waiver provisions in Section 59-C-7.15(c), Staff supports the waiver for the townhouse cluster at the northwestern corner of the site.

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

a) Locations of buildings and structures

The locations of the proposed buildings and structures are adequate, safe, and efficient. The plan proposes 114 dwelling units, consisting of 57 one-family detached units and 57 one-family attached/townhouse units. Development of the site is under a negotiated agreement with the County government, which commits the Applicant to providing 40% market-rate units, 30% MPDUs and 30% Workforce Housing (WFH) units. As a result, the proposal consists of 46 market rate units, 34 MPDUs and 34 WFH units. The units are located in two clusters separated by a forested stream valley. The location of the units adequately avoids environmentally sensitive areas and existing utility easements on the property, and efficiently follows the proposed street layout.

The larger cluster with 87 units follows a well-connected street layout consisting of public roads and private drives. All one-family detached units are located in this cluster, and the majority is along the perimeter of the property, which increases compatibility with adjacent one-family detached homes. Within the internal loop road (Street B), a mix of rear-loaded townhouse MPDUs and detached units adequately contributes to an enhanced pedestrian experience. A grouping of MPDUs and WFH attached units is located outside the loop road next to the stream valley buffer, which provides an adequate transition in unit types to the smaller cluster on the other side of the stream valley.

The smaller cluster with 27 townhouse/attached units is served by a private drive that connects two parking areas. Except for 5 WFH units with garages, all other units will be parked on joint parking areas. These townhouse rows are oriented inwards by being positioned perpendicularly and diagonally to Bowie Mill Road, which efficiently limits their presence and visibility from the road.

The project proposes one monumental sign at each entrance to the development off Bowie Mill Road. The two signs proposed are similar in character although the one at the entrance to the larger cluster of units is larger in size than the one at the entrance the smaller cluster, 4.5' in height by 15' in length vs. 4' in height by 10' in length, respectively. Both signs are to

have the name of the project, and similar materials including a stone base, brick facing, and stone capping. These monumental signs adequately identify the community and efficiently contribute to the sense of arrival.

b) Open Spaces

The open spaces provided are adequate, safe, and efficient. The plan proposes to preserve the stream valley area and associated environmental features as open space and amenity area with limited access, and to provide smaller open spaces and active recreation areas within the residential clusters and readily accessible. All open spaces are well connected through the proposed trail and sidewalk system.



*Illustrative rendering of the open spaces and amenity areas proposed*

The PD zone does not have an open space requirement; instead it has a minimum green area requirement of 30 percent of the gross tract area. The plan meets the green area requirements by providing a combined total of 45 percent (or 14.7 acres) of green space. All green areas (including the active/passive areas) will be accessible to all residents of the development.

c) Landscaping and Lighting

The landscaping with an emphasis on native species is adequate, safe, and efficient. The landscape plan achieves several objectives. It provides an adequate buffer and screening from the adjacent one-family detached community to the east and south of the proposed development, and from Bowie Mill Road. As discussed further in the compatibility finding below, the plant material in these areas includes mostly evergreen trees and shrubs.

Additionally, the landscaping provides canopy coverage and shade for parking areas, roads, and open spaces. A variety of trees line all the streets. Smaller plant material, such as herbaceous plants, evergreen and deciduous shrubs, and ornamental trees, emphasizes the entrance to the development, and defines amenity areas. The playground areas and open play areas are enclosed by a variety of plant material that adds interest and delineates the spaces.



*Illustrative rendering of the large open play area, seating area, and tot lot between Street B and the southern property boundary*

As proposed, the lighting consists of pole mounted light fixtures with a maximum height of 14 feet located on all public roads, on the private street serving the townhouse cluster at the northwestern corner of the property, and the surface parking areas for the townhouses and attached units. However, staff recommends that the lighting be reduced in height to 12 feet (as measured above grade), which is more residential in character and reduces visibility from adjacent properties and thus increases compatibility with the neighborhood. The lighting proposed will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties. As conditioned, the lighting recommended by Staff is adequate, safe and efficient.

d) Recreation Facilities

The recreation facilities are safe, adequate, and efficient. The recreation facilities provided include a tot lot, a play lot, 2 picnic/sitting areas, an open play area II, a half basketball/multi-purpose court II, a pedestrian system, and a natural area with nature trails between the two clusters of units. As demonstrated in the tables below, this development meets all the recreation requirements on-site through these facilities, which satisfy the 1992

M-NCPPC Recreation Guidelines. The facilities adequately and efficiently meet the recreation requirements of this development, while providing safe and accessible opportunities for recreation for tots and children in both clusters of the development. Additionally, the site is within half mile distance from the Olney Oaks Neighborhood Park which provides additional opportunities for recreation. It contains two multi-age playgrounds, picnic/seating area, 2 tennis courts, 2 basketball courts, and natural areas.

Demand		D1	D2	D3	D4	D5
Housing Type	Number of Units	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
SFD III (<7,000)	57	7.98	10.83	13.11	72.39	7.41
TH	57	9.69	12.54	10.26	73.53	3.99
		17.67	23.37	23.37	145.92	11.40

On-Site Supply		D1	D2	D3	D4	D5
Recreation Facility	Quantity Provided	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
Tot Lot	1	9.00	2.00	0.00	4.00	1.00
Play Lot	1	0.00	9.00	3.00	4.00	1.00
Picnic/Sitting	2	2.00	2.00	3.00	10.00	4.00
Open Play Area II	1	3.00	4.00	4.00	10.00	1.00
Half MP Court II	1	2.00	5.00	4.00	5.00	1.00
Pedestrian System	1	1.77	4.67	4.67	65.66	5.13
Nature Trails	1	0.88	2.34	3.51	21.89	1.71
Natural Areas	1	0.00	1.17	2.34	14.59	0.57
total:		18.65	30.18	24.52	135.14	15.41

Adequacy of Facilities		D1	D2	D3	D4	D5
a.	Gross Total Supply	18.65	30.18	24.52	135.14	15.41
b.	35% of Total Supply	6.52	10.56	8.58	47.3	5.39
c.	Max Off-Site Supply	0	0	0	0	0
d.	Total Supply	18.65	30.18	24.52	135.14	15.41
e.	90% Demand	15.91	21.04	21.04	131.33	10.26
f.	Adequate?	yes	yes	yes	yes	yes



*Illustrative rendering of the playground and basketball court next to the northwest cluster of units*

e) Pedestrian and Vehicular Circulation Systems

The pedestrian and vehicular circulation systems are safe, adequate, and efficient. Access to the site will be to Bowie Mill Road at two locations; one opposite existing Brightwood Road and the other opposite existing Thornhurst Drive. The access point opposite Brightwood Road will be a newly constructed private drive, with parking, to accommodate twenty-seven townhomes including nine MPDU's. The entrance opposite Brightwood Drive will accommodate the majority of the new development and will be a publically dedicated road connected to an internal network of public streets and private drives. The vehicular circulation efficiently directs traffic into and through the site with minimal impacts to sensitive environmental features and pedestrian circulation.

The project exceeds the parking requirement of 228 spaces (2 per unit) by providing 243 spaces. Additionally, the project shows public roads with a pavement width of 28 feet which will accommodate approximately 78 spaces of on-street parallel parking subject to MC-DOT and Fire Marshall's approval. Staff recommends continued coordination with the necessary Agencies to accommodate on-street parking. Parking is accommodated on-lot for all detached units via garages and driveways, and a combination of on-lot and surface parking areas for the attached units. The surface parking areas include some areas of pervious pavement.

The pedestrian circulation system adequately and efficiently integrates this site into the surrounding area. A 5-foot wide sidewalk is provided along the property's frontage on Bowie Mill Road and extends past the property line to Daly Manor. Additional connections and access to the surrounding area are provided along the southern and eastern property boundaries to the sidewalk system at Olney Oaks HOA and the Olney Oaks Neighborhood Park. Within the site, 5-foot wide sidewalks on both sides of all public streets facilitate pedestrian circulation and access to the various units, open spaces and amenities proposed.

The Site Plan efficiently accommodates pedestrian circulation between the two clusters of units via a 5-foot wide natural surface trail through the stream valley buffer area.

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

The structures and uses proposed are compatible with other uses and site plans, and with existing adjacent development. The location of the largest cluster of units away from Bowie Mill Road provides compatibility by limiting visibility of the proposed units, maintaining the character of the road, and preserving sensitive environmental resources.

The plan addresses compatibility with the adjacent residential properties to the south and east along Darnell Drive and Daly Manor Place by locating one-family detached units along the perimeter of the property in comparable lot sizes as existing, abutting lots. The front loaded unit type with backyards in the rear and garages in the front is also a comparable orientation to existing homes. Additionally, landscape screening with predominantly evergreen trees and a few deciduous trees and some shrubs for understory will enhance an existing tree edge while protecting the privacy of the existing homes. The screening is located at the rear of proposed Lots 1 through 4, Block A, and along the east side of proposed Street A (behind existing Lots 16-19, Block E, Olney Square subdivision).

The plan provides compatibility of the 27-townhouse cluster closest to Bowie Mill Road through setbacks, unit orientation and proposed landscaping. These units are set back from the road a minimum of 80 feet, which allows adequate space for a landscape buffer. The plan proposes evergreen trees along the Bowie Mill Road frontage and the PEPCO easement side, which will effectively screen and soften the townhouse units proposed as viewed from Bowie Mill Road.

Compatibility will be further enhanced through architectural treatments on the side facades of corner units and MPDUs front facades. The side facades of high visibility corner lots will include one or more of the following architectural design treatments: box or bay window, minimum of two windows, shutters, and/or fireplace. The fronts of the MPDUs will be designed and finished with architectural elements comparable to those typically found on other similar attached units within the site.

As discussed above, the PD Zone has setback requirements to ensure compatibility. The Applicant has requested a waiver of the 100-foot setback from adjoining one-family detached zone land (i.e. R-200), located to the west and north of the project site [Appendix C]. The reduced setback will not adversely affect the adjoining property because this land comprises a 250-foot wide PEPCO utility easement, and the 80-foot wide Bowie Mill Road right-of way. Both the easement and the right-of-way are designated in the Master Plan and not intended for one-family detached uses.

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

The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, and Chapter 19 regarding water resource protection. This site is subject to the County Forest Conservation Law. A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) 420100430



was approved on November 17, 2009. The Preliminary Forest Conservation Plan (PFCP) was approved by the Planning Board as part of the rezoning case on June 23, 2010. Per Section 22A-21 of the Montgomery County Forest Conservation Law, a variance was granted as part of the PFCP approval.

The applicant proposes to retain 5.94 acres of the 6.79 acres of existing forest and plant about 4.31 acres of forest within the currently unforested portions of the environmental buffer area that are not within the proposed road right-of-way. The proposed planting amount exceeds the required planting amount of 1.31 acres. The applicant proposes to use the 3.0 acres of “excess” forest planting as a forest mitigation bank. Staff supports the creation of a forest mitigation bank.

The proposed storm water management concept approved on June 28, 2011, meets the required stormwater management goals by the use of environmentally sensitive design (ESD) measures to the maximum extent practicable. Treatment is provided by a combination of micro-scale practices, non-structural measures, porous pavement and structural measures.

## RECOMMENDATION AND CONDITIONS

Staff recommends approval of site plan 820110050, Bowie Mill Property, for 57 one-family detached units and 57 attached units (including 34 MPDUs and 34 Workforce Housing units) on 32.74 acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on June 6, 2011 are required except as modified by the following conditions.

### Conformance with Previous Approvals

1. Development Plan Conformance

The proposed development must comply with the binding elements of the development plan G-885.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan No. 120110050, or as amended.

### Environment

3. Forest Conservation & Tree Save

The proposed development must comply with the conditions of approval for the Final Forest Conservation Plan dated August 31, 2011. The Applicant must meet all conditions prior to the recording of a plat(s) or the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services.

- a) Trails within the conservation easement area must be natural surface materials.
- b) Details of the proposed pedestrian footbridge across the stream must be approved by M-NCPPC Planning staff.

4. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated June 28, 2011 unless amended and approved by the Montgomery County Department of Permitting Services.

### Parks, Open Space, and Recreation

5. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff prior to issuance of the 105<sup>th</sup> building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

6. Recreation Facilities

- a) Meet the square footage requirements for all of the applicable proposed recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b) Provide the following recreation facilities: a tot lot, a play lot, 2 picnic/sitting areas, an open play area II, a half basketball/multi-purpose court II, a pedestrian system, a natural area, and nature trails.

