

Case No. SP-03005

Applicant: Toll Brothers

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL

ORDER AFFIRMING PLANNING BOARD DECISION

IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board in PGCPB No. 04-161, to approve with conditions a conceptual site plan showing 1,058 single-family dwellings on property described as approximately 588.63 acres of land in the R-R Zone, approximately .09 acres south of Westphalia Road and Ritchie-Marlboro Road, Upper Marlboro, is hereby:

AFFIRMED, for the reasons stated by the Planning Board, whose decision is hereby adopted as the findings of fact and conclusions of law of the District Council in this case.

Affirmance of the Planning Board's decision is subject to the following conditions:

1. Prior to certification of the conceptual site plan:
  - a. The applicant shall revise the development standards table to reduce the maximum lot coverage for small lots to 60 percent.
  - b. Provide a land use table to show the acreage of each proposed use category.
  - c. Provide a unit count table for each development stage.
  - d. Indicate on the CSP the land that will be dedicated to M-NCPPC as shown on the Department of Parks and Recreation Exhibit "A."
  - e. Add a note on the conceptual site plan indicating that the minimum single-family detached lot size is 6,000 square feet.
2. Prior to certification of the conceptual site plan, the Type I tree conservation plan, TCP1/81/03, shall be revised as follows:
  - a. Label all woodland conservation areas with an identification number and acreage.

- b. Correct the PMA limits where the stream buffer, wetland buffer, or 100-year floodplains extend beyond the limits currently shown as the PMA.
  - c. Add the following note to the TCP1:
 

“This plan is conceptual in nature and shall be revised with the preliminary plan of subdivision submittal which shall include conceptual grading and house locations.”
3. At the time of preliminary plan of subdivision, the applicant shall:
- a. Revise the limits of the PMA to reflect each of its components in their entirety.
  - b. Minimize all proposed PMA impacts to the fullest extent possible and eliminate any PMA impacts associated solely with the creation of lots.
  - c. Design the lot layout so that all residential lots are located completely outside of the 1.5 safety factor line (mitigated and/or unmitigated).
  - d. Show the mitigated and unmitigated 1.5 safety factor lines on the TCP1 submitted with the preliminary plan of subdivision.
  - e. Submit a copy of the approved 100-year floodplain study.
  - f. Submit a copy of the approved/proposed stormwater management concept plan.
4. Prior to approval of a detailed site plan, the following shall be demonstrated on the plans:
- a. The streetscape treatments such as special pavers in crosswalks, special pedestrian lighting, and furnishings including seating elements.
  - b. Street trees on the main entrance boulevard shall be located approximately 35 feet on center if they do not exist in the right-of-way. A staggered row of the same species shall be planted at the same interval on the other side of the sidewalk.
  - c. The building materials and architecture of the equestrian building, barns, and community clubhouse, shall be high quality and compatible to each other. The same materials shall be used and the colors of materials shall be strategically repeated to create a harmonious built environment.
  - d. Private recreational facilities, such as small-scale neighborhood outdoor play areas and picnic areas in at least five locations, shall be reviewed

by the Urban Design Review Section of the Development Review Division (DRD) for adequacy and property siting.

- e. Off-street parking and loading areas shall be provided in accordance with Part 11, and sign design shall be in accordance with Part 12 of the Zoning Ordinance.
5. At the time of detailed site plan approval, the following areas shall be carefully reviewed:
    - a. Access points to the equestrian complex from the community.
    - b. The screening and buffering of the rear yards from the views, smell and noise from the equestrian trails.
    - c. The screening and buffering of the rear yards of the lots that can be seen from Ritchie-Marlboro Road and other perimeter lots.
    - d. The design and siting of the residential buildings on the lots fronting Ritchie-Marlboro Road.
    - e. The design of the central green.
  6. At the time of the applicable detailed site plan, the applicant and the applicant's heirs, successors and/or assignees shall provide the following trail-related information with the site plans:
    - a. A composite trails map showing the connection to the regional trail network, multiuse master plan trails, equestrian trails, bikeways, and sidewalks shall be submitted with the first DSP. Trail widths and surface types should be indicated on that plan.
    - b. A multiuse, hiker-biker-equestrian trail along the subject site's entire length of Cabin Branch. This trail should be constructed to DPR standards and guidelines.
    - c. A hiker-equestrian trail along the subject site's entire length of Back Branch.
    - d. Depending upon the road cross section required by DPW&T, one of the following should be constructed along the subject site's entire road frontage of Ritchie-Marlboro Road:
      - (1) An eight-foot-wide hiker-biker trail.
      - (2) Wide (seven- to ten-feet-wide) asphalt shoulders and the placement of bicycle signage.

