



CHECKLIST Site Plan / Project Plan Review

Plan # 820060190 Name: OLNEY ESTATES
 Zone: RNL Tract Area: 107.35 Proposed Use: RESIDENTIAL
 Number of Units: 42 Square Footage: NA
 Development Method: OPTIONAL Other: _____

Referral Comments:

M-NCPPC	Staff	Date	Other Agencies	Staff	Date
Transportation	<u>SE</u>	<u>06/01/06</u>	SHA		
Environmental	<u>AL</u>	<u>06/02/06</u>	DPS (SWM)	<u>RB</u>	<u>10/13/05</u>
Community Planning	<u>KA</u>	<u>07/03/06</u>	DPS (Traffic)		
Historic Planning	<u>MA</u>	<u>04/25/06</u>	Public School		
Park Planning	<u>DP</u>	<u>02/07/06</u>	Utility		
Research/Housing	<u>SS</u>	<u>07/10/06</u>	Fire & Rescue	<u>JF</u>	<u>05/12/06</u>
			DPW & T	<u>GL</u>	<u>05/25/06</u>

Development Standards / Requirements

- Zoning Requirements
- Development Data Table
- Recreation Calculation
- MPDU Calculation
- TDR Calculation
- Timing/Phasing Conditions
- Building Restriction Lines
- Building Height
- Master Plan Conformance

Prior Approvals

- Development Plan
- Record Plat
- Preliminary Plan
- Prior Site Plan Approvals

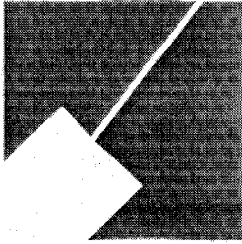
Community Input

- Civic Association _____
- Individuals _____

Supervisor Review _____

Chief Review _____

APPENDIX A

**MEMORANDUM**

DATE: June 30, 2006

TO: Montgomery County Planning Board

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

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

REVIEW TYPE: Preliminary Plan Review

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

PROJECT NAME: Olney Estates Property

CASE #: 120050920 (1-05092)

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

ZONE: RNC

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

MASTER PLAN: Olney

APPLICANT: Oxbridge Development at Northwest, L.C.

ENGINEER: VIKA

FILING DATE: April 27 2005

HEARING DATE: July 13, 2006



STAFF RECOMMENDATION: Approval, subject to the following conditions:

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

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

PROPERTY DESCRIPTION

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

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

PROJECT DESCRIPTION

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

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

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

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

DISCUSSION OF ISSUES

MPDU Calculations

Applicant's Position

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

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

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

Staff's Position

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

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

The proposed unit mix of 36 market rate units and 6 MPDUs is consistent with this history and intent, however, it appears to certain staff that there is inconsistency with language in the MPDU law as written. In attempting to interpret the law as it is written, staff in Development Review and Community Based Planning came to a different conclusion as to MPDU requirements¹. However, the overall staff recommendation, in support of the applicant’s position, defers to the interpretation reflected in the legislative history.

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

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

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

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

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

ANALYSIS

TRANSPORTATION

Local Area Transportation Review

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

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

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

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

Overlength Cul-de-sacs

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

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

ENVIRONMENT

Forest Conservation

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

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

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

Environmental Bufffers

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

OLNEY MASTER PLAN

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

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

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

CITIZEN CORRESPONDENCE

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

CONFORMANCE WITH THE ZONING ORDINANCE

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

CONFORMANCE TO THE SUBDIVISION REGULATIONS

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

CONCLUSION

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

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

ATTACHMENTS:

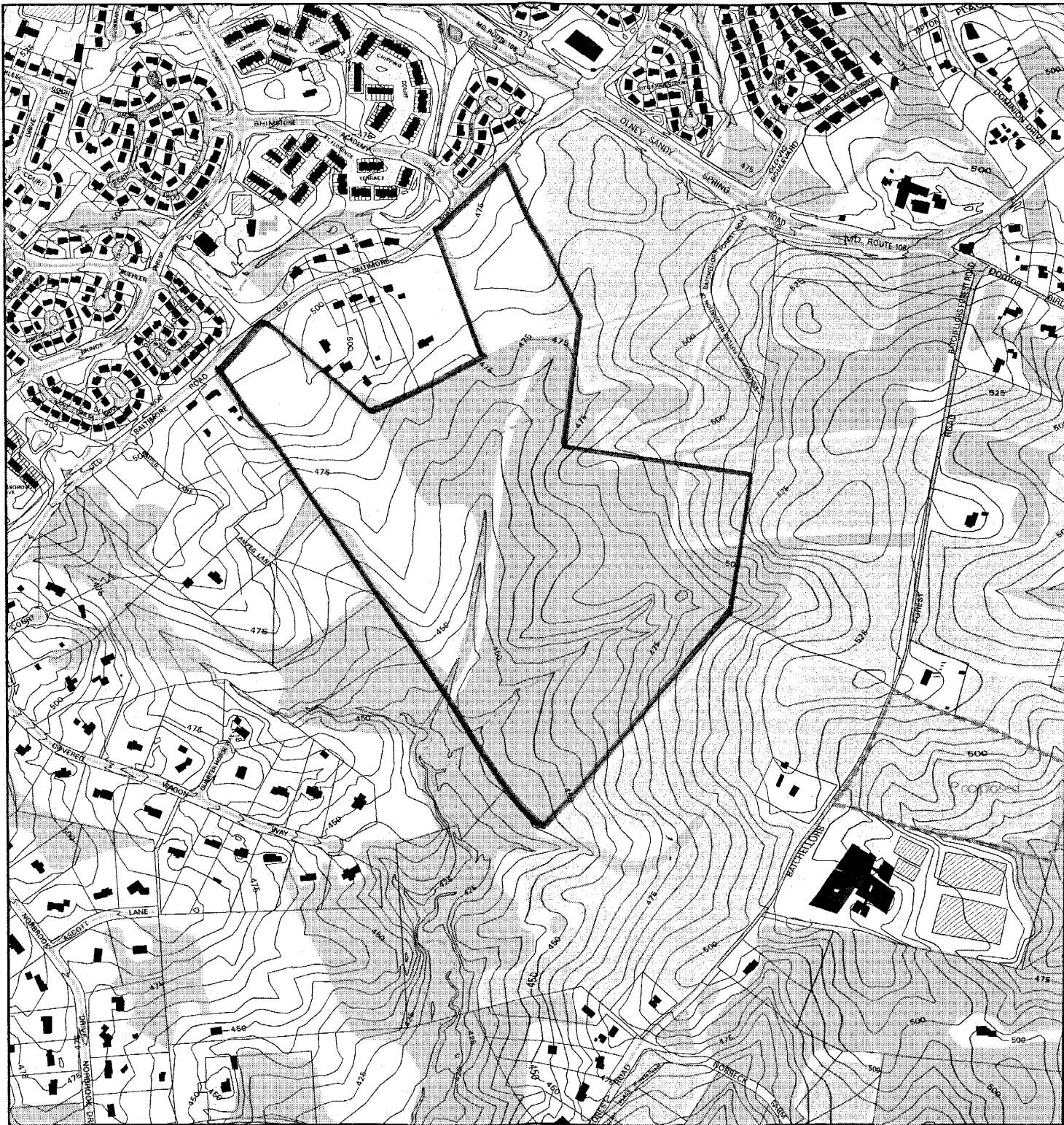
- Attachment A Vicinity Map
- Attachment B Preliminary Plan
- Attachment C Applicant Letter Regarding MPDUs
- Attachment D Legislative History
- Attachment E Agency Approvals