## Transportation & Circulation

### 7. Transportation

The development is limited to 114 residential units (57 one-family detached and 57 one-family attached units).

## Density & Housing

### 8. Moderately Priced Dwelling Units (MPDUs)

- a) The development must provide 30 percent of the total number of units as MPDUs on-site, consistent with the requirements of Chapter 25A. The Applicant is receiving a 22 percent density bonus for providing more than 15 percent MPDUs on-site.
- b) The MPDU agreement to build shall be executed prior to the release of any building permits.
- c) All of the required MPDUs shall be provided on-site.

### 9. Workforce Housing (WFH)

- a) The development must provide 30 percent of the total number of units as WFH units on-site, consistent with the requirements of Chapter 25B, Article V.
- b) All of the required WFH units shall be provided on-site.

## Site Plan

### 10. Site Design

Provide curb cuts at all handicap parking space aisles.

### 11. Compatibility/Architecture

- a) The fronts of the MPDUs must be designed and finished with architectural elements comparable to those found on other similar attached market rate units within the site.
- b) Provide architectural treatment that includes one or more of the following: box or bay window, minimum of two windows, shutters, and/or fireplace, on the side facades of high visibility corner lots. These include: Lots 1 and 42 (Block A); Lots 1, 5, 6, 12 (Block B); Lots 1, 10, 13, 18 (Block C); Lots 1, 5, 6, 11 (Block D). The details of the architectural treatments must be shown on the certified site plan.

### 12. Landscaping

- a) Provide one additional street tree on the north side of Street B, adjacent to Lot 13, Block C.
- b) Provide three additional street trees on the south side of Street B, adjacent to the tot lot and amenity area.

### 13. Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- b) All on-site down- light fixtures must be full cut-off fixtures.
- c) Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d) Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e) The height of the light poles above grade shall not exceed 12 feet including the mounting base.

14. Landscape Surety

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

- a) The amount of the surety shall include plant material, on-site lighting, recreational facilities, and site furniture within the relevant phase of development. Surety to be posted prior to issuance of first building permit within each relevant phase of development and shall be tied to the development program.
- b) Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c) Completion of plantings by phase to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d) Provide a Site Plan Surety & Maintenance Agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

15. Development Program

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

- a) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- b) Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- c) The development program must provide phasing for installation of on-site landscaping and lighting.
- d) Local recreational facilities and site elements must be completed prior to the following release of building permits:
  - 1) Phase I (southeast parcel consisting of 87 dwelling units):
    - i. The large open play area, seating area, and tot lot located between Street B and the southeast property boundary must be installed prior to the issuance of the 60<sup>th</sup> building permit, which represents 70 percent of the 87 dwelling units in this phase.
    - ii. The landscaping for the open play area south of Lots 6-12, Block B, must be installed no later than 6 months after issuance of the last permit for these units.
    - iii. The landscaping for the pocket park including the trellis located in between Lots 28-41, Block A, must be installed no later than 6 months after issuance of the last permit for these units.
    - iv. Landscape screening in the rear of Lots 1-4, Block A, must be installed no later than 6 months after issuance of the building permit for each unit.
    - v. Landscape screening along the east side of proposed street A must be installed no later than 6 months after road construction.
    - vi. The sidewalk connection including seating area between Lots 8 and 9, Block A, from Public Street B to the Olney Oaks HOA sidewalk system must be installed prior to occupancy of either unit;

- vii. The sidewalk connection between Lots 19 and 20, Block A, from Public Street B to the Olney Oaks HOA sidewalk system must be installed prior to occupancy of either unit;
- 2) Phase II (northwest parcel consisting of 27 dwelling units):
  - i. The recreation area including multi-age playground, half basketball court, and seating areas, located adjacent to the northern property boundary along Bowie Mill Road must be installed prior to the issuance of the 18<sup>th</sup> building permit, which represents 70 percent of the 27 dwelling units in this phase.
  - e) On-site amenities including, but not limited to, sidewalks, benches, picnic tables and trash receptacles, must be installed as construction of each recreational facility is completed.
  - f) Community-wide pedestrian pathways and recreation facilities, including trail over stream valley buffer, must be completed prior to issuance of the 105<sup>th</sup> building permit.
  - g) Provide each section of the development with necessary roads.
  - h) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

16. Certified Site Plan

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

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

## **APPENDICES**

- A. Resolution 16-1481 (G-855)
- B. Reviewing Agency Approvals and correspondence
- C. Applicant’s correspondence

# Appendix A

Resolution No.: 16-1481  
Introduced: September 21, 2010  
Adopted: September 21, 2010

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION  
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT  
IN MONTGOMERY COUNTY**

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By: County Council

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**SUBJECT:** APPLICATION NO. G-885 FOR AMENDMENT TO THE ZONING ORDINANCE  
MAP, Jody S. Kline, Esquire, Attorney for Applicant, Bowie Mill Road, LLC,  
OPINION AND RESOLUTION ON APPLICATION Tax Account No. 08-00702264.

**OPINION**

Application No. G-885, filed on August 11, 2009, by Applicant Bowie Mill Road, LLC, requests reclassification of a 32.74-acre parcel of unimproved land from the R-200 Zone to the PD-3 Zone. The Property is owned by the Montgomery County Government and is known as Parcel P850. It is located at 18241 Bowie Mill Road, about half a mile west of Laytonsville Road, in Olney, Maryland. The Applicant and the County have entered into a “Development Agreement and Agreement of Sale and Purchase,” which is in the record as Exhibit 84.

The Applicant proposes to develop the property with 114 residential units, at least 40% market-rate units, 30% Moderately Priced Dwelling Units (MPDUs), and 30% Workforce Housing (WFH) units.<sup>1</sup> This plan will result in 46 market rate units, 34 MPDUs and 34 WFH units. No commercial uses are proposed.

The application for rezoning was reviewed by the Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC), who in a report dated April 9, 2010, recommended

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<sup>1</sup> There is a binding element on the second page of the Land Use Plan (Exhibit 132(b)), which provides for a minimum of 50% affordable housing requirement; however, Applicant’s development agreement with the County (Exhibit 84, p. 3) and the “informational” development standards on the first page of its Land Use Plan (Exhibit 132(a)) call for 30% of the units to be MPDUs and 30% to be WFH.

approval (Exhibit 65). The Montgomery County Planning Board (“Planning Board”) considered the application on April 22, 2010, and, by a vote of 5 to 0, also recommended approval, as stated in a memorandum dated April 23, 2010 (Exhibit 71).<sup>2</sup>

Over eighty opposition letters were received from the neighboring community. The opposition centers around compatibility and traffic concerns; however, much of the compatibility concern involved Applicant’s plan to develop 24 “2 over 2” townhouse units on the site, a plan which was later changed.

A public hearing was held on May 3, 2010. Applicant called five witnesses, and Joseph Giloley of the County’s Department of Housing and Community Affairs also testified in support of the application. Five opposition witnesses testified, including four from local civic and homeowners associations. In addition, a petition was filed by 21 adjacent and confronting property owners, stating their opposition to the rezoning because they “feel the density of the current plan is not compatible with the adjacent communities.” Exhibit 75. The People’s Counsel participated in the proceedings and supported the application, on condition that the “2 over 2” units be eliminated. Tr. 334-335.

The record was held open until May 19, 2010, for additional submissions by Applicant and comments thereon by Technical Staff and interested parties. On May 21, 2010, after an exchange of correspondence with the Hearing Examiner, Applicant submitted a revised development plan (Exhibits 132(a) and (b)), which added a new binding element prohibiting “two-over-two” dwelling units; modified the first binding element by reducing the total number of units planned for the site to 114; added a binding element requiring single-family, detached dwelling units on lots of a compatible size along Darnell Drive and Daly Manor Place; made corresponding changes on the site layout, in the General Notes and in the Development Standards; and corrected minor typographical errors in the

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<sup>2</sup> In that same memorandum, the Planning Board noted that “serious consideration should be given for alternative detached housing types to that of the 2 over 2s while maintaining the proposed unit numbers to a maximum of 117.” This goal was accomplished by Applicant agreeing, after the hearing, to a binding element precluding “2 over 2” units.



Plan. The record was therefore reopened on May 24, 2010, to receive the revised development plan and commentary by Technical Staff and interested parties. Exhibit 134.

On June 1, 2010, Technical Staff indicated that it had no objection to Applicant's revised plans and binding elements. Exhibit 136. After receiving additional filings from Applicant, the record closed again on July 8, 2010.

The Hearing Examiner's Report and Recommendation was filed on July 28, 2010, and it is incorporated herein by reference. The Hearing Examiner recommended approval on grounds that the proposed development satisfies the intent, purpose and standards of the PD-3 Zone; that it meets the requirements set forth in Section 59-D-1.61 of the Zoning Ordinance; that the application proposes a project that would be compatible with development in the surrounding area; and that the requested reclassification to the PD-3 Zone has been shown to be in the public interest.

Based on its review of the entire record, the District Council finds that the application does meet the standards required for approval of the requested rezoning for the reasons set forth by the Hearing Examiner.

### **The Property, Surrounding Area and Zoning History**

The 32.74-acre subject property is located on the south side of Bowie Mill Road and has approximately 950 feet of frontage along that street. The lot is shaped like a rectangle with a notch missing from its northeast corner. The property is currently undeveloped and contains streams, 1.2 acres of wetland and 6.7 acres of wooded area (including 41 specimen trees), some of which will be retained as part of the Forest Conservation requirements.

The topography of the property is reasonably level but drops downward from the grade of Bowie Mill Road that abuts the northern side of the parcel of land. The land slopes towards an intermittent watercourse that traverses diagonally across the western half of the property. The

wetlands are located in the western half of the site, and they are outside of the area of disturbance for the new development.

The surrounding area must be identified in a floating zone case so that compatibility can be evaluated properly. The “surrounding area” is defined less rigidly in connection with a floating zone application than in evaluating a Euclidean zone application. In general, the definition of the surrounding area takes into account those areas that would be most directly affected by the proposed development. In the present case, the surrounding area boundaries are the North Branch Stream Valley Park/Laytonsville Road (MD 108) on the north; Laytonsville Road/Georgia Avenue (MD-97) on the east; Morningwood Drive /Headwaters Drive on the south; and North Branch Stream Valley Park on the west.

The land use within the surrounding area is predominantly single-family detached residences in the R-200, RE-1 and RE-1/TDR zones. Adjoining the property along its northern boundary is Bowie Mill Road, which extends from Muncaster Mill Road to Laytonsville Road (Route 108). To the north of Bowie Mill Road are the single family residential communities of “Briars Acres” and “Oatland Farm.” To the west of the subject property is a PEPCO transmission line that is approximately 250 feet wide. Further to the west are the residences of the “Olney Acres” subdivision. Abutting the property along the south is the “Olney Oaks” neighborhood. To the east of the subject property, extending to Route 108, is the “Olney Square” neighborhood.

Thus, the subject property adjoins residential properties to the south and east. Confronting the subject property across Bowie Mill Road to the north are single-family residences in the R-200 zone. The area also includes local recreational facilities and neighborhood parks. Some retail and light commercial uses are located at the eastern end of the neighborhood along MD 108, but the character of the neighborhood is almost exclusively residential.

The zoning history was reported by Technical Staff. The site was placed in the R-R Zone when that zone was created and mapped in the 1954 Regional District Zoning. The 1958 County-Wide Comprehensive Zoning confirmed the R-R zoning of the site, and the R-R Zone was renamed R-200 in 1973. The 1980 Master Plan for Olney recommended the site for a high school. The 2005 Olney Master Plan recommended a base zone of R-200, with development under the PD-3 Zone by Local Map Amendment. The 2005 Olney Sectional Map Amendment (G-838) implemented the Master Plan's recommendations.

### **Proposed Development**

Applicant is proposing a 114-unit residential development separated into two parts by the stream valley and forest that divide the western portion of the property. Development of the site is under a negotiated agreement with the County government, which commits the Applicant to providing at least 40% market-rate units, 30% MPDUs and 30% Workforce Housing (WFH) units. Exhibit 84, p. 3. To effectuate this agreement, the site would be constructed with 46 market rate units, 34 MPDUs and 34 WFH units. No commercial use is proposed.

