

**IN RE: DETERMINATION OF SUBSTANTIAL AGREEMENT
WITH APPROVED PLANS**

**APPLICANT/
OWNER: CS PATUXENT GREENS, LLC**

**AGENT/
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STATEMENT OF JUSTIFICATION

I. INTRODUCTION

The Applicant, CS Patuxent Greens, LLC, is the owner of the Patuxent Greens residential development located on Clubhouse Drive in Laurel (the "Project"). The Project is the subject of an approved amendment to the PUD-E which authorized up to 450 dwelling units in accordance with Map Amendment Application No. 880 adopted by the Mayor and City Council in Ordinance 1924 (the "PUD Amendment"). Subsequent to the approval of the PUD Amendment, the Project received approval by the City Planning Commission of a Preliminary Subdivision Plan Resolution 18-05-PC (the "PSP") and a Final Site and Landscape Plan Resolution 18-06-PC ("Site Plan") for 222 townhouses and 167 single-family detached dwelling units for a total of 389 units. The Project is permitted and is under construction with streets, utilities and foundations installed. Several houses have been built and construction is ongoing. In response to market demand expressed by the builder of the homes on the Project, the Applicant would propose to revise the mix of approved residential units by adding an additional larger 24' wide townhome to compliment the existing approved 20' and 22' wide townhomes. In addition, while some single family detached units will be replaced with townhomes, there will remain a substantial presence of single family detached homes, especially nearest to the pre-existing neighborhood. The net result of this revision would be to increase the overall number of units approved in the PSP and Site Plan by 61 units, which is within the overall cap of 450 units authorized and allowed by the PUD Amendment. Most of the existing and approved platted lots would remain unchanged. Only the final phase of the Project would be the subject of a revised PSP and Site Plan.

However, as a precondition to filing any proposed amendments to the PUD, the City has required that a determination of substantial agreement or departure be made by the Planning Commission in accordance with Section 20-10.7 of the City Unified Land Development Code (the "Code"). The Property is zoned Planned Unit Development Existing (PUD-E) and located in Neighborhood 10 in the City's Master Plan. According to Section 20-10.7 "*At any time after the approval of a final plan of a planned unit development area, the owner or owners may request an amendment to their plans. Upon receipt of the request for amendment the Planning Commission shall determine whether such proposed amendment is in substantial agreement*

with the approved final plan of development or whether it represents a departure from the intent of the prior approval.” If it is determined that the request is in substantial agreement with the approved PUD, the Applicant must seek PUD map amendment approval by the Mayor and City Council. In other words, the only plan that can be reviewed by the Mayor and Council per the ordinance is a PUD amendment (or map amendment). The Planning Commission in essence would need to determine that a revision proposing 450 units is not in substantial agreement with the PUD Amendment which allowed up to 450 units. The PPS and Site Plan are not reviewed by the Mayor and Council.

The Applicant asserts the proposed amendment to the PPS and Site Plan is in substantial agreement with the approved final plan and does not constitute a departure because the PUD Amendment expressly authorizes and approved the Project for up to 450 units.

II. THE PROPOSED AMENDMENT IS IN SUBSTANTIAL AGREEMENT WITH THE APPROVED FINAL PLAN

The proposed amendment to add 61 lots to the Project is in substantial agreement with the approved final plan for the following reasons:

- A. The PUD Amendment on its face expressly allowed and authorizes up to 450 units for the Project. The final plan for the overall PUD-E as modified by the PUD Amendment allowed for the conversion of the prior existing golf course to a residential community consisting of up to 450 units. The layout and determination of lot mix and number was left to the Preliminary Plan of Subdivision and Site Plan review process. Ordinance 1924 in the seventh Recital references the golf course is to be converted to a residential community of up to 450 units. The only condition of approval set forth in the Mayor and City Council’s Ordinance 1924 was that “The Applicant shall obtain Final Site and Landscape Approval from the Planning Commission”. There was no limitation whatsoever placed on the number of units other than the stated cap of 450 dwelling units in the seventh Recital.
- B. The proposed revision does not alter the land use approved by the PUD Amendment, the PSP or the Site Plan for the Project. The PUD Amendment allowed for the conversion of the golf course to a residential community consisting of single-family detached houses and townhomes. The PSP and the Site Plan further approved those land uses. The proposed amendment would maintain the land use approved by the PUD Amendment and maintains a mix of single-family detached houses and townhomes.
- C. The main circulation pattern and road network will be retained. Only the rear portion of the Project will be redesigned to accommodate the new lots, but in a manner similar to the currently approved layout. Utility service and other infrastructure will continue to serve the Project as originally designed and approved.
- D. The revised layout will not be visible from the adjoining community. The physical relationship between the originally approved Project and the adjoining neighborhood will remain unchanged as the proposed revision is in the rear final phase of the Project.