- e. A paved master plan trail running from the Cabin Branch stream valley trail to the northern property line, as indicated on the master plan.
  - f. The proposed trail network shall be expanded to include the portions of the subject site north of the Cabin Branch.
  - g. All equestrian trails shall meet the standards provided in Figure 3 of the Adopted and Approved Melwood-Westphalia Master Plan. Main trails should have a minimum ten-foot-wide trail width (with a two-foot-wide buffer on each side) and a minimum head clearance of 12 feet. Feeder trails, or trails receiving less volume, should meet the subdivision park trail standard, with a minimum trail width of six to eight feet, with a two-foot-wide buffer on each side. In order to accommodate equestrians, a minimum head clearance of 12 feet is recommended on these trails as well. All trails on land to be dedicated to the Department of Parks and Recreation should meet all DPR standards and guidelines.
  - h. Due to the density of the proposed development, standard sidewalks shall be provided along both sides of all internal roads, subject to concurrence by DPW&T.
7. The land to be conveyed to a homeowners association shall be subject to the applicable conditions below:
- a. Conveyance shall take place prior to the issuance of any building permits.
  - b. A copy of an unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division, Upper Marlboro, along with the final plat.
  - c. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
  - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
  - e. Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved detailed site plan or shall require the written consent of DRD. This shall include, but not be limited to the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements required by the approval process.

- f. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
  - h. There shall be no disturbance of any adjacent land that is owned by, or to be conveyed to, M-NCPPC without the review and approval of DPR.
  - i. The Planning Board, or its designee, shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
8. The land to be conveyed to the Department of Parks and Recreation (DPR) shall be subject to the following conditions:
- a. An original, special warranty deed for the property to be conveyed (signed by the WSSC assessment supervisor) shall be submitted to the Subdivision Section of the Development Review Division, M-NCPPC, along with the final plat.
  - b. M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges prior to and subsequent to final plat.
  - c. The boundaries and acreage of land to be conveyed to M-NCPPC shall be indicated on all development plans and permits, which include such property.
  - d. The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation. If the land is to be disturbed, DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, M-NCPPC) shall be submitted to DPR within two weeks prior to applying for grading permits.
  - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by M-NCPPC, DPR shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.

- f. All waste matter of any kind shall be removed from the property to be conveyed. DPR shall inspect the site and verify that it is in acceptable condition for conveyance, prior to final plat approval.
  - g. No stormwater management facilities or tree conservation or utility easements shall be proposed on lands owned by or to be conveyed to M-NCPPC without the prior written consent of DPR. DPR shall review and approve the location and/or design of these features. If such proposals are approved by DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.
9. The conceptual site plan is subject to the Department of Parks and Recreation's conditions as follows:
- a. The subdivider, his successors and/or assignees shall submit a letter to the Subdivision Section indicating that the Department of Parks and Recreation has conducted a site inspection and found the land to be dedicated to M-NCPPC in acceptable condition for conveyance. The letter shall be submitted with the final plan of subdivision.
  - b. The applicant shall construct a 10-foot-wide asphalt hiker-biker trail along the Cabin Branch and Back Branch as shown on attached Exhibit "A."
  - c. The applicant shall construct six-foot-wide asphalt trail connectors from the neighborhoods to the stream valley trail system along Cabin Branch and Back Branch Stream Valleys as shown on attached DPR Exhibit "A."
  - d. Prior to submission of the first detailed site plan, the applicant shall confer with the Department of Parks and Recreation concerning the exact alignment of the master-planned trails along the Cabin Branch and Back Branch Stream Valleys and of the connecting trails from the adjoining residential areas. The alignments shall be approved by DPR.
  - e. Submission of three original, executed recreational facilities agreements (RFA) for trail construction to DPR for their approval, six weeks prior to a submission of a final plat of subdivision. Upon approval by DPR, the RFA shall be recorded among the Land Records of Prince George's County, Upper Marlboro, Maryland.
  - f. Submission to DPR of a performance bond, letter of credit, or other suitable financial guarantee, in an amount to be determined by DPR, within at least two weeks prior to applying for building permits.
  - g. The location of the trail shall be staked in the field and approved by DPR prior to construction.