Thus, the proposal would use a publicly owned vacant parcel of land to produce a residential community with a wide mix of dwelling unit types containing both market-priced residences and affordable housing, but with a strong emphasis on the latter. The community would be accessed by two streets connecting to Bowie Mill Road. The larger section of the community is organized around an entrance roadway, almost a boulevard, which loops through the southern portion of the site to provide a simple but effective circulation system for both vehicle and pedestrian traffic. The smaller section of the community, located in the northwest corner of the site, has been designed to take advantage of the easy accessibility to the large green area running from Bowie Mill Road to the southwest corner of the property.

### **Development Plan & Binding Elements**

Pursuant to Code § 59-D-1.11, development under the PD-3 Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the PD-3 Zone. Under Code §59-D-1.3, this development plan must contain several elements, including a land use plan. Illustrative and conceptual elements may be changed during site plan review by the Planning Board, but the binding elements (*i.e.*, those that the District Council will consider in evaluating compatibility and compliance with the zone) cannot be changed without a separate application to the District Council for a development plan amendment.

The final Land Use Plan for the present zoning application is contained in Exhibits 132(a) and (b). Although land use plans are technically only a part of the overall development plan, they are usually referred to as the “development plan,” and may be so referenced herein. It contains a site layout, a listing of all the binding and non-binding elements and other notations.

The proposed Development Plan is divided into two pages. Page 1 (Exhibit 132(a)) contains an illustrative site layout, a development standards table, a recreational amenities table, general notes

<b>BINDING ELEMENTS</b>	
<b>CATEGORY</b>	<b>BINDING ELEMENT</b>
<b>Density</b>	<b>There will be not more than 114 dwelling units constructed on the subject property.</b>
<b>Unit Affordability</b>	<b>At least one-half of the units to be constructed will be deemed affordable under the County's moderate priced dwelling unit and/or work force housing programs.</b>
<b>Screening</b>	<b>Landscape screening at the rear of proposed Lots 1 through 4, Block A, and along the east side of proposed Street A (behind existing Lots 16-19, Block E, OLNEY SQUARE subdivision), will be provided. Details of such plantings (e.g., quantity, species, callper, and spacing) shall be determined at the time of site plan review.</b>
<b>Unit Type</b>	<b>No dwelling units commonly known as "two over twos" will be permitted.</b>
<b>Lot Use / Lot Size</b>	<b>The dwelling units to be located on the perimeter of the subject site abutting single family detached homes on Darnell Drive and Daly Manor Place will all be single family detached units and the lot sizes will be approximately the same size as shown on the Development Plan. There may be open play area on the southern property line abutting existing Darnell Drive homes.</b>

and site data. Page 2 (Exhibit 132(b)) contains an expanded illustrative site layout and a listing of the binding elements agreed to by the Applicant. The binding elements from the Land Use Plan are set forth below:

The diagrams and text show the proposed locations of all structures, roadways, open spaces and dedicated areas, as well as additional information regarding the planned development. However, as noted on the Development Plan, the specific lot configurations, building locations, parking locations, community features and other design details will be refined and finalized during subsequent subdivision and Site Plan review proceedings.

The final two binding elements were agreed to by Applicant after the hearing, and approved by Technical Staff. Exhibit 136. Applicant's agreement to foreclose the use of "two over two" dwelling units eliminated one of the chief concerns of the Planning Board and the neighbors. The binding element specifying the use of single-family detached homes on the perimeter, adjacent to existing single-family homes, was added at the request of the Hearing Examiner to ensure compatibility with the abutting neighbors. This addition was consistent with Applicant's plans, as reflected in its "Urban Fabric" plan (Exhibit 109), but had not been previously specified as a binding element.

According to Technical Staff, the development data provided by Applicant will meet the development standards for the PD-3 Zone, including the minimum of 30% green area required by the Zone (§59-C-7.16). Exhibit 65, pp. 14-19. Applicant has depicted approximately 44.9% green area. The project also projects providing 243 parking spaces, more than the 228 spaces required for 114 dwelling units.

### **Required Findings**

Section 59-D-1.61 of the Zoning Ordinance requires the District Council, before it approves any application for re-zoning to the PD-3 Zone, to consider whether the application, including the

development plan, fulfils the “purposes and requirements” set forth in Code Section 59-C for the new zone. In making this determination, Zoning Ordinance §59-D-1.61 expressly requires the District Council to make five specific findings, and Maryland law requires that zoning power be exercised in the public interest.

§59-D-1.61(a): Consistency with Master Plan and other County Policies.

The first required finding is consistency with the use and density requirements of the Master Plan and with other County plans and policies.

The subject site is located in the area analyzed in the 2005 Olney Master Plan. The Master Plan, at pp. 37-38, specifically addresses the subject site and recommends the full yield allowed by the PD-3 Zone if specified objectives have been met. As discussed by the Hearing Examiner, the revised development plan proposed by Applicant meets the five criteria outlined in the Master Plan:

1. At least half of the dwelling units will be MPDUs or WFH under the second binding element. Moreover, an even higher percentage of affordable housing (60%) is required by Applicant’s agreement with the County. As stated by Joseph Giloley, on behalf of the Montgomery County Department of Housing and Community Affairs, “This commitment of affordable units satisfies a requirement for affordable units in the Olney Master Plan.” Tr. 21.
2. The development has been designed to preserve the environmental features.
3. The proposed density will be below the maximum permitted in the zone, and the unrebutted expert evidence from Technical Staff and Applicant’s experts is to the effect that the development will not overwhelm the available public facilities.
4. The lot sizes and the mix of housing types have been located so as to ensure compatibility with adjacent properties. The issue of whether “two over two” units are multi-family has been eliminated since Applicant agreed by binding element to preclude their use.
5. No commercial development is planned for the site.

The other recommendations of the Master Plan have also been followed. The development will provide affordable and compatible housing in the PD-3 Zone, and it has been designed with open space connected to the adjoining residential community through a proposed network of roads and

pedestrian trails, as shown in Applicant's plans illustrating streets connecting open spaces (Exhibit 110), amenity areas (Exhibit 112) and pedestrian connections (Exhibits 113 and 94).

As noted in the Technical Staff report (Exhibit 65, pp. 6-7), Community-Based Planning staff found the proposed plan to be consistent with the Olney Master Plan and supports approval of the subject application, as did Technical Staff's Development Review Division. The Planning Board also found the application to be in substantial compliance with the Olney Master Plan. Exhibit 71. The opposition disagreed based on their concerns about compatibility and the adequacy of transportation facilities, both of which were discussed at length in the Hearing Examiner's report. Given the expert evidence regarding the adequacy of transportation facilities, the binding elements protecting compatibility and the unrebutted evidence that the development will provide the called-for affordable housing, the District Council finds that the proposed development meets the specified objectives and is in substantial compliance with the Master Plan's use and density recommendations, as "Finding (a)" requires.

Under the County's Adequate Public Facilities Ordinance ("APFO," Code §50-35(k)), the Planning Board has the responsibility, when it reviews a preliminary plan of subdivision, to assess whether the following public facilities will be adequate to support a proposed development: transportation, schools, water and sewage facilities, and police, fire and health services. The Planning Board's application of the APFO is limited by parameters that the County Council sets in its Growth Policy.

While the ultimate test under the APFO is carried out at subdivision review, evidence concerning adequacy of public facilities is relevant to the District Council's determination in a rezoning case, as spelled out in Zoning Ordinance §59-H-2.4(f). That section requires Applicant to produce "[s]ufficient information to demonstrate a reasonable probability that available public

facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application is submitted.”

In this case, the application was submitted on August 11, 2009, so the 2007-2009 Growth Policy adopted November 13, 2007 (Resolution 16-376) will apply to the rezoning determination. The 2007-2009 Growth Policy provides, at pp. 22-23, “[t]he Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated.” There is no such evidence in this case, and the District Council therefore concludes those public facilities are adequate. The remaining three public facilities – transportation, schools and water and sewer service – were discussed at length in the Hearing Examiner’s report. For the reasons stated therein and summarized below, the District Council finds that the proposed development will not unduly burden the County’s public facilities.

1. Traffic Impact:

Concerns about traffic impacts were raised by a number of community witnesses. They noted that there is already a lot of traffic on Bowie Mill Road, which is the only roadway accessing the subject site, and they fear that the addition of the proposed development will make matters worse.<sup>3</sup> Tr. 212-213; 230-233; and 319-320. Numerous opposition letters raised the same point. *See e.g.*, April 14, 2010 letter of Briars Acres Community Association (BACA), Exhibit 66, and April 23, 2010 letter of the Greater Olney Civic Association (GOCA), Exhibit 69(b).

This issue was addressed both by Applicant’s expert in transportation planning, Edward Papazian (Exhibit 103 and Tr. 242-262), and by M-NCPPC’s transportation planning staff (Exhibit 65).

Edward Papazian prepared a traffic impact study for the proposed re-zoning in accordance with the Planning Board’s local area transportation review and policy area mobility review, commonly

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<sup>3</sup> Bowie Mill Road is a two-lane primary residential road with a minimum right-of-way width of 80 feet.



referred to as the LATR and PAMR guidelines. Mr. Papazian performed peak period traffic counts in accordance with the Planning Board's guidelines, and he identified the a.m. and p.m. peak hour traffic volumes at each of the intersections. He then calculated background traffic volumes.

Background traffic volume includes the forecasting of future traffic based on the approved and unbuilt developments in the area and any fully funded changes in the area roadway system that would affect the future traffic volumes. In this case, that includes the imminent construction and completion of the Inter-County Connector (ICC). Mr. Papazian used background documents prepared by the State Highway Administration to identify the approximate levels of reduction on key roadways in the study area as a result of the construction of the inter-county connector. The ICC will open in the next year or two, and the resulting reduction is included in his forecast of future traffic.

As documented in his traffic impact study, there would be an expected reduction of at least 10 percent on key roadways in the area due to the construction and use of the Inter-County Connector. Technical Staff agreed that a 10 percent reduction in through-traffic volumes and turning movements at key intersections would be appropriate for forecasting for future condition because of the effects of the ICC. As a result, there was a reduction in the critical lane volume at some intersections even after adding in background traffic volumes.

Mr. Papazian performed capacity analysis at the area intersections. Capacity analysis determines the critical lane volumes (CLV) at the studied intersections and compares them to the congestion standard of the policy area where the intersections are located. Two policy areas are involved in this traffic study, the Olney Policy Area, which has a congestion standard of 1,450 CLV, and the Rural East Policy Area, which has a congestion standard of 1,350 CLV. Mr. Papazian's CLV findings are reported in a table in the Technical Staff report (Exhibit 65, p. 9):

Mr. Papazian's findings indicate that the area intersections will operate at acceptable levels of service under total future conditions, and therefore, the LATR requirements are satisfied. The one

intersection that is currently operating over the congestion standard in the morning peak hour (1,371 CLV at Bowie Mill Rd/Muncaster Mill Rd) will operate within that standard (at 1,265 CLV) even after the subject development is added in because of reductions effectuated by the ICC. Mr. Papazian suggested that, at the time of preliminary plan review, a signal warrant analysis will be performed to see if a traffic signal is justified for the intersection of Cashell and Bowie Mill Road (to the west of the subject property), which is presently governed by a four-way stop sign that causes some of the backup on Bowie Mill Road.

Mr. Papazian also reviewed the PAMR guidelines, for policy area mobility review. The Olney policy area, calls for a 10 percent partial mitigation of peak hour trips. That means, given the fact that the p.m. peak hour is estimated to generate about 113 trips, based upon the trip generation rates that Technical Staff directed him to utilize, 11 trips would have to be mitigated to satisfy PAMR. Applicant has proposed to meet this requirement, after discussing it with County Department of Transportation (DOT), by the installation of sidewalks along Bowie Mill Road. Those sidewalks are off site, away from the site frontage, and would satisfy the PAMR requirements. This plan may be refined at the time of preliminary plan, but the County DOT agrees with the idea of using sidewalks as the basis for meeting the PAMR mitigation requirements.

In Mr. Papazian's professional opinion, the transportation network in the surrounding area would be adequate to accommodate the vehicle trips generated by this new development. Technical Staff reviewed the issue of transportation facilities in their report (Exhibit 65, pp. 8-10). Their conclusion was "that adequate solutions to be addressed at preliminary plan are available to satisfy or mitigate any transportation related potential impact concerning the proposed project . . ." Exhibit 65, p. 8. The County's DOT also indicated in a March 22, 2010 letter attached to the Technical Staff report that it does not object to the proposed rezoning.