- E. The original design which featured a combination of homes designed in concert with upgraded stormwater and pond amenities and substantial open space will be maintained. The water features will be unchanged and will continue to adequately serve the homes in the revised layout. The surrounding **green space** area actually **increases** by approximately 4 acres.
- F. Compliance with regulatory approvals. The proposed revision will comply with all County, MDE, and FEMA approvals for the Project and will actually have a positive environmental impact by increasing the amount of green area for the Project.
- G. The Traffic Impact Statement submitted on the record at the time of the PUD Amendment and the PSP review was based on an assumption of 450 units. Accordingly, the road network and offsite impacts were evaluated with a potential of 450 units. The proposed revision would have no increased impact on traffic adequacy over what was evaluated with the PUD Amendment and the PSP review.

III. ADDITIONAL BENEFITS

- A. The proposed revision in unit mix results in a decreased development envelope because townhomes require less mass grading than single-family detached homes. It is estimated the revised plan would result in a decrease of approximately 50,000 cubic yards of fill dirt needed to be imported to the Project. That equates to approximately 5,000 less truck trips in and out of the Project with a corresponding decrease in impact on local streets.
- B. The reduced development envelope and reduction in site work is estimated to reduce the ultimate build out of the project by up to one (1) year. That means construction traffic in the area would end much sooner than currently projected.
- C. At the time of the original plan reviews, concerns were raised about the road circulation conditions within and outside the Project. While not required to meet adequacy requirements, with the proposed revision, additional operational improvements is being pursued by the Applicant. The first proposed improvement would be a redesign of the Greenview Dr. and MD 197 intersection, subject to SHA approval, to allow for an additional left turn into the community from MD 197. This additional improvement to the current right-in/right-out configuration would allow for an additional means of ingress into the community. The second improvement is proposed as a safety valve within the Project. An emergency only access would be requested that would connect the Project's main access road to an existing private street stub within the adjoining condominium community. This access would be constructed to appear as part of the trail network within the Project but would be compacted and constructed to the degree necessary to support emergency vehicles should there be a blockage closer to the entrance to the Project.

- D. The proposed revision would provide high-quality housing of a mix and type that is in high demand in the Laurel area and the values of all the houses; single-family detached and townhomes will have positive impact on housing values in the area.

IV. CONCLUSION

The proposed revision to the final plan for Patuxent Greens is in substantial agreement with the approved final PUD Amendment plan as evidenced in City Ordinance 1924. It would not exceed the expressly authorized cap of 450 units and would comply with the one and only condition of approval which is to obtain Site and Landscape Plan approval. The revision is in keeping with the residential land use mix and relationships approved by the PUD amendment, the PSP and the Site plan in that it continues to offer a mix of single-family detached houses and townhomes. The revision increases the overall amount of green space in the Project and maintains the prior approved physical relationship with the surrounding existing neighborhood. The units will have a positive impact on City property values and will have no greater adverse impact on traffic adequacy and public facilities over what was evaluated previously. For all these reasons and based upon additional exhibits and arguments to be presented we respectfully request that the Planning Commission determine that the proposed revision to the project which complies with the approved cap of 450 units is in keeping with the intent of the approved plan and does not constitute a departure from the Mayor and City Council's original approval of the PUD amendment. Accordingly, the application should not be required to go through the PUD amendment process with additional review by the Mayor and City Council.

Respectfully submitted,

O'MALLEY, MILES, NYLEN & GILMORE, P.A.



By:

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