Preliminary Plan Data Table and Checklist

Plan Name: Olney Estates				
Plan Number: 120050 920 (formerly 1-05092)				
Zoning: RNC				
# of Lots: 42				
# of Outlots: 0				
Dev. Type: Cluster Residential				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval on the Preliminary Plan	Verified	Date
Minimum Lot Area	4,000 sq.ft.	4,580 sq.ft. is minimum proposed	RW	6/30/06
Lot Width	N/A	N/A		6/30/06
Lot Frontage	25 ft.	Must meet minimum	RW	6/30/06
Setbacks				6/30/06
Front	15 ft. min.	Must meet minimum	RW	6/30/06
Side	8 ft. min. or meet adjacent zone	Must meet minimum	RW	6/30/06
Rear	10 ft. min. or meet adjacent zone	Must meet minimum	RW	6/30/06
Height	35 ft. Max.	May not exceed maximum	RW	6/30/06
Max Resid'l per Zoning	42	42	RW	6/30/06
MPDUs	Yes	6	RW	6/30/06
TDRs	No			
Site Plan Req'd?	Yes	Pending	RW	6/30/06
FINDINGS				
SUBDIVISION				
Lot frontage on Public Street	Yes		RW	6/30/06
Road dedication and frontage improvements	Yes		Agency Memo	5/25/06 and 6/1/06
Environmental Guidelines	Yes		Staff memo	6/2/06
Forest Conservation	Yes		Staff memo	6/2/06
Master Plan Compliance	Yes		RW	6/26/06
ADEQUATE PUBLIC FACILITIES				
Stormwater Management	Yes		Agency memo	10/13/05
Water and Sewer (WSSC)	Yes		Agency memo	6/26/06
10-yr Water and Sewer Plan Compliance	Yes		Agency memo	6/26/06
Well and Septic	N/A			
Local Area Traffic Review	Yes		Staff memo	6/1/06
Fire and Rescue	Yes		Agency memo	5/12/06
Other (i.e., schools)	N/A			

OLNEY ESTATES (1-05092)

Attachment "A"



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

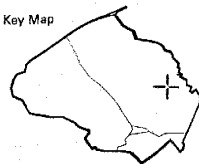
NOTICE

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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

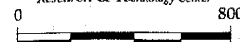
Key Map



N



Research & Technology Center



1 inch = 800 feet
1 : 9600

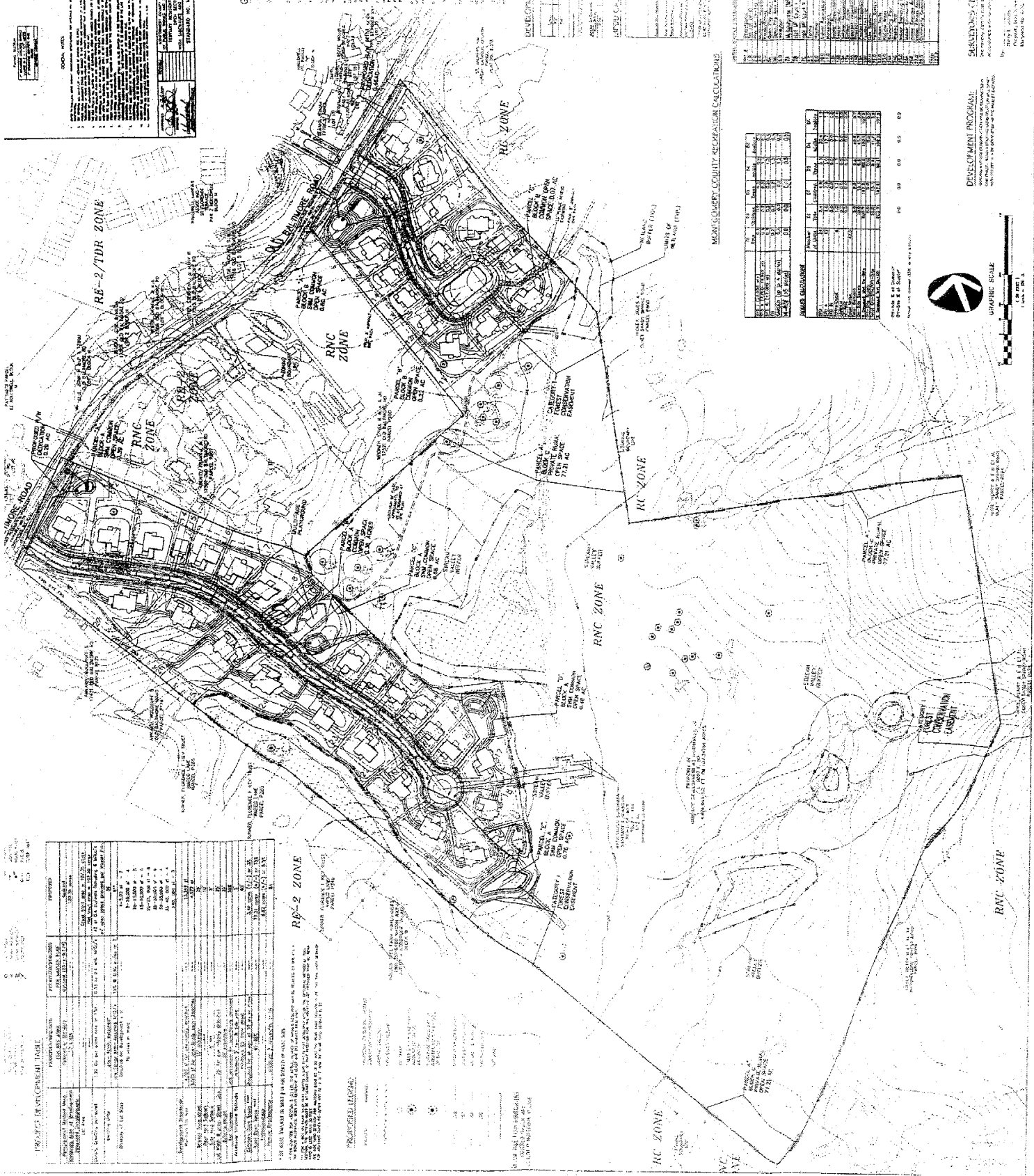
MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