Given the review by both M-NCPPC Technical Staff and DOT Staff, and the absence of any expert evidence to the contrary, the District Council finds that there is a reasonable probability that available public transportation facilities and services will be adequate to serve the proposed development, in spite of the concerns of the neighbors.

2. School Capacity:

The subject property is located within the Sherwood Cluster and is served by Olney Elementary School, Rosa Parks Middle School and Sherwood High School. In a letter dated March 26, 2010, Bruce H. Crispell, Director of Planning and Capital Programming for Montgomery County Public Schools (MCPS), reported to Technical Staff that the proposed development is expected to generate approximately 37 elementary school, 16 middle school, and 20 high school students.

Mr. Crispell indicated that enrollment at Olney Elementary School is currently within capacity and is projected to stay within capacity. Enrollment at both Rosa Park Middle School and Sherwood High School currently exceeds capacity but is trending down and is projected to be within capacity beginning in 2011-2012.

Mr. Crispell concluded by stating that “[t]he current Growth Policy schools test (FY 2010) finds capacity adequate in the Sherwood Cluster.” (Attachment to Exhibit 65). Although Mr. Zaborsky of GOCA raised a concern about public school capacity given economic conditions (Tr. 320-321), there is no evidence in the record to suggest that school capacity will be inadequate.

Given the fact that capacity is adequate under the current Growth Policy schools test, the District Council finds that it is reasonably probable that public school facilities and services will be adequate to serve the proposed development.

3. Water and Sewer Service:

Edward Wallington, Applicant's civil engineer, testified that there is ample infrastructure for water and sewer service. There is an existing eight-inch sewer line already on the property that runs through the stream buffer. According to Mr. Wallington, an eight-inch sewer is certainly sufficient for the additional units. Also, on Bowie Mill Road, there is a 24-inch water main that is quite large and is easily adequate for the water demands that would come with the proposed units. Attached to the Technical Staff report, there is a memo from the Washington Suburban Sanitary Commission (WSSC) noting that the impact of this project would be negligible. Tr. 286-287.

Given WSSC's memorandum and Mr. Wallington's expert testimony, the District Council finds that Applicant has demonstrated a reasonable probability that available water and sewer facilities and services will be adequate to serve the proposed development under the applicable Growth Policy standards.

In sum, based on this record, the District Council finds that the requested rezoning does not conflict with "other applicable County plans and policies."

§59-D-1.61(b): purposes, standards and regulations of the zone; safety, convenience and amenity of residents; and compatibility with adjacent development.

The second required finding is:

*That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.*

#### 1. Compliance with the Purposes, Standards and Regulations of the Zone

Planned Development (PD) zones are a special variety of floating zone, with performance specifications integrated into the requirements of the zone. These zones allow considerable design flexibility if the performance specifications are satisfied. The applicant is not bound to rigid design specifications, but may propose site-specific criteria, within the parameters established for the zone, for elements such as setbacks, building heights and types of buildings.

Section 59-C-7.11, Purpose Clause

The PD Zones have a lengthy purpose clause, Zoning Ordinance §59-C-7.11, which is linked to the goals of the applicable master plan.

As discussed above, the proposed development will be in substantial compliance with the 2005 Olney Master Plan. Accordingly, the requested reclassification will comply with the first element of the PD Zone's purpose clause by allowing implementation of applicable Master Plan objectives.

The second paragraph of the purpose clause calls for a design which will facilitate social and community interaction, create a distinctive visual character, and offer a balanced mix of uses. As observed by Technical Staff (Exhibit 65, p. 14), "The design and layout of the proposed development also provides maximum social and community interaction through pedestrian and vehicular linkages and, as such, it would provide for the safety, convenience and amenity of residents and assure compatibility with the surrounding residential land uses."

The proposed development will provide several greens, play areas, tot lots, seating areas and open spaces (as shown in Exhibit 112) to allow gathering space for the community and encourage social and community interaction. These features will contribute to the desired "distinctive visual character" of the development. Added to this will be a network of pedestrian paths which will connect the open areas to the proposed residences and to adjacent developments, thereby maximizing social and community interaction. See Exhibits 113 and 94. There will be no commercial uses on site because the Master Plan does not envision any, but there will be a mix of residential and recreational uses.

The third paragraph of the purpose clause encourages "a broad range of housing types." The proposed development will provide for a range of different sized single-family detached homes, single-family attached units and townhouse units on differing sized lots. Thirty percent of these units will be

MPDUs ; thirty percent will be workforce housing; and forty percent will be market-rate units. It will thus provide a broad range of housing choices.

The fourth and fifth paragraphs address trees, grading and open space. The areas to be developed as part of this proposal are primarily on existing open fields, thereby preserving much of the existing forest on the property. As already mentioned, the proposal will provide a great deal of open space, including several greens and play areas to allow an area for community recreation.

The sixth paragraph calls for pedestrian circulation networks to minimize reliance upon automobiles. The development plan here provides for a network of pedestrian paths which will clearly reduce reliance upon automobiles.

The large scale advocated in the seventh paragraph of the purpose clause is provided by a development of over thirty-two acres in size.

The eighth paragraph of the purpose clause calls for a development which provides for safety, convenience, amenity, and compatibility, and the ninth paragraph reiterates the need for a development that will be proper for the comprehensive and systematic development of the County, and consistent with the Master Plan and the Zone. Safety will be discussed below in connection with the third required finding, called for in §59-D-1.61(c). As noted there, the proposed access ways and internal circulation systems will be adequate and safe. Convenience and amenities include the pedestrian networks and park areas which were discussed above in this section.

Compatibility was discussed at length in Part III.E. of the Hearing Examiner's report, and despite concerns expressed by the community, the Hearing Examiner found that the weight of the evidence established that the proposed development will be compatible with surrounding uses, subject to the later detailed review at Site Plan and Subdivision. The District Council also finds that the proposed development will be compatible with surrounding development, and that details regarding the specific sizes, placements and exteriors of individual dwelling units, as well as the appropriate

dispersal of MPDUs, are more properly left to site plan and subdivision. The District Council further finds that the binding elements included in the proposed development plan adequately ensure compatibility with existing development in the surrounding area.

The PD Zone requires that a certain percentage of the dwelling units be townhouse or attached. Since both the Planning Board and the Council approved the Master Plan recommendation for the PD-3 Zone on this site, it was clearly determined that this type of development would be generally compatible with its surroundings, if the criteria specified in the Master Plan were met. Based on the entire record of this case, especially the evaluation of the Technical Staff and the Planning Board, those criteria were met.

Technical Staff concluded that the development plan would satisfy the zone's purpose clause, including compatibility with the surrounding area. As stated by Technical Staff (Exhibit 65, p. 14),

Reclassification of the subject property from the R-200 Zone to the PD-3 Zone satisfies the design, housing, amenity, circulation, and other purposes of the PD Zone. Staff finds that development of the site under the PD-3 Zone is proper for the comprehensive and systematic development of the County, will accomplish the purposes of the zone, and will be in substantial compliance with the General Plan and the 2005 Olney Master Plan that specifically recommended the site for the type of development that is proposed in this application.

The Planning Board adopted Technical Staff's findings (Exhibit 71). Despite the concerns voiced by the opposition, there was no contrary expert evidence presented. The Hearing Examiner also agreed. Considering the evidence in this case, the District Council finds that the subject development will provide the kind of housing mix and general-benefit open space recommended by the Purpose Clause, as well as pedestrian interconnectivity and compatibility with its surroundings.

In sum, the proposed development is consistent with the intent and purposes of the PD-3 Zone. We next look to the "standards and regulations" of the PD-3 Zone. The standards and regulations of the PD-3 Zone are spelled out in Code Sections 59-C-7.12 through 7.18.

Section 59-C-7.121, Master Plan

Pursuant to Code §59-C-7.121, “no land can be classified in the planned development zone unless such land is within an area for which there is an existing, duly adopted Master Plan which shows such land for a density of 2 dwelling units per acre or higher.” The applicable Master Plan, the 2005 Olney Master Plan, recommends that the subject property be developed under the PD-3 Zone, which permits 3 dwelling units per acre, plus additional density for the inclusion of MPDUs. Accordingly, this provision is satisfied in this case.

Section 59-C-7.122, Minimum Area

Code §59-C-7.122 specifies several criteria, any one of which may be satisfied to qualify land for reclassification to the PD Zone. Alternative criterion (a) requires that the site “contain sufficient gross area to construct 50 or more dwelling units under the density category to be granted.” The subject property contains 32.74 acres, more than large enough to construct 50 dwelling units. It is in fact proposed for the construction of 114 dwelling units.

Section 59-C-7.13 and 7.131, Residential Uses Permitted

Pursuant to Code §59-C-7.131, single-family attached (including townhouses) and detached units are permitted in the PD-3 Zone, but it also specifies that in a development of fewer than 200 units, multi-family dwellings are not permitted. Moreover, a minimum of 35% of the units must be detached and a minimum of 35% must be attached or townhouse. Here, the proposed Development Plan provides for 50% single-family detached units (57 units) and 50% single-family townhouse and/or attached units (57 units), satisfying this requirement.

Section 59-C-7.132, Commercial Uses

There are no commercial uses proposed here.

Section 59-C-7.133, Other Uses Permitted



Under subsection (a) of this provision of the PD Zone, recreational facilities intended for the exclusive use of the residents and their guests are permitted. The remaining subsections do not appear to be applicable to this case.

Section 59-C-7.14, Density of Residential Development

Three subsections (a), (b) and (c) apply to this case. Subsection (a) sets forth the available density categories for residential development in a PD Zone. In this case, the density category specified in the development plan is PD-3, which is the category recommended in the 2005 Olney Master Plan.

Subsection (b) requires the District Council to determine the propriety of the density category applied for, and Subsection (c) allows the maximum density allowed under subsection (a) to be increased to accommodate the construction of Moderately Priced Dwelling units.

The density category applied for, PD-3, is the second lowest density available in the PD Zones, and is specifically recommended in the 2005 Olney Master Plan. The base density allowed for a site of this size in the PD-3 Zone is three Dwelling Units per acre. Multiplying that by 32.74 acres yields a maximum base density of 98.22 Dwelling Units. However, consistent with the Subsections C-7.14 (b) and (c), the Applicant is entitled to a Bonus Density of 22% because it will provide more than 15% MPDUs. Montgomery County Code §25A-5(c). Multiplying 98 dwelling units by 22% yields a bonus density of 21 dwelling units. Adding that density to the base density of 98 results in a permissible maximum density of 119 dwelling units. As noted, Applicant proposed 114 dwelling units (*i.e.*, well under the maximum density permitted). The District Council finds that to be an appropriate density for the site.

Section 59-C-7.15, Compatibility

Section 59-C-7.15 requires a finding of compatibility and specifies that only single-family detached homes may be constructed within 100 feet of any adjoining single-family detached zone. It also prohibits buildings constructed to a height greater than its distance from such adjoining land.

As previously discussed, Technical Staff, the Planning Board and the Hearing Examiner found that the proposed development will be compatible with surrounding development. Moreover, as noted by Technical Staff (Exhibit 65, p. 17),

The plan also provides a winding and scenic pedestrian connection between the two sections of the project. The larger portion of the development . . . is designed in such a manner that only the single family houses will be on the periphery of the development adjoining the existing residential dwellings. The townhouses and . . . [other units] in this portion of the development are located in the interior of the development surrounded by the single-family dwellings and the forest conservation area. The proposed single-family detached houses adjoining the existing residential properties are designed in a manner that is compatible with the properties that they are abutting and confronting in terms of lots sizes and density.

There will be no buildings other than single-family detached homes within 100 feet of the adjoining single-family detached developments,<sup>4</sup> and no buildings are proposed to a height greater than its distance from such adjoining land. Thus, the District Council finds that all the setbacks proposed for this development are compatible with adjacent development.

