


January 23, 2015

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Carol S. Rubin, Associate General Counsel 

RE: Inverness Association, Inc.
Amendment to Declaration of Covenants

The Inverness Association, Inc., a homeowners association, has requested the Planning Board's consent to an amendment to the Association's Declaration of Covenants. The amendment provides for suspension of voting rights and the right to use the recreational facilities and common areas due to an infraction by an owner of the Association's rules and regulations lasting more than one year.

The Declaration of Covenants requires the consent of M-NCPPC to any amendment. It was standard practice to require the consent of M-NCPPC to homeowner's association documents to assure consistency with public open space/use requirements after site plan approval. However, that practice has been replaced by the application of conditions and reference to the Board's Resolution on the Certified Site Plan.

Nothing in this amendment is relevant to the findings that the Planning Board made in its site plan approval, and I have asked that the Association further amend its Covenants to limit the need for the Planning Board's consent to amendments that are directly related to the site plan approval. Therefore, I recommend that the Board consent to the amendment as proposed, and further that the Board consent to an amendment limiting the need for its consent as indicated.

Attachment 1 – Amendment to the Declaration of Covenants, Conditions and Restrictions

ATTACHMENT 1

AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

This amendment to the Declaration of Covenants, Conditions and Restrictions by
Inverness Association, Inc.,

WITNESSETH

WHEREAS, there is a Declaration of Covenants, Conditions and Restrictions
("Declaration") recorded at Liber 5132 folio 813 and re-recorded at Liber 5133 folio 439, as
supplemented by Supplementary Declaration of Covenants and Restrictions recorded at Liber
5295, folio 701, Supplementary Declaration of Covenants and Restrictions recorded at Liber
5401, folio 174 and Supplementary Declaration of Covenants and Restrictions recorded at Liber
5440, folio 173 to bring additional properties within its coverage, that subjects certain real
property in Montgomery County, Maryland to covenants, conditions and restrictions and brings
said real property within the jurisdiction of Inverness Association, Inc., a Maryland non-stock,
non-profit membership corporation existing and organized under the laws of Maryland, which is
a homeowners association ("the Association") as defined under Maryland law, and

WHEREAS the Association and its members desire to amend said Declaration in
accordance with the procedures established for amendment in Article VI, Section 3 of said
Declaration, and

WHEREAS in accordance with Article VI, Section 3 of said Declaration seventy-five
percent (75%) of the lot owners have signed an instrument agreeing to amend the Declaration as
more fully stated herein, and

ATTACHMENT 1

WHEREAS Article VI, Section 3 of said Declaration provides that

“No amendment shall be made until the Maryland National Capital Park and Planning Commission (or its successor) or Montgomery County, Maryland has approved the Amendment.” , and

WHEREAS the Maryland Capital Park and Planning Commission has advised Inverness that it interprets such provisions to require its approval only where an amendment to a governing document relates to or changes an approved site plan, and the amendments below do not relate to or change the approved site plan for Inverness, and

WHEREAS the current president of the Association has executed this document to indicate the consent of Inverness Association, Inc. hereto

NOW THEREFORE Inverness Association, Inc. and the undersigned lot owners of the Association hereby amend the Declaration of Covenants, Conditions and Restrictions recorded at Liber 5132 folio 813 and re-recorded at Liber 5133 folio 439 among the Land Records of Montgomery County, Maryland as supplemented from time to time, as follows:

1. Delete Article II, Section 1 (c) in its entirety and in place thereof substitute the following:

(c) The right of the Association to suspend the voting rights and to suspend the right to use the recreational facilities and common areas by an owner for any period during which any assessment against the owner's lot remains unpaid and for a period not to exceed one (1) year for an infraction of the Association's published rules and regulations. The Association is hereby authorized to impose such suspensions. Suspension of the right to use recreational facilities and common areas may be imposed for each separate occurrence and each separate repeated occurrence of any such infraction. Suspensions may run concurrently, but no suspension for any

single infraction shall be for a period longer than one (1) year. The Board of Directors of the Association shall adopt rules and regulations to implement this provision including the right to a hearing if requested by a lot owner and provisions for suspension of rights without a hearing in the event of an emergency threatening life, health or safety of individuals or safety of property provided that within a reasonable time after such suspension, the Association affords the lot owner a hearing on the decision to suspend if the lot owner requests a hearing.

2. Add the following language to the Declaration as a new paragraph at Article II, Section 4:

“Section 4. Fines.

After notice and hearing, if the lot owner requesting a hearing, the Association may impose reasonable fines for violations of the Declaration, By-laws, Rules and Regulations. Any fines so imposed shall constitute and be collected in the same manner as assessments pursuant to Article IV of this Declaration. The Board shall pass regulations implementing this provision, including provisions for the maximum fine allowed, the procedure for imposing fines for continuing violations and the procedure for requesting a hearing.”

3 All of the provisions of the Declaration and any Supplemental Declarations shall remain in full force and effect except as provided above.

ATTESTED:

INVERNESS ASSOCIATION, INC.

By: _____
Secretary

By: _____
President

STATE OF MARYLAND
COUNTY OF MONTGOMERY:

On this _____ day of _____, 2015, before me, the undersigned officer personally appeared _____ who acknowledged himself/herself to be the _____ of _____, a corporation, and that he/she, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as _____.

In witness whereof I hereunto set my hand and official seal.

Notary Public
My Commission Expires:

SIGNATURE PAGES OF LOT OWNERS REPRESENTING AT LEAST 75% OF THE LOT OWNERS FOLLOW:

SIGNATURE PAGE

AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

The undersigned are record owners of a fee simple title to a lot or lots located in Inverness Association, Inc. and subject to the Declaration of Covenants, Conditions and Restrictions recorded at Liber 5132, folio 813 and re-recorded at Liber 5133, folio 439 as supplemented by Supplementary Declaration of Covenants and Restrictions recorded at Liber 5295, folio 701, Supplementary Declaration of Covenants and Restrictions recorded at Liber 5401, folio 174 and Supplementary Declaration of Covenants and Restrictions recorded at Liber 5440, folio 173. The undersigned hereby consent to and execute this Agreement to the Declaration of Covenants, Conditions and Restrictions for the purpose of amending the original Declaration of Covenants, Conditions and Restrictions as provided herein.

INVERNESS ASSOCIATION, INC. PROPERTY ADDRESS:

Street Address

Print Name: _____

Signature: _____

Date: _____

Street Address

Print Name: _____

Signature: _____

Date: _____

Street Address

Print Name: _____

Signature: _____

Date: _____