



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

**Consent Item #**  
**MCPB 9-6-07**

**MEMORANDUM**

DATE: August 24, 2007  
 TO: Montgomery County Planning Board  
 VIA: Rose Krasnow, Chief *RK*  
 Development Review Division  
 FROM: Robert Kronenberg, Acting Supervisor *RK*  
 Development Review Division  
 (301) 495-2187



REVIEW TYPE: **Site Plan Amendment**  
 CASE #: **81990071B**  
 PROJECT NAME: Marwood  
 APPLYING FOR: Modification to the landscaping along the property frontage and along Marwood Hill Drive and Circle; changes to the grading for the stormwater management facility; relocation of the pedestrian pathway in the rear of the site; lot line adjustments to lots 19 and 44; and change to the conditions of approval to allow the release of building permits prior to installation of recreation facilities  
 REVIEW BASIS: Div. 59-D-3 of Montgomery County Zoning Ordinance  
 ZONE: R-200/TDR-3  
 LOCATION: Located on the south side of River Road near the intersection with Piney Meetinghouse Road  
 MASTER PLAN: Potomac Master Plan  
 APPLICANT: Maryland Development Company, LLC  
 FILING DATE: November 14, 2005  
 HEARING DATE: September 6, 2007

**STAFF RECOMMENDATION:** Approval of the proposed amendment to Site Plan 81990071A and approval of the attached draft Planning Board Resolution for the Site Plan 81990071B.

**BACKGROUND**

Marwood subdivision is a cluster development with 74 detached homes (Site Plan 8-90071 for Marwood was approved with conditions by the Planning Board in February 1992). The Marwood property was later divided and presented to the Planning Board as a two-phased

development (Site Plan 819970010, Opinion dated August 29, 1996). Phase I (fill lots) included development of 46 residential lots and recreational facilities on an old rubble/construction material landfill. Lots in Phase II had no fill on them and no excavation issues. A number of houses are either built or under construction within both the Phase I and Phase II areas.

The developer of the Phase I lots, Toll Brothers, filed the subject amendment to revise conditions of approval and site elements of the approved plan.

The certified site plan for Phase I was approved on October 14, 2005 and the Planning Board approved the record plat on December 22, 2005.

### **PROPOSED AMENDMENT**

An amendment was filed on November 14, 2005 requesting specific changes to the approved site plan. The plan was revised to address concerns by adjacent property owners with respect to the location of the proposed tennis courts. The proposed amendment requests the following modifications:

- 1) Modify the landscaping along the property frontage and along Marwood Hill Drive and Circle;
- 2) Changes to the grading for the stormwater management facility;
- 3) Relocation of the pedestrian pathway in the rear of the site;
- 4) Lot line adjustments to lots 19 and 44; and
- 5) Revise the conditions of approval to allow the release of the building permits prior to installation of the tennis courts. The final building permit for the site shall not be released until the recreation facilities are constructed.

### **PUBLIC NOTICE**

A notice regarding the subject site plan amendment was sent to all parties of record by the Applicant on November 11, 2005. The notice gave the interested parties 30 days to review and comment on the contents of the amended site plan. Staff received comments from the adjacent Marwood Homeowners Association on River View Drive and River View Court and from the adjacent property owner abutting the property to the northeast of the site. Their concerns related to the relocation of the tennis courts and grading and drainage issues, respectively. Both concerns have been addressed by the Applicant (See correspondence in Attachment C). The Applicant has maintained the original location of the tennis courts, satisfying the request by the adjacent association. Objections were not provided to the additional requests for landscaping modifications, path location and grading for the stormwater management facility.

### **STAFF REVIEW AND RECOMMENDATION**

The proposed amendment is consistent with the provisions of Section 59-D-2.6 of the Montgomery County Zoning Ordinance for Minor Plan Amendments. The amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board for the originally approved site plan.

The Applicant originally submitted an amendment seeking to relocate the tennis courts. The original site plan required that the necessary recreational facilities had to be in place prior to the release of the 24<sup>th</sup> building permit, which represented 70 percent of the total number of dwelling units. The applicant has reached this point, but cannot put in the tennis courts because the approved site currently contains a temporary sediment trap to capture water runoff while the development is under construction. In order to enable the release of additional permits, the applicant proposed a new site for the tennis courts along the southeastern boundary of the property, but this drew objections from both the adjacent property owners and staff. Once the houses are complete and the sediment trap is closed out, the tennis courts can be constructed. Therefore, this amendment requests that the timing for construction of the courts be changed such that they must be built prior to the release of the final building permit.

In addition to the modification to the condition for recreation facilities, the Applicant is proposing to modify the landscaping along the property frontage and along Marwood Hill Drive and Circle, change the grading for the stormwater management facility, pursuant to requests by DPS, and relocate a portion of the pedestrian pathway in the rear of the site by the stormwater management facility to address grading concerns.