#### Section 59-C-7.16, Green Area

This section of the Ordinance requires 30% green space for the PD-3 Zone, and the Development Plan more than satisfies that requirement with a proposal for 44.9% green space. Technical Staff found that the proposed development plan satisfies the green space requirement, but

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<sup>4</sup> A small section of the proposed development, which includes townhouses and other attached units, is located on the northwestern corner of the property. Although some of those units are closer to the property line than 100 feet, Technical Staff notes that they are separated from the closest residential developments by a 250-foot wide Pepco utility easement and by Bowie Mill Road, with its ultimate right-of-way width of 80 feet. Exhibit 65, p. 17. Thus, they will not be within 100 feet of any adjoining land on which one-family detached homes can be built. Arguably, this plan does not comport with the wording of subsection 59-C-7.15(b)(1), because the proposed attached units would be within 100 feet of “*land for which the area master plan recommends a one-family detached zone.*” (i.e., the R-200 Zone). However, the proposal is clearly consistent with the intent of this provision, which is to ensure compatibility with adjacent single-family detached homes, because no such homes can be built within the Pepco easement or the Bowie Mill Road right-of-way. It must be remembered that the precise locations of the buildings on the Development Plan are illustrative, and they may be

that the green area may be reduced to some extent at Preliminary Plan and Site Plan reviews. Exhibit 65, pp. 17-18.

Section 59-C-7.17, Dedication of Land for Public Use

This section requires that land necessary for public streets, parks, schools and other public uses must be dedicated in accordance with regulations and the Master Plan, with such dedications shown on all required development plans and site plans. The development plan in this case depicts 1.1852 acres of land dedicated to the Bowie Mill Road right-of way.<sup>5</sup> Applicant also notes in its Pre-Hearing Statement (Exhibit 61(a), p. 17) that, “In addition, main circulation streets labeled on the Plan as Streets ‘A’, ‘B’ and ‘C’ will also be dedicated to public use.” Thus, a determination of the precise amount of land to be dedicated will have to await site plan and preliminary plan review.

Section 59-C-7.18, Parking Facilities

This section requires that off-street parking be provided in accordance with Zoning Ordinance Article 59-E. Under §59-E-3.7, two parking spaces are required for each single-family dwelling unit. There will be a maximum of 114 single-family dwelling units, and therefore 228 parking spaces off of the public streets must be provided. As shown on the Development Plan, Applicant’s plan is to provide a total of 243 such spaces, with 138 of those to be provided on individual lots and 105 to be provided on private streets. Technical Staff noted that Applicant “will have to demonstrate at site plan that [the dimensions of] the proposed parking spaces satisfy parking code standards.” Exhibit 65, p. 18.

In sum, the District Council concludes that the proposed rezoning and the Development Plan will be consistent with the purpose clause and all applicable standards for the PD-3 Zone.

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changed at site plan review if it is determined that compliance with this statutory provision requires an increase in the setbacks in the northwest portion of the development.

## 2. Safety, Convenience and Amenity of Residents

The next part of “Finding (b)” required by Section 59-D-1.61 is a determination that the proposed development would provide the “maximum safety, convenience, and amenity of the residents.” Since this required finding is practically identical with one of the purpose clause requirements for the PD-3 Zone, it has been discussed in that context above.

The District Council finds that Applicant has provided the maximum in safety, convenience and amenities for the future residents of this development.

## 3. Compatibility with Adjacent Development

The final required determination under “Finding (b)” is that the proposed development be compatible with adjacent development. For the reasons discussed above in connection with the Purpose Clause of the PD-3 Zone, the District Council concludes that the proposed residential dwelling units will be compatible with other uses existing or proposed in the vicinity of the planned development.

### §59-D-1.61(c): safe, adequate and efficient internal vehicular and pedestrian circulation systems.

The third required finding is “[t]hat the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.”

Applicant’s transportation planning expert, Edward Papazian, testified that the vehicle circulation system is well laid out. Multiple internal roadways will help to disperse the traffic. The intersections are at clear right angles, and the intersections and the junctions are well-spaced so that vehicles don’t have to make sudden turns or dogleg movements. Also, there are pedestrian paths, so pedestrians will not be walking in the vehicle travel way. Thus, the vehicle and pedestrian circulation system would operate in a safe and efficient manner.

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<sup>5</sup> Typos in the Technical Staff report result in the dedication being listed there as 1.85 acres instead of the correct figure of 1.185 acres. Exhibit 65, pp. 4 and 18.

Applicant's civil engineer, Ed Wallington, also did line-of-sight studies for the two proposed access roadways. He testified that the new access points are located opposite existing access points on the other side of the road, and that is considered favorable. The general grade of the road is also quite favorable for sight distance, and there is easily adequate distance for cars to pull safely in and out. Tr. 284-286. A sight distance evaluation will also be done at preliminary plan of subdivision to make sure that the drivers entering and exiting the driveways have adequate sight distance along Bowie Mill Road.

Accordingly, the District Council finds that the proposed circulation systems and site access would be safe, adequate and efficient for both vehicular and pedestrian traffic.

§59-D-1.61(d): preventing erosion, preserving vegetation, forest conservation and water resources.

The subject site is not within a Special Protection Area or Primary Management Area. According to Mr. Wallington, the existing grading conditions at the site are actually quite favorable for grading the new street and lot pattern proposed here. One of the objectives of the environmental site design is to avoid large cuts or fills on a project and to follow the existing grading conditions as much as possible to minimize grading. On this site, Applicant will be able to follow existing grading patterns. Tr. 287-288.

Environmental issues were discussed in Part III.D.5. of the Hearing Examiner's report. Applicant has been sensitive to environmental concerns, and the entire record indicates that Applicant's plans take due care to protect the environment. The Preliminary Forest Conservation Plan has been approved by the Planning Board, and the Department of Permitting Services has approved the stormwater management concept plan. Both plans will be reviewed in connection with site plan and subdivision.

In sum, the District Council finds that Applicant has demonstrated the environmental controls required by "Finding (d)."

§59-D-1.61(e): common area maintenance.

The fifth required finding is “[t]hat any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.”

Montgomery County is the owner of the site, and the Applicant is the contract purchaser. Exhibit 84. Applicant submitted an illustrative homeowners association “Declaration of Covenants, Conditions and Restrictions” that describes the proposed ownership and maintenance of common areas by a homeowners association, after development. Exhibit 13, Article XIII.

The District Council finds that Applicant has sufficiently demonstrated both its interest in the property and its commitment to perpetual maintenance of all recreational and other common or quasi-public areas.

The Public Interest

The Applicant must show that the proposed reclassification is sufficiently in the public interest to justify its approval. The State Zoning Enabling Act applicable to Montgomery County requires that all zoning power must be exercised:

*. . . with the purposes of guiding and accomplishing a coordinated, comprehensive, adjusted, and systematic development of the regional district, . . . and [for] the protection and promotion of the health, safety, morals, comfort, and welfare of the inhabitants of the regional district. [Regional District Act, Maryland-National Capital Park and Planning Commission Article (Art. 28), Md. Code Ann., § 7-110].*

When evaluating the public interest, the District Council normally considers Master Plan conformity, the recommendations of the Planning Board and Technical Staff, any adverse impact on public facilities or the environment and public benefits such as provision of affordable housing.

The issue of Master Plan conformance was discussed above. As outlined there, Applicant’s proposal is consistent with the recommendations, goals and objectives of the 2005 Olney Master Plan. The Planning Board and its Technical Staff both support the proposed rezoning. The impact on public

facilities was also discussed above. The evidence indicates that transportation, schools and water and sewer services would not be adversely affected by the proposed development.

Joseph Giloley of the Montgomery County Department of Housing and Community Affairs (DHCA) testified on behalf of the property owner, Montgomery County. Mr. Giloley stated that approval of this local map amendment will enable the property to be developed with many more MPDUs and workforce housing units than under the current R-200 Zoning. Therefore, development of this property implements pertinent County policies to provide affordable housing on this site. According to Mr. Giloley, the subject zoning application is consistent with the County's development agreement, as outlined in the Technical Staff report. It is also consistent with all the requirements of the PD-3 Zone. The County therefore strongly recommends approval of the zoning application. Tr. 19-36. This testimony was also buttressed by a letter, dated March 22, 2010, from DHCA stating that DHCA "strongly supports" approval of the rezoning. That letter is attached to the Technical Staff report (Exhibit 65).

Although the surrounding communities have some legitimate concerns, they have been largely addressed by the Applicant's agreement to additional binding elements and by the relief of traffic congestion which will be provided by the ICC. The proposed project will offer a mix of housing opportunities, including affordable housing, in a manner which is sensitive to the environment and compatible with the surrounding area.

For the reasons discussed above, the District Council concludes that the proposed development would be in the public interest.

### **Conclusion**

Based on the foregoing analysis and the Hearing Examiner's report, which is incorporated herein, and after a thorough review of the entire record, the District Council concludes that the proposed development satisfies the intent, purpose and standards of the PD-3 Zone; that it meets the

requirements set forth in Section 59-D-1.61 of the Zoning Ordinance; that the application proposes a project that would be compatible with development in the surrounding area; and that the requested reclassification to the PD-3 Zone has been shown to be in the public interest. For these reasons and because approval of the instant zoning application will aid in the accomplishment of a coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District, the application will be approved in the manner set forth below.

### ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Zoning Application No. G-885, requesting reclassification from the R-200 Zone to the PD-3 Zone, of a 32.74-acre parcel of unimproved land, known as Parcel P850, located at 18241 Bowie Mill Road, about half a mile west of Laytonsville Road, in Olney, Maryland, is hereby **approved** in the amount requested and subject to the specifications and requirements of the revised Development Plan, Exhibits 132(a) and (b), provided that the Applicant submits to the Hearing Examiner for certification a reproducible original and three copies of the Development Plan approved by the District Council within 10 days of approval, as required under Code §59-D-1.64.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council



## Appendix B



DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

Arthur Holmes, Jr.  
Director

June 6, 2011

Mr. Ki H. Kim, Planner/Coordinator  
Area 3 Team  
The Maryland-National Capital  
Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

Re: Review of Traffic Impact Study for  
Preliminary Plan No. 120110120  
Bowie Mill Property

Dear Mr. Kim:

We have completed our review of the February 2011 revised Traffic Impact Analysis and Signal Warrant Study. We recommend approval subject to the following comments:

Local Area Transportation Review (LATR)

We agree that all critical intersections will have acceptable critical lane volumes following the development of this site.

We appreciate the traffic signal warrant analysis for the intersection of Bowie Mill Road, Cashell Road, and Wickham Drive prepared by the applicant's consultant. In response to a citizen's request, our office also evaluated this intersection for a traffic signal. The signal installation was subsequently approved based on that analysis; MCDOT is in the process of preparing plans to implement this intersection improvement.

Policy Area Mobility Review (PAMR)

The report indicates the applicant is required to mitigate 11 trips to satisfy PAMR. As a partial mitigation, the report proposes to build 1,385 feet of five foot wide off-site sidewalks in two segments: 1100 feet on the north side of Bowie Mill Road from Brightwood Road to Wickham Drive and 285 feet from the site property line eastward to connect to the existing sidewalk at Daly Manor Place. The 1,385 feet of sidewalk construction will mitigate 7 trips.

The applicant also proposes a \$44,000 payment to mitigate an additional 4 trips, thereby meeting the PAMR requirement of 100 trip credits. We note the mitigated trip rate is \$11,300/trip – so the payment for the four trips would instead equal \$45,200. (If the applicant elected to pay the current rate for all eleven trips, the payment would equal \$124,300.)

If the applicant is proposing constructing sidewalks to satisfy PAMR, we need some certainty that there are no right-of-way or engineering issues that would preclude the sidewalk construction, including community opposition or concerns. It would be prudent for the applicant to conduct sufficient investigative studies to confirm the sidewalk construction is feasible and implementable. The Planning Board public hearing for this project should also address any off-site sidewalk construction.

**Division of Traffic Engineering and Operations**

---

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878  
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080  
trafficops@montgomerycountymd.gov

Pedestrian and Bicycle Impact Statement

We offer the following comments regarding the Pedestrian and Bicycle Impact Statement and recommend they be satisfied prior to the Planning Board public hearing for this project:

- Pedestrian and bicycle traffic count data does not appear to be included in the study. This data should be provided per LATR guidelines.
- No pedestrian or bicycle impacts related to the development are noted in the pedestrian impact statement. If no pedestrian/bicycle impacts are anticipated, the report needs to state this per LATR guidelines.
- The report requires an adequate assessment of existing pedestrian facilities. Currently the pedestrian impact statement only includes documentation of sidewalks and bike paths. Other elements, such as crosswalks and pedestrian signals, and other pedestrian amenities are not described. An inventory map should be provided per LATR guidelines.
- The pedestrian impact study notes that "Bowie Mill Road has a sidewalk on the southeast side of the road from just east of Darnell Drive to MD 108", however this statement is inaccurate. The sidewalk extends west, beyond Darnell Drive, to Daly Manor Place. This statement needs to be corrected.

