




March 16, 2017

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Carol S. Rubin, Principal Counsel
301.495.4646 

RE: Longmead Crossing Community Services Association Inc.
Approval of Amendment to Supplementary Declaration of
Covenants and Restrictions

The purpose of this memorandum is to request the Planning Board's consent to an amendment to the Longmead Crossing Community Services Association, Inc, Supplementary Declaration of Covenants i) to change the voting requirement prior to a change to certain entrance monuments at the development, and ii) to eliminate the need for future Commission consent except in the event such amendment would impact upon the site plan approval. I recommend the Board consent to both.

The Longmead Crossing Community Services Association, Inc, a homeowners association, has requested the Planning Board's consent to an amendment to the Association's Supplementary Declaration of Covenants. The Amendment provides for preservation of the stone entrance monuments located within the common area for the Parkgate Cluster that identify the subjects lots as "Parkgate", by prohibiting any modification or alteration of the entrance monuments without approval from seventy-five percent (75%) of the lots that comprise the Parkgate Cluster.

The Declaration of Covenants requires the consent of M-NCPPC to any amendment. When the Longmead Crossing site plan was approved by the Planning Board, 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 However, that practice has been replaced by the Certified Site Plan with application of conditions and reference to the Board's Resolution on the Certified Site Plan.

Nothing in the amendment infringes on obligations of the owners relevant to the site plan approval. Therefore, I recommend that the Board consent to the amendment. I have also recommended to counsel for the Longmead Crossing Services Association that an amendment to the Declaration of Covenants be added in the future that eliminates the need for Commission consent except in the event such amendment would impact upon the site plan approval.

Attachment 1 – Amendment of the Supplementary Declaration of Covenants and Restrictions

**AMENDMENT OF THE SUPPLEMENTARY DECLARATION OF
COVENANTS AND RESTRICTIONS**

THIS AMENDMENT to the SUPPLEMENTARY DECLARATION OF COVENANTS, AND RESTRICTIONS (the "Amendment"), is made and entered into this ____ day of _____, 20__, by the Owners of at least seventy-five percent (75%) of the Lots in the Parkgate Cluster.

WHEREAS, a Supplementary Declaration of Covenants and Restrictions was recorded among the Land Records for Montgomery County, Maryland (the "Land Records") at Liber 7871, folio 857 *et seq.* (hereinafter referred to as the "Supplementary Declaration"); and

WHEREAS, pursuant to Article I of the Supplementary Declaration, the property described in Exhibit A to the Supplementary Declaration has been designated as the Parkside Cluster within the Longmead Crossing Community Services Association, Inc. (the "Association"); and

WHEREAS, the Lots and Cluster Common Area (as set forth in Article VIII of the Supplementary Declaration and defined in Article I, Section 5 of the Declaration of Covenants and Restrictions of Long Mead Crossing) of the Parkgate Cluster are subject to the terms, conditions, covenants, easements and restrictions set forth in the Supplementary Declaration; and

WHEREAS, Article IX, Section 2 of the Supplementary Declaration provides that the Supplementary Declaration may be amended at any time by an instrument signed by the Owners of a least seventy-five percent (75%) of the Lots in the Parkgate Cluster; and

WHEREAS, at least seventy-five percent (75%) of the Owners of the Lots within the Parkgate Cluster have executed and acknowledged their consent to amend the Supplementary Declaration to preserve the original construction and design of the entrance monuments to the Parkgate Cluster located within the Parkgate Cluster Common Area that has been designated for the benefit of the Parkgate Cluster by the Supplementary Declaration. A copy of each Declaration of Consent executed by the Parkgate Cluster Lot Owners to this Amendment to the Supplementary Declaration of Covenants and Conditions are attached hereto and made a part of this Amendment as Exhibit "A".

NOW THEREFORE the Owners of the Parkgate Cluster hereby amend the Supplementary Declaration as follows:

1. The Recitals set forth in this Amendment are incorporated in and made a part of this Amendment.

2. Unless otherwise expressly provided herein, all capitalized terms not expressly defined herein shall have the same meanings ascribed to such terms in the Supplementary Declaration.

3. Insert the following new Article X – ENTRANCE MONUMENTS to the Supplementary Declaration:

ARTICLE X

ENTRANCE MONUMENTS

The stone entrance monuments located within the Cluster Common Area for the Parkgate Cluster that identify the subject lots of this Supplementary Declaration as "Parkgate" shall remain in their original construction and design, and shall not be modified, changed or altered in any manner without approval from seventy-five percent (75%) of the Lots in the Parkgate Cluster. In the event that any maintenance, repairs or replacement is required of the aforesaid entrance monuments, such maintenance, repairs or replacement may be undertaken, provided that the original construction and design of the entrance monuments are preserved and are not modified, changed or altered in any manner without approval from seventy-five percent (75%) of the Lots in the Parkgate Cluster.

4. Except as modified by this Amendment, none of the terms and provisions of the Supplementary Declaration are intended to be modified hereby.

5. If any part of this Amendment conflict with the Supplementary Declaration, the provisions of this Amendment shall control.

6. The foregoing amendment shall take effect upon recordation among the Land Records.

IN WITNESS WHEREOF, at least seventy-five percent (75%) of the Owners of Lots within the Parkgate Cluster do hereby acknowledge and deliver these presents as their act and deed as set forth in the attached Declaration of Consent as Exhibit "A", for the purposes set forth herein, all as of the year and day first above written.

CONSENT OF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Pursuant to Article IX, Section 5(c) of the Supplementary Declaration of Covenants and Restrictions, The Maryland-National Capital Park and Planning Commission hereby declares, acknowledges and consents to the recording of this Amendment to Supplementary Declaration of Covenants and Restrictions among the Land Records of Montgomery County, Maryland.

WITNESS:

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, a body politic

_____ By: _____
Name: _____
Title: _____

STATE/Commonwealth of _____ *
* to wit:
COUNTY/CITY OF _____ *

I HEREBY CERTIFY that on this ____ day of _____, 20____, before me, a Notary Public in and for the jurisdiction aforesaid, personally appeared _____, _____ of The Maryland-National Capital Park and Planning Commission, a body politic, known to me (or satisfactorily proven) to be the person who executed the foregoing and annexed instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

ATTACHMENT 1

EXHIBIT "A"

DECLARATION OF CONSENT FORMS

[SEE ATTACHED DECLARATION OF CONSENT FORMS]