

SEP 28 2010



# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 10-121  
Site Plan No. 82004027C  
Project Name: Leesborough  
Hearing Date: July 29, 2010

## MONTGOMERY COUNTY PLANNING BOARD

### RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, Batchellors Forest, LLC c/o Centex Homes ("Applicant"), previously received Planning Board approval with conditions of Site Plan No. 820040270 for 190 dwelling units, which was amended by Minor Site Plan Amendment No. 82004027A (to improve the Georgia Avenue frontage and Amherst Avenue access, and to upgrade internal landscape and hardscape features), and by Administrative Site Plan Amendment No. 82004027B (for modifications to the location of certain HVAC units, landscaping, retaining walls, and hardscape elements).

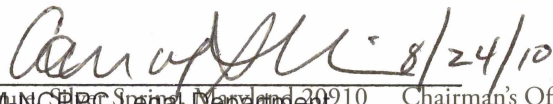
WHEREAS, on June 11, 2010, Applicant filed another site plan amendment application designated 82004027C, Leesborough (the "Amendment") for approval of the following modification<sup>1</sup>:

#### Addition of Terrace Walls

The Amendment proposes to add short terrace walls on Lots 7, 8, 9, and 139-141 for the respective units to conform to the maximum building height allowed. These walls, between 1 and 2 feet in height, help to define the private realm and do not obstruct the pedestrian circulation system.

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staff of other applicable governmental agencies, Staff issued a

<sup>1</sup> The Application also sought to amend Condition 1.b of approved Site Plan No. 820040270 to permit removal of the Rafferty Center and replace it with an open field and play equipment, given that an agreement between the Applicant and Montgomery County could not be reached with regard to the Rafferty Center. The Application also sought to add 4 townhouse units and to make changes with respect to on street parking. The Planning Board did not take action on these other aspects of the Application instead providing Applicant with the opportunity to return at a later date for action on these items.

Approved as to  
Legal Sufficiency:  8/24/10

8787 Georgia Avenue, N-NCPPC, Springfield, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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memorandum to the Planning Board dated July 15, 2010, setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on July 29, 2010, Staff presented the Amendment to the Planning Board at a public hearing on the Amendment (the "Hearing") where the Planning Board heard testimony and received evidence submitted for the record on the Amendment; and

WHEREAS, condition 1.b) of the original Site Plan approval No. 820040270 stated that:

"If an agreement between the applicant and Montgomery County cannot be reached, and the Rafferty Center cannot be retained, the applicant shall amend the approved site plan to show an alternate layout and design that addresses the open space and recreation requirements, as well as the overall design intent. The revised site plan must be approved by the Planning Board prior to the issuance of the 133<sup>rd</sup> building permit."

WHEREAS, at the Hearing, the Applicant requested a revision to condition 1.b as part of this Amendment to increase the number of building permits obtainable prior to having an approved site plan showing an alternate layout and design; and

WHEREAS, on July 29, 2010, the Planning Board approved that portion of the Amendment allowing for the addition of the terrace walls and for a revision to Condition 1(b) to increase the maximum number of building permits allowed under that condition from 133 to 160, prior to action on an alternate plan for open space and recreation use of the area now occupied by the Rafferty Center, on the motion of Commissioner Dreyfuss, seconded by Commissioner Alfandre, with a vote of 5-0, Commissioners Alfandre, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and as modified at the Hearing, and hereby APPROVES the Amendment as Site Plan No. 82004027C, subject to the following conditions:

1. Development Plan Conformance

The proposed amendment must comply with the binding elements listed in the Zoning Map Amendment G-798 and associated Development Plan.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for preliminary plan 120040680 as listed in the Planning Board Resolution dated February 8, 2005, unless amended. This includes but is not limited to all

references to density, rights-of-way, dedications, easements, transportation conditions, DPWT conditions, and DPS stormwater conditions.

3. Site Plan Conformance

The proposed amendment must comply with the conditions of approval for site plan 82004027B as listed in the Approval Memorandum dated July 9, 2009, as amended. Unless amended by this application, all previous approvals remain in full force and effect.

4. Rafferty Center (replaces condition #1.b on the original Site Plan #820040270)

Based on the fact that an agreement between the applicant and Montgomery County could not be reached, and the Rafferty Center cannot be retained, the applicant shall amend the approved site plan to show an alternate layout and design that addresses the open space and recreation requirements, as well as the overall design intent. The revised site plan must be approved by the Planning Board prior to the issuance of the 160<sup>th</sup> building permit. Applicant shall bring to the Board for approval, its alternate layout and design, which may include 4 additional townhouse units, changes with respect to on street parking, and additional recreation facilities.

5. Certified Site Plan

Prior to approval of the Certified Site Plan, which Applicant shall submit after a hearing before the Board to show the alternate layout and design as required in Condition No. 4, the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the 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. Ensure consistency of all details and layout between site plan and landscape plan.
- d. The certified site plan must be consistent with the prior site plan approval except for i) the addition of the terrace walls on Lots 7, 8, 9, and 139-141, and ii) the alternate layout and design to accommodate the removal of the Rafferty Center as approved by the Board .

BE IT FURTHER RESOLVED, that the Planning Board adopts the Staff's recommendation and analysis set forth in the Staff Report as modified at the Hearing, and FINDS that the Amendment is consistent with the provisions of § 59-D-3.7 of the Zoning Ordinance and that the Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in connection with the originally approved site plan; and

BE IT FURTHER RESOLVED that all site development elements as shown on Leesborough drawings stamped by the M-NCPPC on June 11, 2010, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that Applicant will bring back to the Planning Board for further review and action at a future date, those items of the Application not acted upon at this time; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Amendment shall remain valid as provided in Montgomery County Code § 59-D-3.8; and


BE IT FURTHER RESOLVED, that the date of this written resolution is SEP 28 2010 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Vice Chair Wells-Harley, with Chairman Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Commissioner Presley absent at its regular meeting held on Thursday, September 16, 2010, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board