GENERAL NOTES:

1. THIS PLAN IS SUBMITTED FOR REVIEW AND APPROVAL BY THE MONTGOMERY COUNTY DEPARTMENT OF PLANNING AND ZONING.
2. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS FROM THE MONTGOMERY COUNTY DEPARTMENT OF PLANNING AND ZONING.
3. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS FROM THE MONTGOMERY COUNTY DEPARTMENT OF PUBLIC WORKS.
4. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS FROM THE MONTGOMERY COUNTY DEPARTMENT OF ENVIRONMENTAL AND NATURAL RESOURCES.
5. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS FROM THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH SERVICES.
6. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS FROM THE MONTGOMERY COUNTY DEPARTMENT OF SOCIAL SERVICES.
7. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS FROM THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION.
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9. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS FROM THE MONTGOMERY COUNTY DEPARTMENT OF WATER AND SEWER SERVICES.
10. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS FROM THE MONTGOMERY COUNTY DEPARTMENT OF FIRE AND REScue.
11. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS FROM THE MONTGOMERY COUNTY DEPARTMENT OF POLICE.
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22. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS FROM THE MONTGOMERY COUNTY DEPARTMENT OF PUBLIC SAFETY.

OLNEY ESTATES
 8TH ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND
 PRELIMINARY PLAN
 MNCPPC # 1-05092



PROJECTS DEVELOPMENT TABLE

NO.	PROJECT NAME	PROPOSED DEVELOPMENT	PROPOSED ZONING	PROPOSED LOT AREA (SQ. FT.)	PROPOSED LOT AREA (AC.)	PROPOSED LOT AREA (SQ. FT.)	PROPOSED LOT AREA (AC.)	PROPOSED LOT AREA (SQ. FT.)	PROPOSED LOT AREA (AC.)
1	LOT 1	RESIDENTIAL	RNC	10,000	0.23	10,000	0.23	10,000	0.23
2	LOT 2	RESIDENTIAL	RNC	10,000	0.23	10,000	0.23	10,000	0.23
3	LOT 3	RESIDENTIAL	RNC	10,000	0.23	10,000	0.23	10,000	0.23
4	LOT 4	RESIDENTIAL	RNC	10,000	0.23	10,000	0.23	10,000	0.23
5	LOT 5	RESIDENTIAL	RNC	10,000	0.23	10,000	0.23	10,000	0.23
6	LOT 6	RESIDENTIAL	RNC	10,000	0.23	10,000	0.23	10,000	0.23
7	LOT 7	RESIDENTIAL	RNC	10,000	0.23	10,000	0.23	10,000	0.23
8	LOT 8	RESIDENTIAL	RNC	10,000	0.23	10,000	0.23	10,000	0.23
9	LOT 9	RESIDENTIAL	RNC	10,000	0.23	10,000	0.23	10,000	0.23
10	LOT 10	RESIDENTIAL	RNC	10,000	0.23	10,000	0.23	10,000	0.23

RE-2 ZONE
 RE-2 ZONE: RESIDENTIAL SINGLE-FAMILY, TWO-FAMILY, AND TOWNHOUSE.

RNC ZONE
 RNC ZONE: RESIDENTIAL NEIGHBORHOOD COMMUNITY.