In summary, we find this Traffic Impact Study for Preliminary Plan No. 120110120 acceptable for both LATR and PAMR reviews. However, we believe additional analysis is needed with regard to pedestrians and bicyclists.

Sincerely,



Gregory M. Leck, Manager  
Development Review Team

M:\sub\DCATIS\120110120, Bowie Mill Property, MCDOT review comments ltr.doc

cc: Edward Papazian, Kimley-Horn & Associates, Inc.  
Mike Bingley; Elm Street Development  
Richard Nelson; DHCA  
Joe Giloley; DHCA  
Jody Kline; Miller, Miller & Canby, Chartered  
Cathy Conlon; MNCPPC DARC  
John Carter; M-NCPPC Area 3  
Sandra Pereira; M-NCPPC Area 3

cc-e: Al Roshdieh; MCDOT DO  
Gary Erenrich; MCDOT DO  
Bruce Mangum; MCDOT DTEO  
Fred Lees; MCDOT DTEO  
Will Haynes; MCDOT DTEO  
David Adams; MCDOT DTEO

cc w/doc: Henry Emery; MCDPS RWPR  
Devang Dave; MCDOT DTEO



DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

Arthur Holmes, Jr.  
Director

June 17, 2011

Ms. Sandra Pereira, Senior Planner  
Area 3 Team  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120110120  
Bowie Mill Property

Dear Ms. Pereira:

We have completed our review of the preliminary plan dated June 3, 2011. An earlier version of this plan was reviewed by the Development Review Committee at its meeting on February 28, 2011. This letter is also intended to address the applicants' Design Exception requests and the proposed Stormwater Management (in the public rights-of-way) Concept Plan. We recommend approval of the Preliminary 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 the Department of Permitting Services in the package(s) for record plats, storm drain, grading or paving plans, or application for access permits. Include this letter and all other correspondence from this department.

Design Exception Requests and Stormwater Management Concept Plan

- We support approval of the applicants' request to modify the closed section residential street typical sections to provide twenty eight (28) feet of pavement and one (1) foot wide maintenance strip (between the sidewalk and property line) in the right-of-way.

The preliminary plan should be amended to provide a two (2) foot minimum shelf width (between the back of curb and the front edge of the trapezoidal ditch) and to delete the striping for the proposed on-street parking; on-street parking restrictions will be determined by MCDOT (in consultation with MCFRS) during the review of the Sign & Marking Plan (at the permit stage).

We do not support approval of a Design Exception to eliminate sidewalks on one side of the proposed internal streets. If the reason for requesting this Design Exception was due to reduce imperviousness within the subdivision, we believe that concern can be handled through the use of porous pavement for sidewalks. (A verbal agreement has been reached between MCDOT, MCDPS, and MCDEP to allow this material for sidewalks. This verbal agreement will be documented in a future Executive Branch Memorandum of Understanding.)

**Division of Traffic Engineering and Operations**

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878  
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080  
trafficops@montgomerycountymd.gov

- We support approval of the applicants' proposal to construct trapezoidal side ditches and bio-swale (and/or landscape filter) stormwater management facilities in the right-of-way, AS A SITE-SPECIFIC APPROVAL, conditioned on the following comments:
  - Instead of providing slotted curb openings (on streets expected to have parallel parking), construct curb opening inlets which incorporate paved flumes between the edge of pavement and trapezoidal ditch (MSHA Standard MD 374.68 modified for 6" curb per MSHA Standard MD 375.55-01. The inlet/shelf width, per the comment above, should be a minimum of 2'8" to allow space for passengers to enter and exit parked cars.
  - We do not support the "typical filter section through the driveway" detail. While we do not oppose extending the lower elevation perforated underdrain (that runs the length of the bio-swale), we recommend deleting the planting material (50% course sand/50% top soil mix) and higher elevation perforated pipe under the driveway apron. We recommend the planting material mix be replaced with compacted soil within the limits of the driveway apron; filter fabric or other appropriate methods should be used to separate the compacted soil from the planting material mix. We support increasing the size of the lower elevation pipe to at least eight (8) inches through the apron to facilitate maintenance; in the absence of the planting soil mix, we recommend that pipe be solid (instead of perforated).
  - We recommend enclosed storm drain systems be located behind the curb – preferably at a shallow depth underneath the bio-swale systems to limit future repair costs and minimize right-of-way impacts. Enclosed storm drain systems should be designed and located to handle the 10 year storm event in accordance with the MCDOT Storm Drain Criteria.
  - The location of the proposed trapezoidal ditch (with respect to the face of curb) will necessitate locating standard width curb opening inlets and traffic control signage within those ditches.
  - The proposed trapezoidal ditches and bio-swales should include opportunity for pedestrians to cross them (between parked cars and the sidewalks). These path locations should be selectively located to minimize mid-block pedestrian crossings of the adjacent streets.
  - Coordinate the species and location of proposed street trees with respect to the side ditch and streetlights.

#### General Plan Review and Permitting Comments

1. Necessary dedication for widening of Bowie Mill Road as a primary road, in accordance with the master plan.
2. Full width dedication and construction of all interior public roads as modified tertiary 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.

5. Size storm drain easement(s) prior to record plat. No fences will be allowed within the storm drain easement(s) without a revocable permit from the Department of Permitting Services and a recorded Maintenance and Liability Agreement.
6. Prior to approval of the record plat, submit storm drain and/or flood plain studies, with computations, for review and approval by MCDPS staff. Analyze the capacity of the existing downstream public storm drain system and the impact of the post-development ten (10) year storm runoff on same. If the proposed subdivision drains to an existing closed section street, include spread computations in the impact analysis.

The limits of the floodplain and the building restriction lines are to be shown on the plan where applicable. The floodplain is to be dimensioned from the property line.

7. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
8. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.
9. In accordance with Section 50-35(n) of the Montgomery County Code, we recommend the Montgomery County Planning Board require the applicant to construct an off-site sidewalk along Bowie Mill Road to connect with Daly Manor Place.
10. For safe simultaneous movement of vehicles, we recommend a driveway pavement width for the private street of no less than twenty four (24) feet to allow vehicles to enter and exit the site without encroaching on the opposing lanes. This pavement width will permit an inbound lane width of fourteen (14) feet and an exit lane width of ten (10) feet.
11. 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.
12. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
13. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

14. 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. Bruce Mangum of our Transportation Systems Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant..
15. Trees in the County rights of way – spacing and species to be in accordance with the applicable DOT standards. Tree planning within the public right of way must be coordinated with Mr. Brett Linkletter with the Division of Highway Services, Tree Maintenance Unit at (240) 777-7651
16. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
  - A. Street grading, twenty eight (28) foot wide paving, curbs and gutters, trapezoidal side ditches and bio-swales, five (5) foot wide concrete sidewalks and handicap ramps, enclosed storm drainage and appurtenances, and street trees along proposed interior (modified tertiary and secondary) public streets.
  - B. Across the Bowie Mill Road site frontage, [per the proposed typical section] existing pavement to provide a five (5) foot wide on-road bikelane, construct sod shoulder four (4) foot wide, construct parallel and adjacent trapezoidal side drainage ditch, construct a five (5) foot wide concrete sidewalk, plant street trees on the back side of the ditch, and grade back to natural ground at a 2:1 slope\*. Sod or seed as directed all other areas from the edge of the shoulder to the property line.  
  
\* **NOTE: the Public Utilities Easement is to be graded on a side slope not to exceed 4:1.**
  - C. On Bowie Mill Road, construct a five (5) foot wide concrete sidewalk between the eastern property line and Daly Manor Place, if required as an off-site amenity by the Montgomery County Planning Board.
  - D. Additional road improvements may be required as a result of a review of the traffic study.
  - E. Enclosed storm drainage and/or engineered channel (in accordance with the MCDOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
  - F. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
  - G. 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 Department of Permitting Services (DPS) 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 DPS.

Ms. Sandra Pereira  
Preliminary Plan No. 120110120  
June 17, 2011  
Page 5

- H. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- I. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. David Adams, our Development Review Area Engineer for this part of the County, at [david.adams@montgomerycountymd.gov](mailto:david.adams@montgomerycountymd.gov) or (240) 777-2197..

Sincerely,



Gregory M. Leck, Manager  
Development Review Team

m:/subd/gml/docs/PP/120110120, Bowie Mill Property.doc

cc: John Clarke; Bowie Mill LLC  
Mike Bingley; Bowie Mill LLC  
Richard Y. Nelson, Jr.; DHCA DO  
Joseph Giloley; DHCA DHCE  
Ed Wallington; Loiederman Soltesz Associates, Inc.  
Jody Kline; Miller, Miller & Canby, Chartered  
John Carter; MNCPPC Area 3  
Ki Kim; MNCPPC Area 3  
Preliminary Plan Folder  
Preliminary Plan Letters Notebook

cc-e: Marie LaBaw; FRS  
Rick Brush; DPS WRM  
Mike Geier; DPS WRM  
Amy Butler Stevens; DPS SWFMP  
Gene Gopenko; DPS SWFMP  
Atiq Panjshiri; DPS RWPR  
Henry Emery; DPS RWPR  
Al R. Roshdieh; DOT DO  
Bruce Johnston; DOT DTE  
Keith Compton; DOT DHS  
Brett Linkletter; DOT DHS  
Fred Lees; DOT DTEO  
Seifu Kerse; DOT DTEO  
Dan Sanayi; DOT DTEO  
Bruce Mangum; DOT DTEO  
David Adams; DOT DTEO





**MONTGOMERY COUNTY, MARYLAND**  
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION  
 DEPARTMENT OF PERMITTING SERVICES

**SIGHT DISTANCE EVALUATION**

Facility/Subdivision Name: Bowie Mill Property Preliminary Plan Number: 1-20110120

Street Name: Bowie Mill Road Master Plan Road Classification: Primary ✓

Posted Speed Limit: 40 mph Private

Street/Driveway #1 ( <u>Street "A"</u> )	Street/Driveway #2 ( <u>Driveway</u> )
( <u>opposite Thornhurst</u> )	( <u>opposite Brightwood Rd</u> )
Sight Distance (feet) <u>OK?</u>	Sight Distance (feet) <u>OK?</u>
Right <u>540</u> <u>OK</u> ✓	Right <u>over 600</u> <u>OK</u> ✓
Left <u>over 600</u> <u>OK</u> ✓	Left <u>over 600</u> <u>OK</u> ✓

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**GUIDELINES**

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325' ✓
(45)	400'
Major - 50	475'
(55)	550'

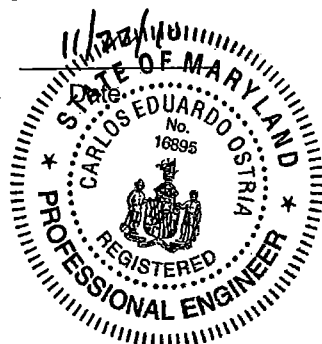
Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

\*Source: AASHTO

**ENGINEER/ SURVEYOR CERTIFICATE**

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

[Signature]  
 Signature  
16895  
 PLS/P.E. MD Reg. No.



Montgomery County Review:

Approved  
 Disapproved:

By: [Signature]  
 Date: 6/11/11



Martin O'Malley, Governor |  
Anthony G. Brown, Lt. Governor

Beverley K. Swaim-Staley, Secretary  
Neil J. Pedersen, Administrator

Maryland Department of Transportation  
April 18, 2011

Re: Montgomery County  
MD 108  
Bowie Mill Road Property  
RECEIVED  
MONTGOMERY COUNTY  
APR 21 2011  
Department  
Planning Department

Mr. Shahriar Etemadi  
Transportation Coordinator  
M-NCPPC  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Dear Mr. Etemadi:

Thank you for the opportunity to review the Revised Traffic Impact Study Report prepared by Kimley-Horn and Associates, Inc. dated February 2011 (received by the AMD on March 15, 2011) that was prepared for the proposed Bowie Mill Road Property residential development in Montgomery County, Maryland. The major report findings and the Maryland State Highway Administration (SHA) comments and conclusions are as follows:

- Access to the development that includes 57 Single Family Detached Dwelling Units and 60 Townhomes is proposed from two (2) full movement site access driveways on Bowie Mill Road (a County roadway).
- The traffic report determined that the proposed development would not cause any studied intersection to the congestion standard as established by the M-NCPPC within the Olney Policy Area (CLV less than or equal to 1,450) and the Rural East Policy Area (CLV less than or equal to 1,350).
- In order to satisfy the Policy Area Mobility Review (PAMR) test for development within the Olney Policy Area, the applicant has proposed to construct a total of 1,385 feet of sidewalk in the site vicinity and to make an additional payment of \$44,000 to Montgomery County towards other area improvements.

