

# WILLIAMS MULLEN

Direct Dial: 434.951.5709  
vlong@williamsmullen.com

June 11, 2018

## VIA EMAIL

Megan Nedostup – Principal Planner  
[mnedostup@albemarle.org](mailto:mnedostup@albemarle.org)

Frank Pohl, PE – County Engineer  
[fpohl@albemarle.org](mailto:fpohl@albemarle.org)

Department of Community Development  
County of Albemarle  
401 McIntire Road  
Charlottesville, VA 22902

**RE: Keswick Hall & Golf Club: Critical Slopes Waiver Request  
SP-2018-0001 Keswick Hall and Golf Club  
SDP-2018-016 Keswick Hall Additions – Major Amendment  
SDP-2018-017 Keswick Energy Plant – Major Amendment**

Dear Ms. Nedostup and Mr. Pohl:

Historic Hotels of Albemarle LLC and Keswick Club, LLC (together, “Keswick Hall”) are submitting this request to allow disturbance of critical slopes for the installation of proposed additions and site improvements located on tax map parcels 08000-00-00-00900, 08000-00-00-60A0 & 08000-00-00-008Z0 (collectively, the “Property”), in connection with SP-2018-0001, SDP-2018-016, and SDP-2018-017.

### **Overview:**

The proposed renovation, refurbishment and expansion of the Inn and Golf Club (the “Project”) includes adding a new wing to the existing Inn for 38 additional rooms, relocating the existing restaurant to a stand-alone building, relocating and expanding the existing spa and fitness center, adding a pool Pavilion, adding a new maintenance and laundry building, and related improvements to the stormwater, utility and parking infrastructure. The Project is currently under review as SP-2018-00001 and SDP-2018-016.

The Project’s design features are depicted on Major Site Plan amendments prepared by Timmons Group, identified as SDP-2018-016, and SDP-2018-017 (the “Proposed Site Plans”), which are currently under review by the Community Development Department. The Project will increase the room count of the hotel, enhance the experience of future guests of the Property, and generate significant additional tax revenue for the County. Existing access points to the site will be utilized for the duration of construction along with a new proposed right-in, right-out driveway onto Keswick Road near the existing energy plant.

Critical slope areas to be disturbed are depicted on plans prepared by Timmons Group titled "Keswick Hall – Additions and Site Improvements – Critical Slopes Waiver Exhibit," dated June 11, 2018, and enclosed with this letter (the "Timmons Exhibit").

We note that during review of SP 2000-33, a prior application involving the Property for a very similar expansion of Keswick Hall, the Planning Commission approved a critical slope waiver which covered many of the same critical slope areas as shown on the Timmons Exhibit. SP 2000-33 proposed to locate the new wing of hotel rooms in the same location as currently proposed by the Project.

County records include numerous approved site plans for the construction of the existing buildings on the Property. These site plans provide evidence of the man-made creation of critical slopes as defined by the County Zoning Ordinance. Many of the critical slopes that will be impacted by the Project can be definitively categorized as man-made, as determined by a plan provided by Roudabush, Gale and Associates, Inc. entitled "The Keswick Inn – Amended Site Plan" revised November 22, 1991 (the "1991 Site Plan"), enclosed. Those areas total approximately 16,715 square feet and are shown in red on the Timmons Exhibit. There are 8,997 square feet of additional critical slopes that will be disturbed by the Project which are shaded in green on the Timmons Exhibit. Timmons Group has advised that these areas are likely also to consist of man-made slopes due to the adjacent man-made infrastructure, such as the golf cart path, landscaping, and retaining wall. Therefore, the entirety of the critical slopes that would be disturbed by the Project are likely man-made slopes.

Disturbance of man-made slopes are less likely to create as much of an adverse impact as slopes that are naturally occurring. This is evidenced by the fact that if the Property were located in within the Steep Slopes Overlay District, these slopes would be deemed "Managed Slopes" that could be disturbed by right, subject to the provisions of Section 30.7. In addition, if the Property were not in the RA zoning district, Section 4.2.5(b) of the County code would permit the disturbance by administrative waiver of those critical slopes that were created during the "development of property pursuant to a site plan approved by the County."

Section 4.2.5(a)(3) of the Zoning Ordinance allows the Board of Supervisors to waive restrictions against disturbing critical slopes upon a finding that the waiver would not be detrimental to the public health, safety or welfare, the orderly development of the area, or to adjacent properties, and would not be contrary to sound engineering practices. Keswick Hall hereby requests a waiver of the restrictions applicable to the Project, as described above and as shown on the attached Timmons Exhibit.

The requested waiver will not be detrimental to the public health, safety or welfare, or the orderly development of the area, as the disturbance will not cause any interference with existing development, nor would granting the requested waiver be detrimental to adjacent properties, or contrary to sound engineering practices. Further, for the reasons set forth below, the Project would satisfy the Public Health, Safety and Welfare Factors of Section 4.2.5(a)(1).

**Consideration of the "Public Health, Safety and Welfare Factors" in Section 4.2.5(a)(1):**

**Rapid and/or large scale movement of soil and rock**

Timmons Group Engineers has determined that the most, if not all of the critical slopes that would be disturbed by the Project are man-made slopes. Those areas of critical slopes that are not definitively man-made, comprised of approximately 8,997-square feet

of areas shown on the Timmons Exhibit in green, are very likely man-made resulting from the construction of the golf cart path, landscaping, and retaining wall that are adjacent to the slopes. In addition, these areas will not be disturbed in sections greater than 2,178 square feet, as depicted on the Timmons Exhibit. Regardless, during construction, the Project site will be geologically stabilized with erosion control measures as outlined on the Proposed Site Plans. These include the installation of silt fences, a stone construction entrance, multiple sediment traps, and seeding of any disturbed areas that are not actively in use. Permanent stabilization of the disturbed critical slope areas will be achieved through installation of ground cover and vegetation, and construction of the retaining walls supporting a portion the site. Because of the limited size of the affected critical slope areas and implementation of mitigation measures, the risk of rapid and/or large scale movement of soil and rock will be effectively minimized.