An additional issue surfaced with this application as to the ownership and classification of the scenic easement on the subject property that parallels the C&O Canal. The scenic easement is intended to preserve forest and views to the Potomac and C&O Canal. The scenic easement coincides with a Category I Forest Conservation Easement on the record plat; however the deed for the scenic easement was never executed. The National Park Service did not want ownership of the scenic easement since an existing stormwater management facility was located within the easement. M-NCPPC has accepted the scenic easement with stipulations regarding maintenance of the existing stormwater management facility, and the Category I forest conservation easement remains effective.

The proposed site plan application presented to the Planning Board has not changed in terms of house locations and building layout, access or amenities.

Staff recommends **APPROVAL** of the Minor Site Plan Amendment for Marwood (Site Plan No. 81990071B) for modifications to the approved site plan.

#### ATTACHMENTS

- A. Site Description and Vicinity
- B. Letter from the Applicant dated November 11, 2005.
- C. Letter from adjacent property owners
- D. Draft Resolution

## ATTACHMENT A

### Site Description and Vicinity

The site consists of 187.89 acres of RE-2C zoned land, located on the south side of River Road at Piney Meetinghouse Road, in the Potomac master plan area. It is served by River Road, which forms the north boundary of the site. It is bounded by the C & O Canal and Potomac River to the south. Properties adjoining the site to the west and east are zoned RE-2. Across River Road from the site are existing RE-2 zoned subdivisions. The City of Rockville has a water filtration plant directly to the southeast of the site.

The site contains 46 one-family detached home sites with an internal spine and the remaining lots located primarily on the periphery of the eastern and western boundaries. The stormwater management facility is located in the center of the site near the southern boundary. The area between the lots and the C & O Canal is forested.



**ATTACHMENT B**

# Toll Brothers

America's Luxury Home Builder™

MNCP&P  
Development Review  
8787 Georgia Avenue  
Silver Spring, 20910

November 11, 2005

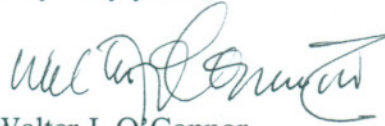
Attn. Robert Kronenberg

Dear Mr. Kronenberg,

Toll Brothers, Inc. respectfully submits this request for your review and approval. The site plan amendment submitted includes the following changes:

1. Increased landscaping along the property frontage and along Marwood Hill Dr. and circle
2. Changes to the nearly approved SWM plan and associated grading
3. Relocation of the proposed tennis court. (impact one lot as opposed to four lots)
4. Relocation of open play area (old tennis court location)
5. Relocation of the pedestrian pathway in the rear of the site

Very truly yours,



Walter J. O'Connor  
Land Development Manager

Cc: D. Sadler  
G.Shapard  
P.Kirby

## RECREATIONAL AMENITY REQUIREMENTS

Marwood	11/11/05				
Required Recreational Demand					
	D1 Tots	D2 Children	D3 Teens	D4 Adults	D5 Seniors
Single Family I 46 d.u. / 100 = 0.46	10 x 0.46 = 4.6	20 x 0.46 = 9.2	22 x 0.46 = 10.1	85 x 0.46 = 39.1	8 x 0.46 = 3.7
<b>Total Required Demand</b>	<b>4.6</b>	<b>9.3</b>	<b>10.1</b>	<b>39.1</b>	<b>3.7</b>
10% Allowed Variance	4.1	8.3	9.1	35.2	3.3
Recreational Amenities Provided					
Amenity Type	Tots	Children	Teens	Adults	Seniors
Pedestrian System	.10 x 4.6 = 0.46	.20 x 9.3 = 1.86	.20 x 10.1 = 2.02	.45 x 39.1 = 17.59	.45 x 3.7 = 1.66
Nature Trails	.05 x 4.6 = 0.23	.10 x 9.3 = 0.93	.15 x 10.1 = 1.51	.15 x 39.1 = 5.86	.15 x 3.7 = 0.55
Picnic / Sitting Area – 2 ea.	2 x 1 = 2.0	2 x 1 = 2.0	2 x 1.5 = 3.0	2 x 5 = 10.0	2 x 2 = 4.0
Open Play Area I– 2 each	2 x 6 = 12.0	2 x 9 = 18.0	2 x 12 = 24.0	2 x 30 = 60.0	2 x 2 = 4.0
Tennis Court – 2 each	0	2 x 1.5 = 3.0	2 x 10.5 = 21.0	2 x 24 = 48.0	2 x 1 = 2.0
<b>Total Provided</b>	<b>14.6</b>	<b>25.79</b>	<b>51.53</b>	<b>141.45</b>	<b>12.21</b>
* A 10% variance is allowed					

**ATTACHMENT C**



AUG-15-2007 13:58

LINOWES AND BLOCHER LLP

301 654 2801 P.02

LAW OFFICES OF

**KNOPF & BROWN**

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WRITER'S DIRECT DIAL

(301) 545-6105

DAVID W. BROWN

August 13, 2007

Mr. Royce Hanson, Chair, and  
Members of the Montgomery County Planning Board  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Site Plan Amendment 8-90081B, Potomac View (Marwod)

Dear Chairman Hanson and Members of the Planning Board:

This letter is written on behalf of my clients, H. Bryan Brewer, M.D., and Silvia Santamarina-Fojo, husband and wife, who reside at 11410 River Road, Potomac, Maryland (the Brewers). The Brewers live adjacent to the Potomac View project referenced above, which is being developed by Toll MD IV Limited Partnership (Toll). Toll has a site plan amendment pending before the Board, currently on the agenda for decision on September 6, 2007.