Based upon SHA review, SHA has the following comments/recommendations for the M-NCPPC:

- The westbound MD 108 left turn movement at the MD 108/Bowie Mill Road intersection is significant during the peak periods studied. SHA recommends that supplemental Highway Capacity Manual unsignalized analyses and a Traffic Signal Warrant Study be conducted.

My telephone number/toll-free number is \_\_\_\_\_  
Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free



Mr. Shahriar Etemadi  
Page 2 of 2

- Based upon a review of the ICC Travel Analysis Technical Report, no trip reductions to/from MD 108 West should be assumed from the MD 108/Bowie Mill Road intersection.

Unless specifically indicated in SHA's response on this report, the comments contained herewith do not supersede previous comments made on this development application. If there are any questions on any issue requiring a permit from SHA on this application, please contact Raymond Burns at (410) 545-5595 or [rburns1@sha.state.md.us](mailto:rburns1@sha.state.md.us). If you have any questions or comments regarding the enclosed traffic report comments, please contact Larry Green at (410) 995-0090 x20.

Sincerely,



Steven D. Foster, Chief  
Access Management Division

cc: Mr. Raymond Burns, SHA AMD  
~~Mr. John Carter~~, M-NCPPC, Area 3 Chief  
Mr. Cherian Eapen, M-NCPPC Montgomery County  
Mr. Larry Green, Daniel Consultants, Inc.  
Mr. Johnson Owusu Amoako, SHA Office of Traffic & Safety  
Mr. Edward Papazian, Kimley-Horn and Associates, Inc.  
Mr. Morteza Tadayon, SHA Travel Forecasting Division  
Mr. Errol Stoute, SHA Traffic Development & Support Division  
Mr. Cedric Ward, SHA District 3 Office



## DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Carla Reid  
Director

June 28, 2011

Ed Wallington  
Loiederman Soltesz Associates, Inc.  
2 Research Place, Suite 100  
Rockville, Maryland 20850

Re: Stormwater Management **CONCEPT** Request  
for Bowie Mill Property  
Preliminary Plan #: 120110120  
SM File #: 236788  
Tract Size/Zone: 32.7 Ac. / PD-3 (Proposed)  
Total Concept Area: 32.7 Ac.  
Liber / Folio: 3639 / 244  
Parcel: 850  
Watershed: Upper Rock Creek

Dear Mr. Wallington:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **conditionally acceptable**. The stormwater management concept proposes to meet required stormwater management goals via the use of environmentally sensitive design (ESD) measures to the maximum extent practicable. Treatment is provided via a combination of micro-scale practices, non-structural measures, porous pavement and structural measures, as needed.

The following **conditions** 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. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. All stormwater management practices must meet the Montgomery County design standards in effect at the time of detailed plan submission.
6. Safe and non-erosive conveyance for all runoff from the site must be provided. The proposed outfall from SWM facility #2 must be extended to the stream channel.
7. A permit from the DPS Right-of -Way section is required for the connection to the existing storm drain system. Adequacy of the existing system to convey the 10-year design storm event will need to be verified and the proposed 100-year flow path shall not adversely affect any adjacent properties.

- 8. Provide clear and unimpeded access to all stormwater management facilities from the public-right-of-way.

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

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

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

If you have any questions regarding these actions, please feel free to contact Mike Geier at 240-777-6342.

Sincerely,



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

RRB: f\A CN236788 Bowie Mill Property.mjg.doc

cc: C. Conlon  
 SM File # 236788

ESD Acres: 20  
 STRUCTURAL Acres: 3  
 WAIVED Acres: 0



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## FIRE MARSHAL COMMENTS

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**DATE:** 27-Jun-11  
**TO:** Dan Silvestri  
Loiederman Soltesz Associates, Inc  
**FROM:** Marie LaBaw  
**RE:** Bowie Mill Property  
G885 120110120 820110050

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### PLAN APPROVED

1. Review based only upon information contained on the plan submitted **27-Jun-11** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

## Appendix C

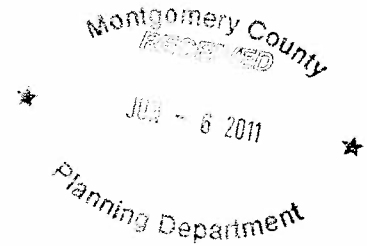


Loiederman  
Soltesz Associates, Inc.

May 31, 2011

Ms. Catherine Conlon  
M-NCP&PC  
8787 Georgia Avenue  
Silver Spring, MD

Re: Bowie Mill Property  
Preliminary Plan No. 1210110120  
LSA # 675-31



Dear Ms. Conlon:

On behalf of Bowie Mill Road LLC, applicant for the enclosed Preliminary plan, we are hereby requesting a waiver for Lot 11 Block "B" of subdivision regulation 50-29 (a) (2) that states that every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road. This section allows for approval of lots on a private driveway or private right-of-way if access is adequate to serve the lots for emergency vehicles, for installation of public utilities, and is accessible for other public services.

We are requesting this waiver in consideration of Section 59-C-7.11. of the Montgomery County Zoning Ordinance (Purpose Clause of the Planned Development Zone). The stated purpose of the PD zone is:

- to "provide a means...which can achieve flexibility of design, the integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the procedures and regulations under which it is permitted as a right under conventional zoning categories."
- "that development be so designed and constructed as to facilitate and encourage a maximum of social and community interaction and activity... "
- "to encourage and provide for open space ...also conveniently located...so as to function for the general benefit of the community and public at large as places for relaxation, recreation and social activity; and, furthermore, open space should be so situated as part of the plan and design of each development as to achieve the physical and aesthetic integration of the uses and activities within each development."
- "to encourage and provide for the development of comprehensive, pedestrian circulation networks..."

In furtherance of achieving these goals, this section goes on to say that "... the district council and the planning board are empowered to approve such plans if they find them to be capable of accomplishing the above purposes and in compliance with the requirements of this zone."

In short, the PD zone provides flexibility of design to encourage community interaction, encourage creation of distinctive visual character, provide for open space throughout the



community for social activity, and encourage physical and aesthetic integration of the uses and activities within a development.

Lot 11 Block B as shown achieves these purposes through the integration of the front of its unit to form a "block" with lots 6-10 and 12, block B as these units front on the contiguous open space. We believe this is a greatly enhanced aesthetic treatment of the open space for the benefit of the greater community. This configuration allows for:

- the creation of additional community open space.
- the aesthetic improvement of the area adjacent to the open space for the benefit of the users of the open space and the adjacent homes.
- further enhances the interconnecting network of trails and sidewalks.

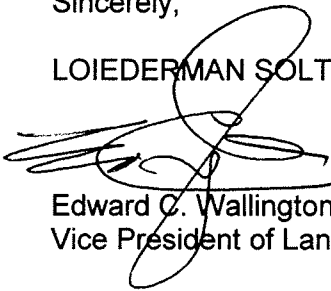
Additionally, this lot has a rear garage which will be accessed via a 20 foot wide private road. The road is accessible to emergency vehicles and other public services and the installation of public utilities has been provided for. The private road will be maintained by the Home Owners Association.

In the case of the PD zone, the Planning Board clearly has the authority to grant this waiver. The orientation of this lot is as shown on the approved Development Plan. As an alternative, frontage could be provided to Street "A" while still maintaining the proposed orientation of Lot 11, Block B onto the open space.

Please consider our waiver request and let us know your recommendation as soon as possible.

Sincerely,

LOIEDERMAN SOLTESZ ASSOCIATES, INC.



Edward C. Wallington  
Vice President of Land Development

cc: John Clarke, Elm Street Development  
Mike Bingley, Elm Street Development

LAW OFFICES  
**MILLER, MILLER & CANBY**

CHARTERED

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MICHAEL G. CAMPBELL (DC, VA)  
SOO LEE CHO (CA)  
AMY C. GRASSO

*\* All attorneys admitted in Maryland and where indicated*

JSKLINE@MMCANBY.COM

October 13, 2009

Mr. Robert Kronenberg  
Development Review Division  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910

RE: Zoning Application No. G -885  
Application of Bowie Mill, LLC

Dear Robert:

During our meeting on October 7<sup>th</sup> regarding the above-referenced application, I believe that you or another member of the Technical Staff commented about the location of proposed townhouses as shown on the Development Plan for Zoning Application No. G-885 and whether those attached dwelling units would comply with the "Compatibility" standards of Section 59-C-7.15 of the Montgomery County Zoning Ordinance without a waiver. At the time, I wondered about the comment, but only just now have I had a chance to study Section 59-C-7.15 and I would like to explain why I believe that the location of attached dwelling units shown on the Development Plan for Zoning Application No. G-885 are acceptable under the exception or waiver provisions of Section 59-C-7.15(c).

First of all, a little background. The present language of Section 59-C-7.15 came about as part of a planned development application filed by Georgetown Preparatory School in conjunction with a development proposal for a part of the School's property that now has been constructed as the "Inigo's Crossing" project. At that time, the mandatory 100 foot setback for all non-single family detached dwelling units related to the zoning only of the adjacent property. That interpretation precluded the construction of the "Inigo's Crossing" project because multi-family units would be located within 100 feet of Georgetown Prep's golf course and property recommended for institutional use in the North Bethesda-Garrett Park Master Plan. Accordingly, the language of Section 59-C-7.15 was changed, by the addition of subsection (c), so that a waiver of the 100 foot requirement was possible if the adjacent property zoned for one-family detached use was actually being used in some other form, such as, in Georgetown Prep's case, for school buildings and for a golf course.

Applying the language of Section 59-C-7.15 to the G-885 case, attached units should be able to be constructed within 100 feet of the PEPCO right-of-way line running along the west side of the subject property because that power line is designated in the Master Plan and is obviously not intended for use for "one-family detached use".

Similarly, we believe that townhouses can be constructed within 100 feet of the northern edge of the property because the Bowie Mill Road right-of-way should be counted toward the required 100 foot buffer between townhouses and land zoned for and actually used for one-family detached residential uses. It is correct that pursuant to Section 59-A-1.7 of the Zoning Ordinance, the Bowie Mill Road right-of-way does bear zoning that would permit development of one-family detached residences. However, since the Olney Master Plan designates this right-of-way for road purposes, the land area of the roadway should be treated as part of the 100 foot separation between the townhouses and the lot line of the single-family detached residential lots on the north side of Bowie Mill Road.

Separate and apart from the discussion about the applicability of Section-59-C-7.15, there may be legitimate questions about what should be the appropriate housing type and "image" to be projected by a residential development along the Bowie Mill frontage. We acknowledge that that remains an issue and will work with you to address that subject during the Staff's review of the development plan.

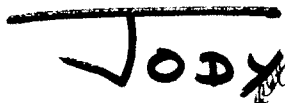
The analysis above of the applicability of Section 59-C-7.15 was confirmed when I received from Khalid Afzal the study plans that he mentioned during our October 7<sup>th</sup> meeting that had been prepared for County Council consideration during the review of the Olney Master Plan. The three study plans that Khalid forwarded to me are attached for your information. You will note that, in at least the PD-4 study plan, attached units are located within 100 feet of the PEPCO right-of-way and the Bowie Mill Road frontage of the property. Presumably, Khalid or someone working with Khalid had read Section 59-C-7.15 and had determined that its applicability was as I have described it above.

In summary, the Applicant looks forward to working with you and your colleagues on the optimum design for the Bowie Mill Road property but we wanted to confirm for you why we do not believe that townhouses or semi-attached units cannot be located within 100 feet of the perimeter of the property adjacent to the PEPCO right-of-way (on the west) and the Bowie Mill Road right-of-way (on the north).

If you would like to discuss this matter further, please give me a call at your convenience.