#### **Excessive stormwater run-off**

The Project is designed to minimally increase the Property's soil permeability and effectively mitigate stormwater runoff through the installation of approved stormwater management facilities. Stormwater runoff resulting from Project construction within the critical slope areas will travel downhill away from all existing and proposed improvements and will dissipate through the permeable soils of the nearby existing golf course. Therefore, the risk of excessive stormwater run-off is effectively minimized.

#### **Siltation of natural and man-made bodies of water**

A pond and stream are situated at the eastern edge of the Property, within the existing golf course. A County Water Protection Ordinance buffer area surrounds these water features. The proposed project site is located well outside the buffer. In addition, the affected critical slope areas comprise a minimal portion of the Property. Moreover, as discussed above, the project site will be subject to mitigation measures during construction, and permanently stabilized with installation of ground cover, vegetation, and structural improvements. The energy of any stormwater or silt runoff from the project site will dissipate over the permeable ground between the site and the existing pond and stream. Accordingly, these measures will effectively mitigate the possibility of siltation of natural and man-made bodies of water.

#### **Loss of aesthetic resource**

The aesthetic resources of the Property reside chiefly in the characteristics of the historic landscape and Keswick Hall. There will be no loss to these resources. As noted earlier, Timmons Group has advised that the vast majority, if not all of the critical slope areas to be disturbed are man-made. Critical slope areas found on the southern and eastern sides of the Property do not contain any trees. The only trees that will be removed are those necessary to accommodate construction of the new parking facility, as shown on the Proposed Site Plans. Accordingly, disturbance of these critical slope areas will not result in a loss of aesthetic resources.

#### **Greater travel distance of septic effluent**

The proposed site improvements will utilize existing wastewater systems located on the Property. All proposed wastewater and plumbing systems will connect to these facilities,

outside of all critical slope areas, thus the concerns of this section are not applicable to this request.

Therefore, the five Public Health, Safety, and Welfare Factors of Section 4.2.5(a)(1) are satisfied.

**Section 4.2.5(a)(3):**

In addition, Section 4.2.5(a)(3) requires the Board to make at least one of the following findings:

- 1. A strict application of these provisions would not forward the purposes of the Zoning Ordinance or otherwise serve the public health, safety or welfare.**

Section 4.2 of the County code states that the provisions of Section 4.2.5 "implement the comprehensive plan by protecting and conserving steep hillsides together with public drinking water supplies and flood plain areas because of the increased potential for soil erosion, sedimentation, water pollution and sewage disposal problems associated with the disturbance of critical slopes."

The potential adverse impacts noted above are sufficiently mitigated by the fact that the critical slopes disturbed by the Project are man-made slopes, and by the engineering measures proposed on the Preliminary Site Plans. In addition, during construction Keswick Hall will implement effective control measures to avoid any potential adverse impact that may still result from such disturbance.

Because the public health, safety and welfare concerns intended to be avoided by the County Zoning Ordinance's restrictions on the disturbance of critical slopes will be sufficiently mitigated as outlined above, strict application of Section 4.2 would not forward the purposes of the County Zoning Ordinance or otherwise serve the public health, safety or welfare.

- 2. Alternatives proposed by the Applicant would satisfy the intent and purpose of section 4.2 to at least an equivalent degree.**

As discussed above, Keswick Hall is proposing engineering measures that will avoid or mitigate the adverse impacts that are often associated with the disturbance of critical slopes. Given the limited size of the proposed area of disturbance and that the majority, if not all of the disturbed slopes are man-made, the use of these engineering measures will satisfy the intent and purpose of section 4.2 at least to an equivalent degree.

- 3. Due to its unusual size, topography, shape of the property, location of the property or other unusual conditions, excluding the proprietary interest of the developer, the requirements of section 4.2 would effectively prohibit or unreasonably restrict the use of the property or would result in significant degradation of the site or adjacent properties.**

The proposed additions and site improvements to Keswick Hall align with existing structures and function of the site. And the proposed location of the largest element of the Project – the new wing of hotel rooms – is in the same location as was approved by SP 2000-33 when a critical slope waiver was approved in 2001. Please refer to the enclosed Planning Commission action letter from SP 2000-33, which references the Planning Commission's approval of the waiver request on page 2.

Because the majority of the disturbed slopes are man-made (if not all), and that the disturbance of these areas will occur in small segments and only subject to the engineering measures proposed on the Preliminary Site Plans, the possibility of adverse impacts from such disturbance are mitigated. Accordingly, strict implementation of the requirements of Section 4.2 would unreasonably restrict the installation of the proposed improvements on the Property.