The Brewers had unresolved issues with Toll that have now been resolved to the satisfaction of both the Brewers and Toll. As a result, the Brewers are hereby withdrawing all opposition to the above-referenced site plan amendment and consenting to its approval. In light of the foregoing, the Brewers join in the Toll request that this matter be placed on the consent agenda for the September 6<sup>th</sup> Board hearing.

Thank you for your consideration of this matter.

Sincerely,



David W. Brown

cc: Barbara A. Sears, Esquire



December 5, 2005

jgarson@garsonlaw.com  
www.garsonlaw.com

**VIA FIRST-CLASS MAIL**

Mr. Robert Kronenberg  
MNCPPC  
8787 Georgia Ave.  
2<sup>nd</sup> Floor  
Development Review Division  
Silver Spring, MD 20910



Re: Site Plan Amendment: 8-1990071A, consisting of 46 Lots on 112.54 acres in Potomac, Maryland on River Road opposite Piney Meetinghouse Road

Dear Mr. Kronenberg:

Thank you very much for taking the time to speak with me and explaining the above-referenced proposed Site Plan Amendment. As we discussed, this law firm represents the Marwood Homeowners' Association, Inc. The Marwood Home Owners' Association is the association of the residents living immediately to the north of the subject property, referenced above. Specifically, the Marwood Home Owners' Association represents the residents living on River View Drive and River View Court. I am also personally a resident on River View Drive, at 11223 River View Drive, and live adjacent to the subject property.

Pursuant to a letter from Edward C. Wallington, Vice President of Land Development for Loiederman Soltesz Associates, Inc. in connection with the above-referenced Site Plan Amendment, we are advised that the proposed Site Plan Amendment consists of five (5) changes. The following consists of Marwood Home Owners' Association, Inc.'s formal response to these proposed changes in the order in which they appeared in Mr. Wallington's letter:

1. The Marwood Home Owners' Association supports the requested increases to the landscaping along the property frontage and along Marwood Hill Drive and Circle.
2. Marwood Home Owners' Association has no position with respect to the proposed changes to the newly approved Stormwater Management Plan and associated grading. We are simply not sufficiently informed and/or affected to justify providing our opinion with respect to same.
3. The Marwood Home Owners' Association is adamantly opposed to the relocation of the proposed tennis court. Please note that many members of the Marwood Home Owners'



Garson | Claxton

Association did not previously oppose the Site Plan for this project based upon the originally proposed location of the tennis court.

4. Based upon our position with regard to point 3 above, we are likewise opposed to the relocation of the open play area.

5. While we generally have no opposition to the relocation of the pedestrian pathway in the rear of the site, we are opposed to any relocation of the pedestrian pathway as it relates to the tennis courts and access to and from the tennis courts.

Mr. Kronenberg, we very much appreciate your consideration of our position in this matter. Should you feel at any time that there is even the slightest possibility that the relocation of the tennis court and related matters might be approved, we would very much appreciate your contacting me so that we may register our opposition as fully and as forcefully as is lawfully permitted.

Thank you so much for your attention to this matter and your consideration of our position.

If I can provide you with any additional information, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Jack Garson', is written over the typed name.

Jack Garson

cc: Mr. Edward C. Wallington, Vice President of Land Development, Loiederman Soltesz Associates, Inc.

Ms. M. Lyn Brown, President, Marwood Home Owners' Association, Inc.



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

MCPB No. 07-116  
 Site Plan No. 81990071B  
 Project Name: Marwood  
 Hearing Date: September 6, 2007

**RESOLUTION**

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, on November 14, 2005, Toll Brothers ("Applicant"), filed a site plan amendment application designated Site Plan No. 819900071B ("Amendment") for approval of the following modification:

- 1) Modify the landscaping along the property frontage and along Marwood Hill Drive and Circle;
- 2) Changes to the grading for the stormwater management facility;
- 3) Relocation of the pedestrian pathway in the rear of the site;
- 4) Lot line adjustments to lots 19 and 44; and
- 5) Revise the conditions of approval to allow the release of the building permits prior to installation of the tennis courts. The final building permit for the site shall not be released until the recreation facilities are constructed.

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 August 24, 2007 setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on September 6, 2007, Staff presented the Amendment to the Planning Board as a consent item for its review and action (the "Hearing"); and

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 Site Plan No. 81990071B; and

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this site plan 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 \_\_\_\_\_  
 (which is the date that this opinion is mailed to all parties of record); and

APPROVED AS TO LEGAL SUFFICIENCY

*Carleen A. Hols*

M-NCPPC LEGAL DEPARTMENT

DATE 8/24/07

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).

\* \* \* \* \*