



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

MCPB No. 11-50  
Site Plan No. 82008019A  
Project Name: Batchellor's Forest  
Hearing Date: June 16, 2011

**RESOLUTION**


WHEREAS, under 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, on July 26, 2007, the Planning Board approved with conditions Preliminary Plan No. 120060850 (MCPB No. 08-15, and corrected MCPB No. 11-21) for 37 lots;

WHEREAS, on July 30, 2009, the Planning Board approved with conditions Site Plan No. 820080190 (MCPB No. 09-95, dated September 14, 2009 and corrected on December 8, 2009) for 37 lots including 32 one-family detached dwelling units and 5 one-family attached MPDUs; and

WHEREAS, on February 22, 2011, SM Batchellor's Forest, LLC ("Applicant"), filed a site plan amendment application designated 82008019A, Batchellor's Forest (the "Amendment") for approval of the following modifications:

1. One market-rate unit converted into one MPDU
  - a) Lot 13, Block A, formerly shown on Street "A" (now labeled as Brompton Circle) with a one-family detached unit, was eliminated. The resulting 7 Lots surrounding the area of common open space were reconfigured and regarded to accommodate the loss of one lot. This change benefits the layout by providing greater setbacks for the corner units abutting Old Vic Boulevard.
  - b) One additional MPDU townhouse was added to the 2 MPDUs located on Victoria Place (formerly labeled as Street "B"). As a result, lots immediately adjacent to the MPDU's have been reconfigured and regarded to accommodate the new unit.
  - c) New lot configurations and layout have led to minor changes to several development standards including minimum lot areas for townhouses and one-family detached, rural open space and common open space. The Project Data Table below outlines these changes. Revised condition of

Approved as to  
Legal Sufficiency: 

8787 Georgia Avenue, Suite 100, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

- approval #3 captures the new designations for the rural open space parcels consistent with those proposed on the record plats.  
 d) Landscaping has been revised for each affected lot.

Project Data Table for the RNC Zone, Optional Method of Development

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Approved with 820080190</b>	<b>Approved by the Planning Board &amp; Binding on the Applicant</b>
<b>Min. Area of Development (acres) 59-C-9.575(a)</b>	10	93.64	93.61
<b>Max. No. of Dwelling Units</b>			
One-family detached units	n/a	37	37
One-family attached units (MPDUs)	n/a	32	31
		5	6
<b>Min. Lot Area (sq. ft.)</b>			
One-family detached units	4,000	10,700	14,580
MPDUs	n/a	3,500	2,684
<b>Rural Open Space</b>			
	65-85%	69.8%	70.5%
<b>Common Open Space (SF)</b>			
	n/a	82,023	81,979

2. Water and sewer service

In order to minimize water and sewer connections to Batchellors Forest Road, Lot 13 – Block A and Lot 10 – Block B will be connected to the internal roads for water and sewer service, as requested by WSSC.

- a) A 20-foot house connection easement has been added between Lots 1 and 2, Block B, in order to provide water and sewer service to Lot 10, Block B. This WSSC easement will overlap with the rural open space easement on HOA property.
- b) The LOD at Lot 13, Block A has been revised to accommodate water and sewer house connections from Victoria Place. This WSSC easement will overlap with the rural open space easement on Lot 13.

3. Coordination with DOT's review comments on the Storm Drain and Paving Plan

- a) Include curb returns at the entrance to Farquhar Middle School where the crosswalk from the proposed development crosses Batchellor's Forest Road.

- b) Provide a crosswalk on Old Vic Boulevard at the north leg of Brompton Circle with appropriate sidewalk connections on both sides of Old Vic Boulevard.

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated June 2, 2011, setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on June 16, 2011, 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, on June 16, 2011, the Planning Board approved the Amendment subject to conditions on the motion of Commissioner Presley, seconded by Commissioner Wells-Harley, with a vote of 4-0, Commissioners Carrier, Dreyfuss, Presley and Wells-Harley voting in favor and Alfandre 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 Staff Report and hereby approves the Site Plan No. 82008019A; and

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board hereby APPROVES the Amendment, subject to the following conditions:

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for preliminary plan 120060850 as listed in MCPB No. 08-15, and corrected MCPB No. 11-21, unless amended. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DOT conditions, and DPS stormwater conditions.

2. Site Plan Conformance

The proposed development must comply with the conditions of approval for site plan 820080190 as listed in MCPB No. 09-95, dated September 14, 2009 and corrected on December 8, 2009, as amended.

3. Rural Open Space

Section 59-C-9.573(c)(3) of the Zoning Ordinance requires land in the rural open space area to be preserved in perpetuity, either by dedication as parkland or by application of a rural open space easement for the 65.6-acre area designated as

private rural open space ("Rural Open Space Area") (Block A: Parcels C, D, E and Lot 13; Block B: Parcel A; Block C: Parcel A, as shown on the Certified Site Plan). A reference to the recorded easement and deed of dedication is to be noted on the record plat(s).

- a) Applicant must grant a rural open space easement over the portion of the Rural Open Space Area to be owned by the HOA on the west side of Batchellors Forest Road (Block A: Parcels C, D, E and Lot 13; Block B: Parcel A) to M-NCPPC and Greater Sandy Spring Green Space Inc. as joint grantees, and record the easement in the Montgomery County Land Records.
- b) Applicant must dedicate the portion of the Rural Open Space Area on the east side of Batchellors Forest Road (Block C: Parcel A) to M-NCPPC for uses consistent with the intent of the rural open space in the RNC zone as set forth in Section 59-C-9.23.1 and uses as set forth in Section 59-C-9.572.

BE IT FURTHER RESOLVED, that the Planning Board adopts the Staff's recommendation and analysis set forth in the Staff Report 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 the proposed conversion of one market-rate unit to an MPDU is consistent with the approved preliminary plan and the Maryland Court decisions concerning this development. The Planning Board originally approved the preliminary plan on January 11, 2008. Two rounds of appeal ensued, first in the Circuit Court and then in the Court of Special Appeals. The appeals concerned how to calculate the number of MPDUs for this development. Ultimately, the Court of Special Appeals upheld the Board's decision to require the Applicant to build six MPDUs instead of the five the Applicant proposed. This amendment modifies the MPDU count for this project consistent with the Court of Special Appeals's ruling.

BE IT FURTHER RESOLVED that all site development elements as shown on Batchellor's Forest drawings stamped by the M-NCPPC on January 18, 2011 and May 6, 2011, shall be required, except as modified by the above conditions of approval; 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

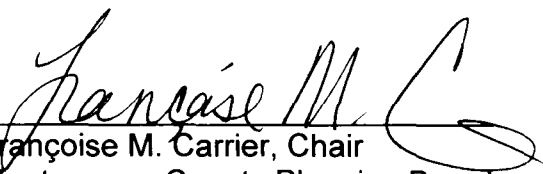
BE IT FURTHER RESOLVED, that the date of this written resolution is AUG 9 2011 (which is the date that this resolution is mailed to all parties of record); and

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).

\* \* \* \* \*

**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 Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss and Presley present and voting in favor of the motion, at its regular meeting held on Thursday, July 28, 2011, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board