**4. Granting such modification or waiver would serve a public purpose of greater import than would be served by strict application of section 4.2.**


The expansion of the Keswick Inn will result in 38 additional hotel rooms, a relocated stand-alone restaurant, and a new and slightly larger Spa and Fitness facility, all of which will substantially increase the experience of visitors, guests, and club members. The Project will increase tourism within the County, while attracting local residents and visitors to Keswick Hall. Additionally, the renovation and expansion is projected to create approximately 148 additional jobs and over \$1.0 million in annual tax revenue. These benefits to the community and the County specifically will serve a far greater purpose than would be served by strict application of section 4.2 with regard to the disturbance of these man-made slopes, most of which have been previously approved for disturbance back in 2001.

**Conclusion:**

Many of the concerns associated with the disturbance of critical slopes and the criteria for evaluating a critical slopes waiver are considered and addressed generally through the Major Site Plan Amendment requirements, the Water Protection Ordinance and the Virginia Stormwater Management Program (VSMP), such as the requirements for tree conservation plans, finished grades, and sound construction techniques. For these reasons and the reasons otherwise stated herein, we contend that the public health, safety, and welfare factors of Section 4.2.5(a)(1) are satisfied, and in addition, the application satisfies all four of the findings in Section 4.2.5(a)(3), even though only one finding is actually required for purposes of approving the waiver request.

Please contact me if you have any questions or need any additional information.

Sincerely,

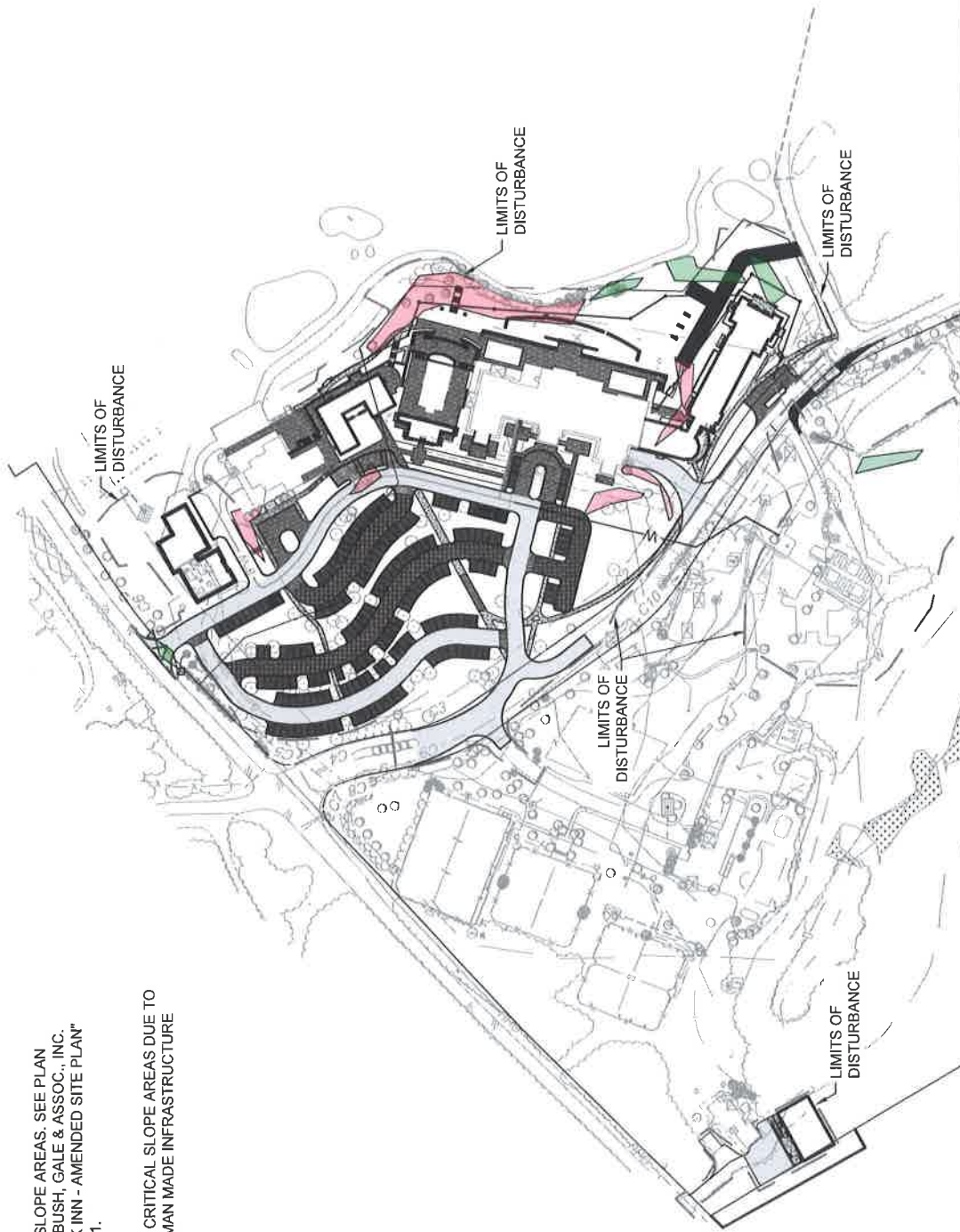
  
Valerie W. Long

Enclosures

cc: Craig Kotarski, P.E., Timmons Group (via e-mail)

MAN-MADE CRITICAL SLOPE AREAS. SEE PLAN PROVIDED BY ROUDABUSH, GALE & ASSOC., INC. TITLED "THE KESWICK INN - AMENDED SITE PLAN" REVISED NOV. 22, 1991.  
16,715 SF TOTAL

