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MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No.10-174
Site Plan No. 82004027C
Project Name: Leesborough
Hearing Date: December 9, 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

(Compliance with Condition No. 4 of MCPB NO. 10-121)

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) ; and

WHEREAS, Condition No. 1(b) of the Planning Board's Opinion approving Site Plan 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 133rd building permit."

WHEREAS, the County abandoned its proposed reuse of the Rafferty Center; and

WHEREAS, on June 11, 2010, Applicant filed another site plan amendment application designated 82004027C, Leesborough (the "Amendment") i) to add terrace walls to another part of the development, and, ii) in accordance with Condition No. 1(b) to remove the Rafferty Center and show an alternate layout and design; and

Approved as to
Legal Sufficiency:

A handwritten signature in black ink, dated 12/15/10.

8787 Georgia Avenue, Suite 500, Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, on July 29, 2010, the Planning Board i) approved that portion of the Amendment allowing for the addition of the terrace walls, ii) increased the maximum number of building permits allowed prior to action on an alternate plan for open space and recreation use of the area occupied by the Rafferty Center ("Alternate Design"), and iii) deferred action on the Alternate Design proposed by Applicant as part of the Application; and

WHEREAS, Condition No. 4 of the Planning Board's Resolution No. 10-121 approving Site Plan Amendment No. 82004027C stated that:

"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 160th 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."

WHEREAS, following additional community outreach and further review and analysis of the Alternate Design by Staff and the staff of other applicable governmental agencies, Staff issued a supplemental memorandum to the Planning Board dated November 24, 2010, setting forth its analysis and recommendation for approval of the Alternate Design ("Supplemental Memorandum"); and

WHEREAS, on December 9, 2010, the Planning Board held a public hearing on the Alternate Design (the "Hearing") in compliance with Condition No. 4 of MCPB No. 10-121, where the Planning Board heard testimony and received evidence submitted for the record; and

WHEREAS, on December 9, 2010, the Planning Board approved the Alternate Design and supplemented the approval of the Amendment subject to conditions on the motion of Commissioner Wells-Harley, seconded by Commissioner Presley, with a vote of 4-0, Commissioners Alfandre, Carrier, Presley, and Wells-Harley voting in favor, with Commissioner Dreyfuss being absent.

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 Supplemental Memorandum and hereby supplements its approval of the Amendment, subject to the following conditions:

1. Previous Approvals

Unless amended by this Resolution, together with MCPB Resolution No. 10-121, all previous approvals remain in full force and effect.

2. Forest Conservation & Tree Save (modifies Condition No. 12 of the Planning Board's Opinion approving Site Plan No. 820040270)

By certified site plan, the Applicant must submit a forest conservation plan to reflect the Site Plan as amended, specifically for the removal of the Rafferty Center and the additional lots.

3. Development Program

The Applicant must construct the proposed development in accordance with the Development Program approved with Site Plan 820040270, except for Condition 16(b) which shall be replaced with the following condition:

a) Community-wide pedestrian pathways, including the 8-foot-wide Class I bikeway, and recreation facilities, including tot lot, open play area and amenity plazas, approved as part of Site Plan No. 820040270, shall be completed prior to issuance of the 133rd building permit. The open play area, multi-age playground and gazebo, proposed as part of this Amendment, shall be completed prior to issuance of the 180th building permit.

4. Recreation Facilities (replaces Condition No. 8 of the Planning Board's Opinion approving Site Plan No. 820040270)

The Applicant must provide a tot lot, multi-age playground, 2 open play areas, pedestrian system, and 6 seating areas to satisfy the requirements of the M-NCPPC Recreation Guidelines.

5. Moderately Priced Dwelling Units (MPDUs) (replaces Condition No. 10 of the Planning Board's Opinion approving Site Plan No. 820040270)

The proposed development must provide (25) twenty-five (or 12.5 percent of the total number of units) MPDUs on-site in accordance with Chapter 25A of the Montgomery County Code.

6. Certified Site Plan (replaces Condition No. 18 of the Planning Board's Opinion approving Site Plan No. 820040270)

Prior to approval of the Certified Site Plan 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) Modify data table to reflect development standards and additional units enumerated in the staff report.
- c) Update the recreation calculations to reflect the new equipment proposed.
- d) Update and submit all sheets in the set for certified site plan.

- e) Ensure consistency of all details and layout between site plan and landscape plan.
- f) Show the additional terrace walls on Lots 7, 8, 9 and 139-141 approved with MCBP No. 10-121.
- g) Provide details of the gazebo and piers proposed.
- h) Provide more variety of plant material around gazebo; include deciduous shrubs and ornamental grasses.
- i) Provide a second row of shade trees between the proposed sidewalk and the curb of the new perpendicular parking spaces.