- h. The applicant, his heirs, successors, and/or assignees shall construct the trail in phase with development. No building permit shall be issued for the lots directly adjacent to the trail until the trail is under construction. Prior to issuance of the 529<sup>th</sup> residential building permit, a ten-foot-wide, asphalt hiker-biker trail along Cabin Branch and Back Branch shall be completed. A six-foot-wide feeder trail shall be constructed in phase with development.
  - i. With the submission of the first detailed site plan, the applicant shall submit detailed construction drawings for trail construction to DPR for review and approval. The trail shall be designed in accordance with the applicable standards in the Park and Recreation Facilities Guidelines.
  - j. All trails shall be constructed to assure dry passage. If wet areas must be traversed, suitable structures shall be constructed. Designs for any needed structures shall be reviewed by DPR.
  - k. The handicapped accessibility of all trails shall be reviewed during the review of the detailed site plan.
  - l. The applicant shall enter into an agreement with PEPCO for public access, construction, installation, reconstruction, operation, and maintenance of the hiker-biker and equestrian trails on the PEPCO property.
  - m. If Commission trails are used by for-profit equestrian operations, an agreement shall be reached between the Commission and the equestrian operator before for-profit operations are conducted on public parkland. Further, at a minimum, the agreement shall include provisions that require the equestrian operator to provide insurance with coverage limits as specified by the Commission and name the Commission as an additional insured; indemnify and hold harmless the Commission; perform all construction and maintenance functions for the trails; and to allow for public use of the trails.
10. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit to the M-NCPPC Planning Department copies of all Federal and State wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
11. All subsequent plan submittals for this property shall reflect the location of the unmitigated 65 dBA Ldn noise contour on the plans. Subsequent plan submittals shall not show any residential lots within the unmitigated 65 dBA Ldn noise contour unless a Phase II noise study is included with the submittal and all interior and exterior noise impacts are mitigated so as not to exceed the State of Maryland noise standards. All mitigation measures shall be shown on future preliminary plans of subdivision and associated tree conservation plans.

12. Prior to issuance of the 530<sup>th</sup> building permit, the facilities such as community clubhouse, swimming pool, and tennis courts that serve the entire Recreational Community Development shall be completed and open to the residents.
13. Prior to the issuance of the 300<sup>th</sup> building permit, the main equestrian facility shall be built by the applicant at the applicant's expense.
14. The applicant shall amend the submitted Covenant to demonstrate to M-NCPPC staff the perpetual maintenance of the equestrian facility. The revised Covenant will state that operational maintenance (maintenance related to use of the facility, i.e., cleaning, mowing, trail maintenance and policing) will be the responsibility of the contract operator.  
  
In order to ensure that capital repairs or replacements are appropriately budgeted, the Covenant will further provide that a capital reserve account will be established for the benefit of the equestrian facility. The minimum required balance shall be established and periodically adjusted based on a Reserve Study, to be performed every 3 years by a Certified Public Accountant, Professional Reserve Analyst, or engineering firm. The account shall be used at the discretion of the HOA to perform needed capital maintenance or replacements of buildings, arenas, fencing, or other equestrian related facilities.
15. The existing Ashford Drive right-of-way within the Roblee Acres subdivision shall not be extended into the proposed subdivision for the Clagett Farm.

Ordered this 22nd day of November, 2004, by the following vote:

In Favor: Council Members Knotts, Dean, Dernoga, Exum, Harrington and Peters

Opposed: Council Member Bland

Abstained:

Absent: Council Member Hendershot



Vote: 6-1

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON  
REGIONAL DISTRICT IN PRINCE GEORGE'S  
COUNTY, MARYLAND

By: \_\_\_\_\_  
Tony Knotts, Chairman

ATTEST:

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Redis C. Floyd, Clerk