ASSUMED MAN-MADE CRITICAL SLOPE AREAS DUE TO EXISTING ADJACENT MAN MADE INFRASTRUCTURE  
8,997 SF TOTAL



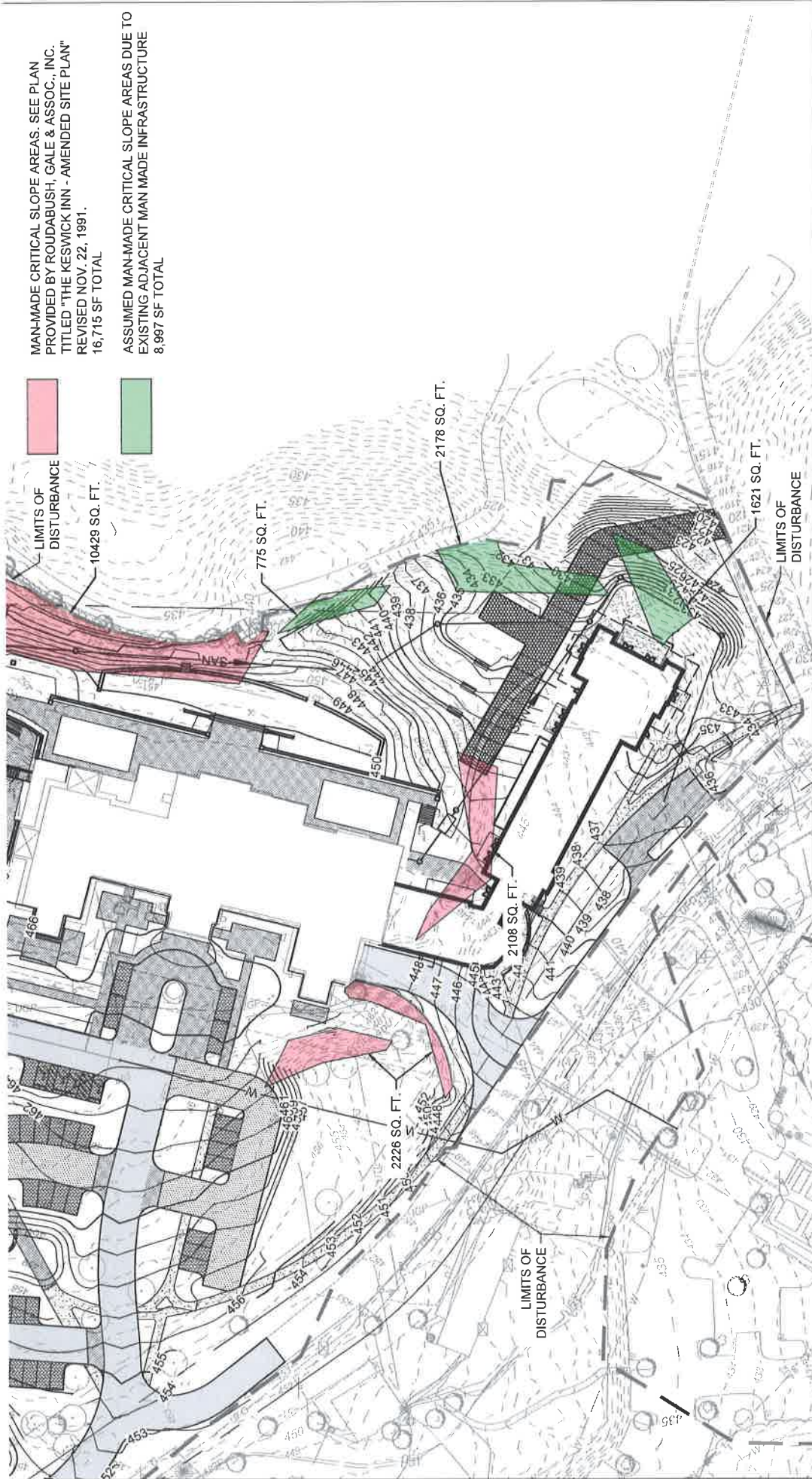
## KESWICK HALL - ADDITIONS AND SITE IMPROVEMENTS