BE IT FURTHER RESOLVED, that the Planning Board FINDS that the Amendment as supplemented by the Alternate Design remains consistent with the provisions of § 59-D-3.7 of the Zoning Ordinance and that the Amendment as supplemented by the Alternate Design does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in connection with the Planning Board's Opinion approving Site Plan No. 820040270.

a) Replacement of the Rafferty Center

The Rafferty Center will be replaced with an open field and a multi-age playground. These amenities complement the existing open play area, tot lot and seating areas immediately to the west. Combined, these areas represent the majority of the open space and recreation opportunities available onsite. The two 'open play areas', of approximately 10,750 and 7,500 square feet, provide the most flexibility to meet recreation needs of various age groups. These relatively flat areas of open lawn are surrounded by shade trees which define the spaces by creating an edge. In the center, the playground equipment and seating/picnic areas function as a focal point and a destination for users. The new multi-age playground supports activities for children ages 5-9. It includes a play structure, swings, balance beam, bouncer seats, and spring seats. Except for a fence along the northern property boundary, the space is accessible from all sides including the sidewalk on Georgia Avenue. New pathways will connect the new field to the approved sidewalk system making it accessible to the residents of the community. Piers with signage will identify the eastern entrance of the park, and a gazebo with landscaping will act as a focal point for those approaching from the east. The landscaping has been adequately adjusted to accommodate the new park. The modifications to the site continue to satisfy binding element No. 2 of G-798 requiring a "minimum two-acre community open space on-site, visible and accessible from a public street." The Applicant will commemorate the history of the Rafferty Center.

The access and visibility from Georgia Avenue further validates the binding elements of the zoning case. The issue of public use of a private recreation facility creates a burden on future residents and the Homeowner's Association for maintenance, security and liability. While most private recreation facilities are

accessible to the general public, the removal of the Rafferty Center did not obligate the developer to provide a replacement of such public use area or space for the broader community. In fact, the Rafferty Center was proposed for ownership, operations and programming by the County, not the Applicant or the HOA. Further, the recreation guidelines are applied to the site based upon the total number of proposed units and are intended to satisfy the recreational needs of the new development, not provide more recreational opportunities for the general public. Although, the proposed green area will remain private open space, the proximity to Georgia Avenue implies public accessibility and use.

b) Addition of 4 townhouses

The Alternate Design adds 4 townhouses fronting onto the new open field and rear loaded from Fleeter Drive. The total number of units is 194, which is below the maximum of 201 dwelling units allowed by binding element No. 1 of G-798 and the approved Preliminary Plan. As a result of increasing the total number of units, the number of MPDUs has been adjusted from 24 to 25. The additional MPDU will be located on Lot 100, which has been approved by DHCA.

c) Adjustments to on-street parking

The Alternate Design adjusts the layout of the on-street parking on the east side of the existing Rafferty Center. Instead of having parallel parking spaces, the Alternate Design calls for perpendicular spaces. This will allow for safer and more efficient in/out movement to access these parking spaces. In addition, spaces will be provided to replace the parking spaces that were displaced by the four additional townhouse units. As a result, the Alternate Design maintains the number of regular parking spaces for this area, and adds one handicap parking space.

d) Revisions to recreation calculations

The Alternate Design revises the recreation calculations to reflect the elimination of the Rafferty Center, which was used to satisfy part of the recreation requirements. Instead, the Applicant will receive credit for an additional Open Play Area I and a multi-age playground. The previously approved seating area at the intersection of Leesborough Circle and Little Sorrel Way will be replaced by a gazebo with sheltered seating. Overall, this development will provide a tot lot, a multi-age playground, 2 open play areas, a pedestrian system, and 6 seating areas, combined with offsite credit for proximity to the facilities at the Wheaton Regional Park, to satisfy the requirements of the M-NCPPC Recreation Guidelines.

BE IT FURTHER RESOLVED that all site development elements as shown on Leesborough drawings stamped by the M-NCPPC on June 11, 2010, and November 4,

2010 shall be required, except as modified by the conditions of approval in this Resolution, together with MCPB Resolution No. 10-121; 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 the Amendment as supplemented by the Alternate Design shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

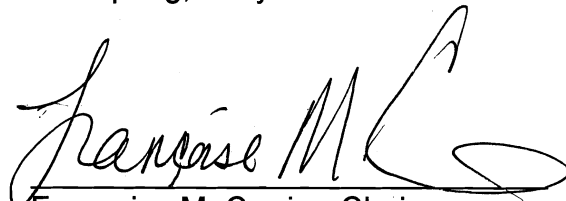
BE IT FURTHER RESOLVED, that the date of this written Resolution is JAN 25 2011 (which is the date that this Resolution is mailed to all parties of record); and

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 Dreyfuss, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre, Dreyfuss, and Presley present and voting in favor of the motion, at its regular meeting held on Thursday, January 6, 2011, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board