RC ZONE
 RC ZONE: RESIDENTIAL COMMUNITY.

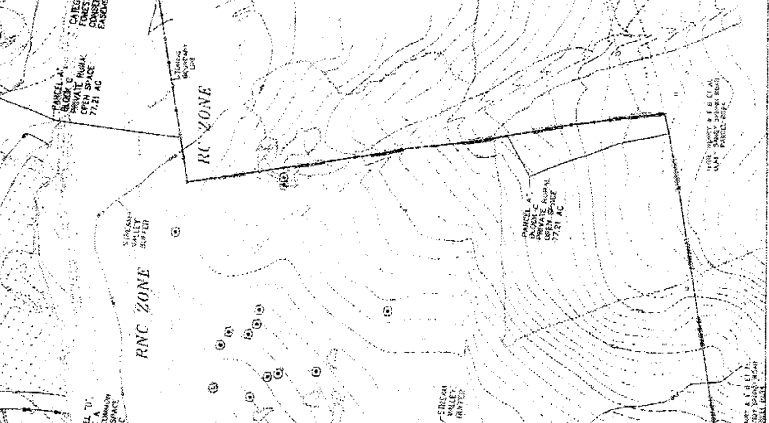
MONTGOMERY COUNTY RECREATION CALCULATIONS

NO.	PROJECT NAME	PROPOSED DEVELOPMENT	PROPOSED LOT AREA (SQ. FT.)	PROPOSED LOT AREA (AC.)	PROPOSED LOT AREA (SQ. FT.)	PROPOSED LOT AREA (AC.)	PROPOSED LOT AREA (SQ. FT.)	PROPOSED LOT AREA (AC.)
1	LOT 1	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
2	LOT 2	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
3	LOT 3	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
4	LOT 4	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
5	LOT 5	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
6	LOT 6	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
7	LOT 7	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
8	LOT 8	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
9	LOT 9	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
10	LOT 10	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23

DEVELOPMENT PROGRAM

NO.	PROJECT NAME	PROPOSED DEVELOPMENT	PROPOSED LOT AREA (SQ. FT.)	PROPOSED LOT AREA (AC.)	PROPOSED LOT AREA (SQ. FT.)	PROPOSED LOT AREA (AC.)	PROPOSED LOT AREA (SQ. FT.)	PROPOSED LOT AREA (AC.)
1	LOT 1	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
2	LOT 2	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
3	LOT 3	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
4	LOT 4	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
5	LOT 5	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
6	LOT 6	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
7	LOT 7	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
8	LOT 8	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
9	LOT 9	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23
10	LOT 10	RESIDENTIAL	10,000	0.23	10,000	0.23	10,000	0.23

SELECTIONS CERTIFICATE
 DEVELOPMENT PROGRAM
 MONTGOMERY COUNTY DEPARTMENT OF PLANNING AND ZONING



MONTGOMERY COUNTY DEPARTMENT OF PLANNING AND ZONING
 SHEET NO. 1 OF 2



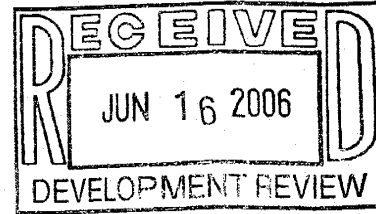
Residential Developers
Commercial Builders
Real Estate Investors

600 Jefferson Plaza
Suite 550
Rockville, MD 20852

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

Attachment "C"

COPY
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June 15, 2006

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

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

Chairman Berlage:

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

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

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

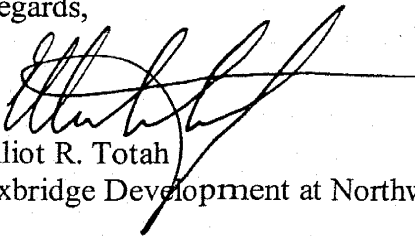
MPDUs to 20 units in applicable subdivisions throughout the County. In doing so, the bill stood to negate the aforementioned density bonus since the percentage difference between the density bonus and the MPDU requirement yielded no market-rate units when multiplied by certain unit numbers less than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

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

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

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

Regards,



Elliot R. Totah
Oxbridge Development at Northwest, LC

cc: Steve Kaufman
Richard Weaver
Catherine Conlon
Khalid Afzal

Exhibit A

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

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

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