6/11/18 CRITICAL SLOPES WAIVER EXHIBIT - SHEET 1



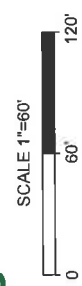




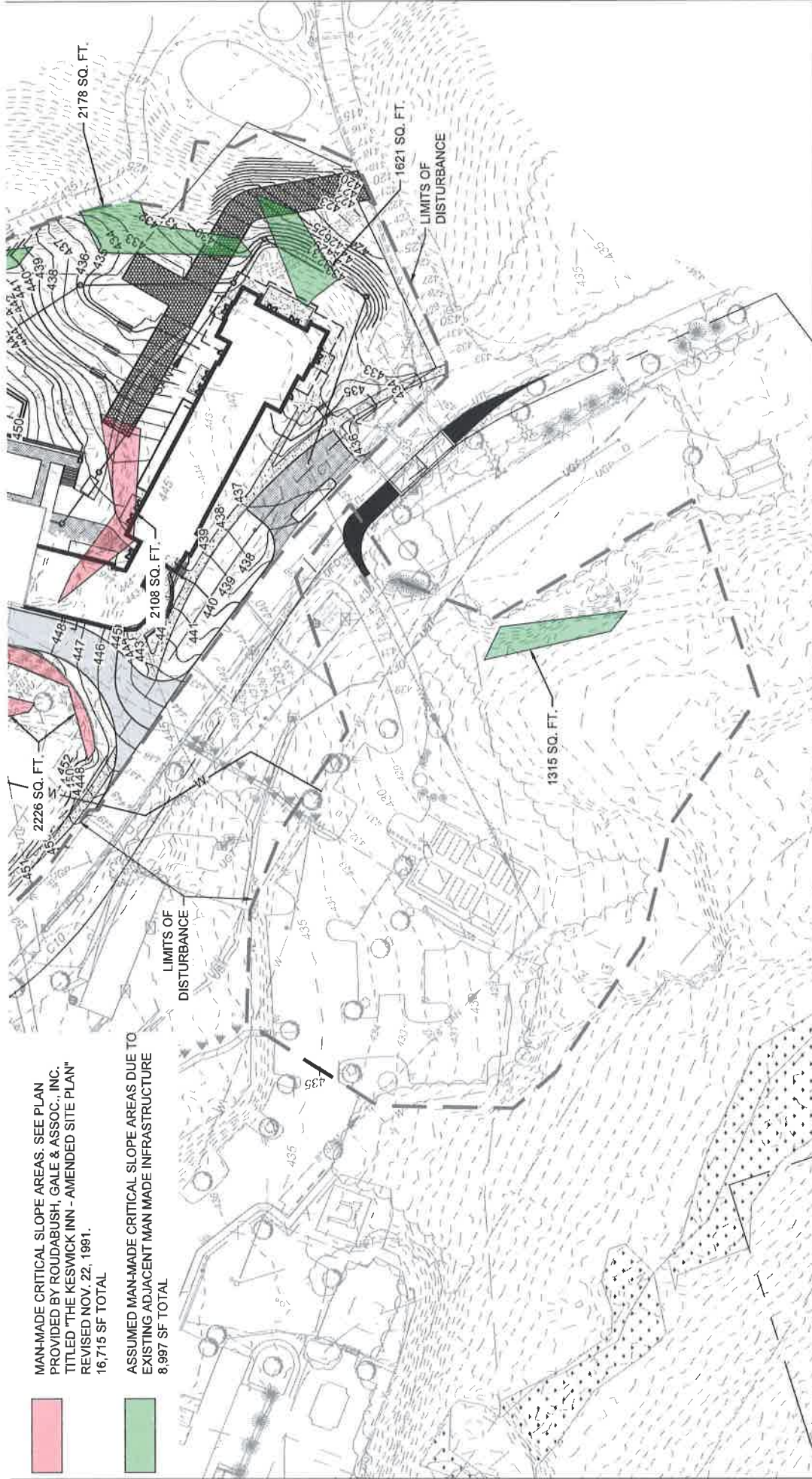


# **KESWICK HALL - ADDITIONS AND SITE IMPROVEMENTS**

6/11/18 CRITICAL SLOPES WAIVER EXHIBIT - SHEET 3





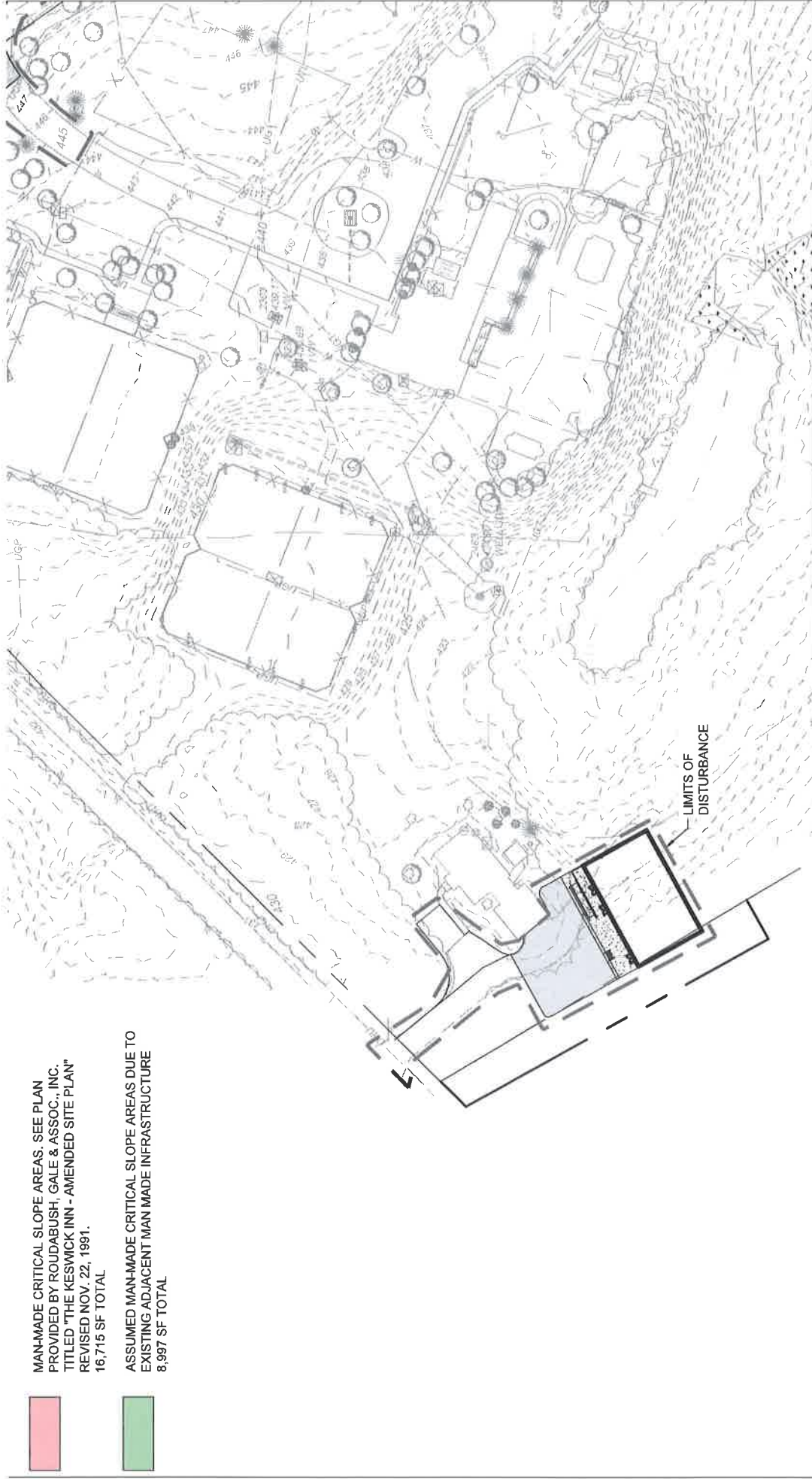


MAN-MADE CRITICAL SLOPE AREAS. SEE PLAN PROVIDED BY ROUDABUSH, GALE & ASSOC., INC. TITLED "THE KESWICK INN - AMENDED SITE PLAN" REVISED NOV. 22, 1991.  
16,715 SF TOTAL

ASSUMED MAN-MADE CRITICAL SLOPE AREAS DUE TO EXISTING ADJACENT MAN MADE INFRASTRUCTURE  
8,997 SF TOTAL

# **KESWICK HALL - ADDITIONS AND SITE IMPROVEMENTS**

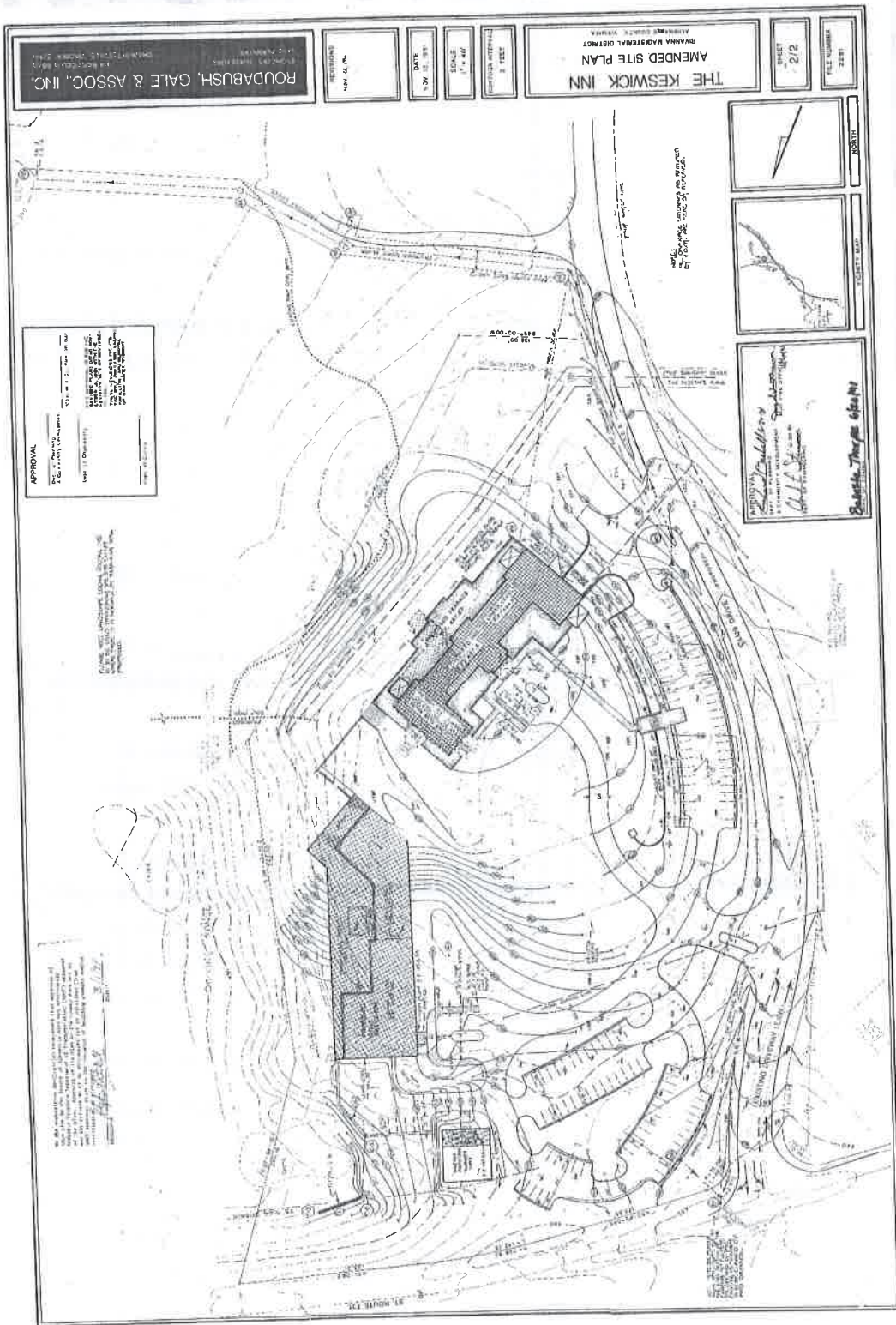
6/11/18 CRITICAL SLOPES WAIVER EXHIBIT - SHEET 4