Sincerely yours,

MILLER, MILLER & CANBY

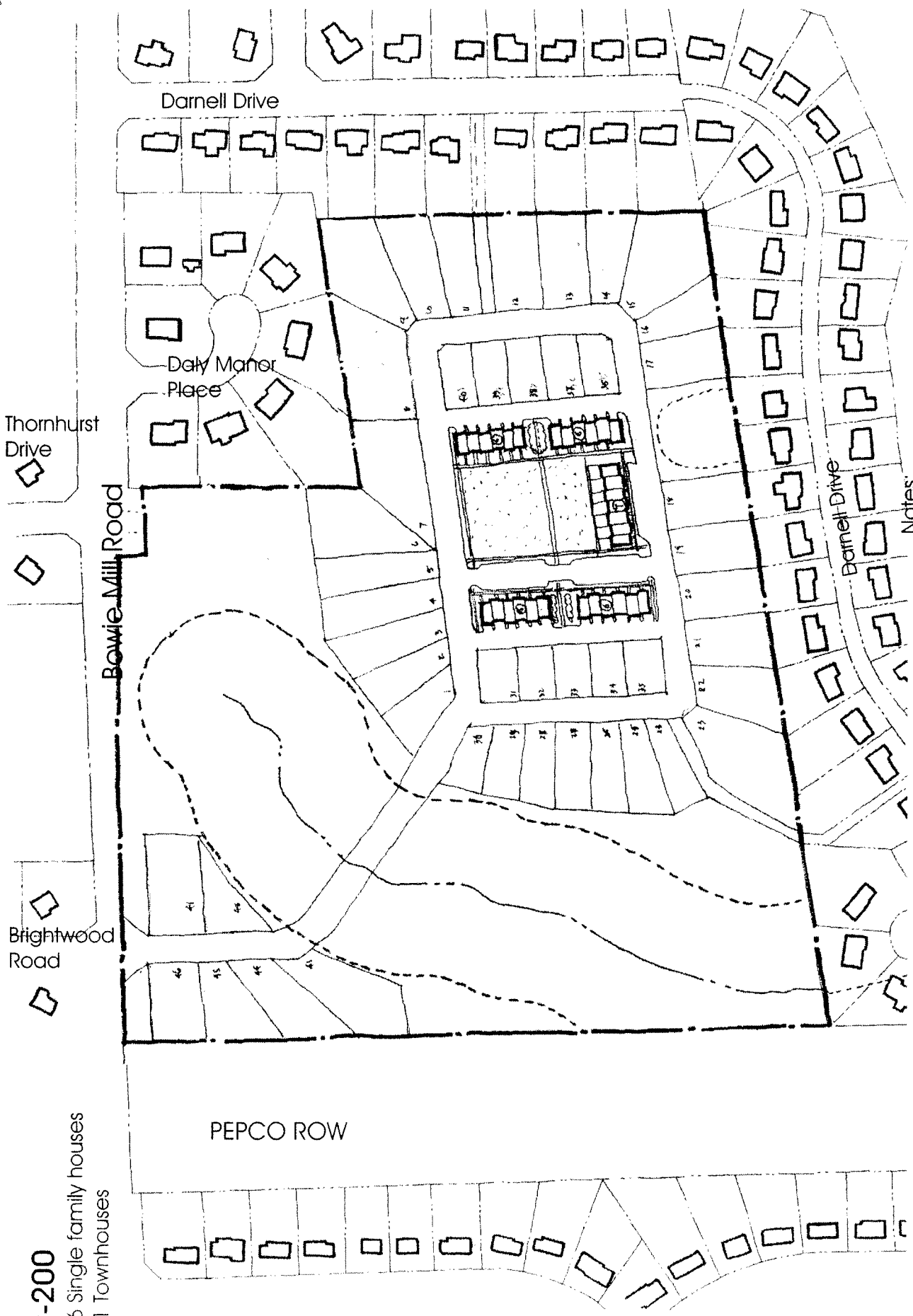
A handwritten signature in black ink that reads "Jody" with a stylized flourish at the end.

Jody S. Kline

JSK/dlt

Enclosures

cc: Sandra Pereira  
Elsabett Tesfaye  
Cathy Conlon  
Khalid Afzal  
John Clarke  
Mike Bingley  
Steve Sprecher  
Artie Harris  
Ed Wallington  
Trini Rodriguez



**R-200**  
 46 Single family houses  
 31 Townhouses

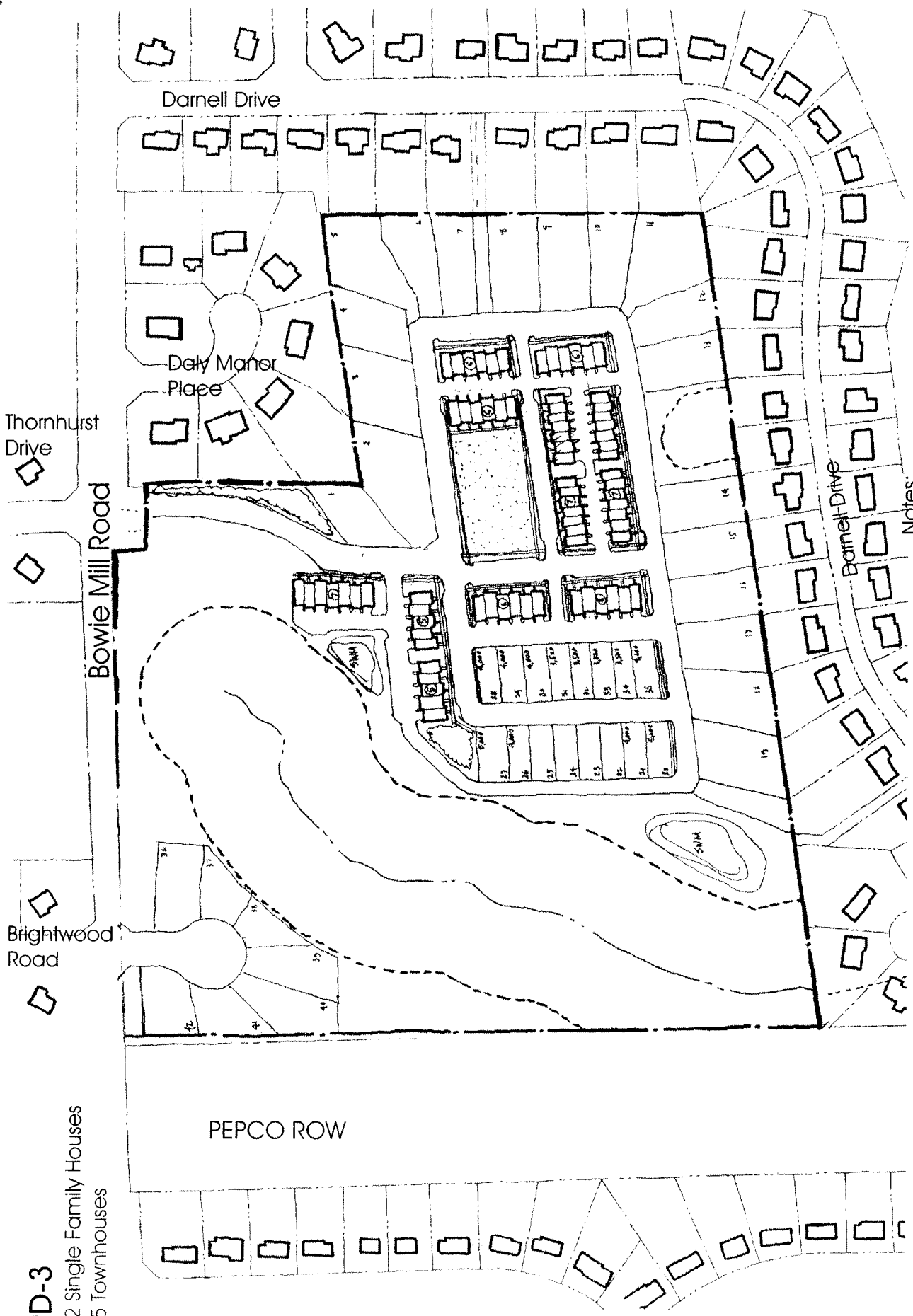
Notes:

- Stream buffer is estimated from aerial photograph.
- Site plan is illustrative only. Actual unit yield and layout may vary based on environmental constraints.

Scale 1" = 220'

**PD-3**

42 Single Family Houses  
75 Townhouses

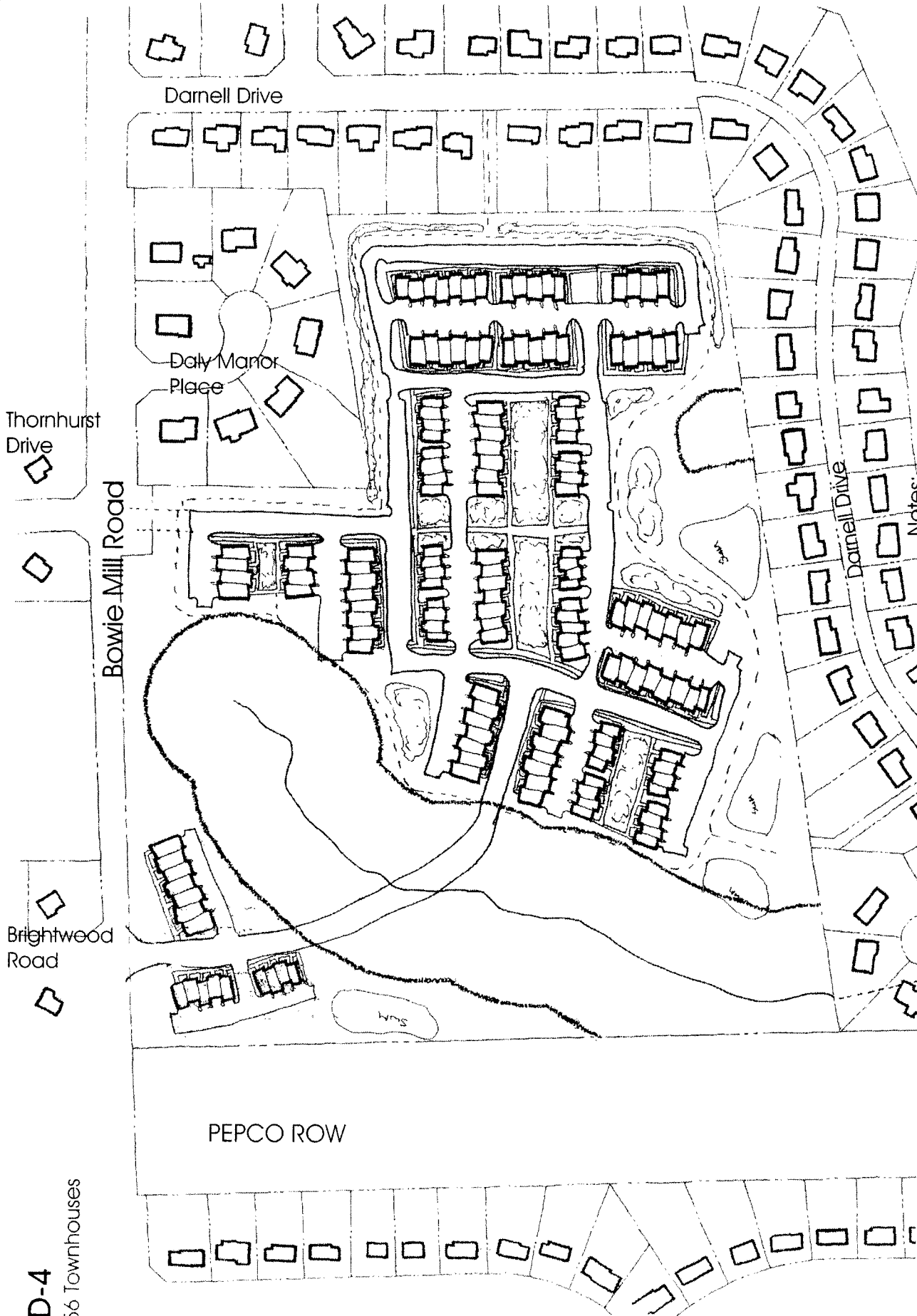


Notes:

- Stream buffer is estimated from aerial photograph.
- Site plan is illustrative only. Actual unit yield and layout may vary based on environmental constraints.

Scale 1" = 220'

**PD-4**  
156 Townhouses



Notes:

- Stream buffer is estimated from aerial photograph.
- Site plan is illustrative only. Actual unit yield and layout may vary based on environmental constraints.

Scale 1" = 220'