## KESWICK HALL - ADDITIONS AND SITE IMPROVEMENTS

6/1/2018 CRITICAL SLOPES WAIVER EXHIBIT - SHEET 5





1991 Site Plan



SP 2000-33



Keswick Hall  
Special Use Application

Albemarle County, Virginia

Academy:  
Cooper, Sabatino & Partners  
311 West 43rd Street  
New York, New York 10036

GM, Engineers:  
Roush/Inath, Gable & Associates  
914 Monticello Road  
Charlottesville, VA 22902

#### Gen. Engineers:

Ronald L. Smith, Clerk of Ascension  
914 Monticello Road  
Charlottesville, VA 22902

100

Abstract:

C. J. JONES, *Author, The Surface & Features*

2000-2001

Special Use Application Plan

Table 1	$\Gamma = 63$	Ordering is
Date	12/18/2000	01

Project No. 23024.50 50.01

## Existing Reswick Hall

Proposed New  
Wing of Hotel  
Rooms

(same location as proposed for SP 2018-00001)



**COUNTY OF ALBEMARLE**  
Department of Planning & Community Development  
401 McIntire Road, Room 218  
Charlottesville, Virginia 22902-4596  
(804) 296 - 5823  
Fax (804) 972 - 4012

March 29, 2001

Jay M. Weinberg  
P.O. Box 500  
Richmond, VA 23218

RE: **SP-2000-33 Keswick Hall; Tax Map 80, Parcels 8, 8Z, 9, 61, 62, 62A, 62B, 62C, 62D, 70A, 90, 95, 96, 97, 98, 100, 106, and 109A**

Dear Mr. Weinberg;

The Albemarle County Planning Commission, at its meeting on March 20, 2001, unanimously recommended approval of the above-noted petition to the Board of Supervisors. Please note that this approval is subject to the following conditions:

1. The Keswick Estate shall be developed in general accordance with the plan titled Keswick Estate Conceptual Long Range Master Plan, prepared by Roudabush, Gale and Associates, dated December 18, 2000 and included as Attachment A.
2. No building permits shall be issued for Phase II improvements beyond those improvements authorized by SP 00-33, as shown on the plan titled Keswick Estate Conceptual Long Range Master Plan prepared by Roudabush, Gale and Associates dated December 18, 2000, until all road improvements described in the Virginia Department of Transportation letter from R.P. Ball dated February 21, 2001, and included as Attachment B, have been completed (not bonded) to the satisfaction of the County Department of Engineering and Public Works and the Virginia Department of Transportation.
3. Prior to final site plan approval of the improvements authorized by SP-00-33, the applicant shall demonstrate to the satisfaction of the Planning Commission that the existing central water system, approved under Permit Number 200192 issued by the Virginia Department of Health, Division of Water Supply Engineering, dated March 12, 1992, is available and adequate to serve all of the improvements and associated uses authorized by SP-00-33, as well as all existing improvements and associated uses and all platted lots, without compromising on-site and adjacent off-site well water supplies. In making this demonstration, the applicant shall use test procedures approved by the Virginia Department of Health and the County Department of Engineering and Public Works.
4. No unplatted property shall be subdivided and no approved subdivision plat shall be recorded unless the applicant demonstrates to the satisfaction of the Planning Commission that the existing central water system, approved under Permit Number 200192 issued by the Virginia Department of Health, Division of Water Supply Engineering, dated March 12, 1992, is available and adequate to serve all of said lots, as well as all existing improvements, associated uses, and platted lots, without compromising on-site and adjacent off-site well water supplies. In making this demonstration, the

applicant shall use test procedures approved by the Virginia Department of Health and the County Department of Engineering and Public Works.

5. If the central water system must be expanded to meet existing or future demand, the applicant shall seek and obtain all necessary approvals for expanding the system from the Virginia Department of Health and the County Board of Supervisors.
6. All areas identified as open space on the plan titled Keswick Estate Conceptual Long Range Master Plan prepared by Roudabush, Gale and Associates dated December 18, 2000, shall be subjected by the applicant to one or more easements preserving those areas as open space in perpetuity. Each easement holder shall be an organization authorized to hold such easements by the Commonwealth of Virginia. Prior to final site plan approval of the improvements authorized by SP-00-33, the applicant shall present written evidence to the Planning Commission demonstrating that this condition has been satisfied.
7. Except for any restaurant on the property open to the general public, Keswick Hall and its associated facilities shall be used only by the guests of the inn and their invitees, and members of the Keswick Country Club and their invitees.
8. Each plat of division of any lands shown on the plan titled Keswick Estate Conceptual Long Range Master Plan, prepared by Roudabush, Gale and Associates, dated December 18, 2000 shall include the following statement if those lands are not within a jurisdictional area and will not be served by a public water or sewer system: "On the date of approval of this plat by the agent, the lands being divided are not within a jurisdictional area and public water and sewer service are not available."

Please be advised that the Albemarle County Board of Supervisors will review this petition and receive public comment at their meeting on April 18, 2001. Any new or additional information regarding your application must be submitted to the Clerk of the Board of Supervisors at least seven days prior to your scheduled hearing date.

The Planning Commission also took the following actions:


- Approved waiver of Section 4.12.6.1 for one-way ingress.
- Approved waiver of Section 4.12.6.2 for one-way circulation aisles within a parking lot.
- Approved waiver of Section 4.2.3.2 critical slopes, subject to the following conditions:
  1. Proper slope construction, control of drainage, and vegetative stabilization to prevent any movement of soil shall be required.
  2. A stormwater management plan shall be submitted with the final plans for approval.
  3. Inspection and bonding by the Engineering Department will to ensure siltation control during construction meets state erosion control standards shall be required.
  4. Re-vegetation of proposed slopes shall be required.
- Approved waiver of Section 4.12.6.5( c), curvilinear parking.
- Approved waiver of Section 5.1.16(a) setback requirement, subject to the following condition:
  1. The property line shall be moved to the location as shown on sheet three of the plan titled Keswick Hall Site Plan Phase I last revised February 5, 2001 and prepared by Roudabush, Gale & Associates.



Page 3  
March 29, 2001

If you should have any questions or comments regarding the above noted action, please do not hesitate to contact me.

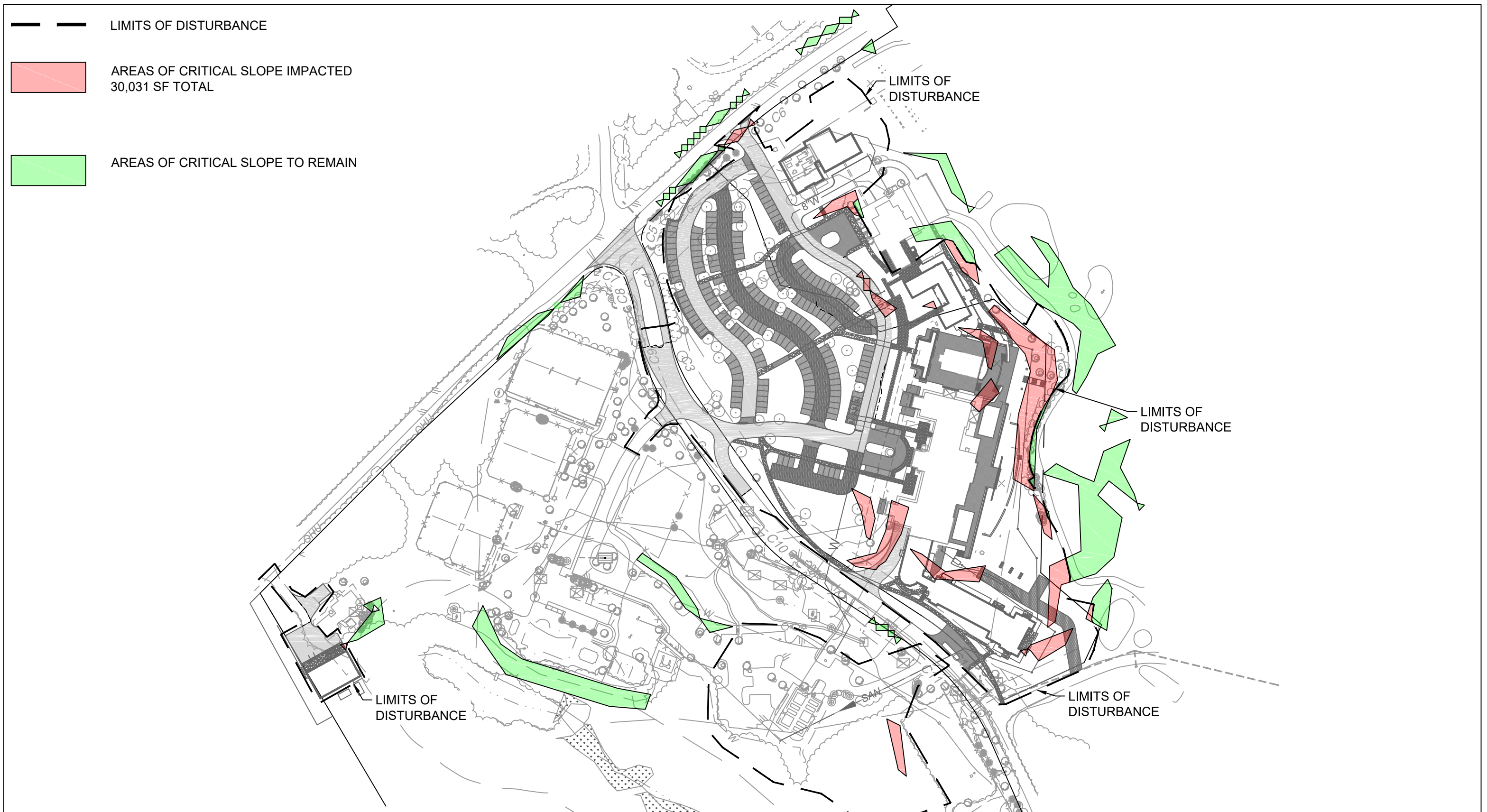
Sincerely,



Joan McDowell  
Senior Planner

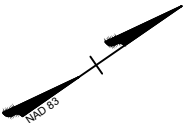
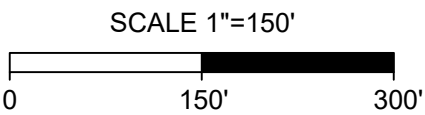
JMD/jcf

Cc: Ella Carey  
Amelia McCulley  
Jack Kelsey  
Steve Allshouse  
Bob Ball  
Daniel Mann



# KESWICK HALL - ADDITIONS AND SITE IMPROVEMENTS

6/25/18 CRITICAL SLOPES WAIVER EXHIBIT - SHEET 1

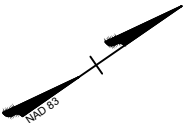
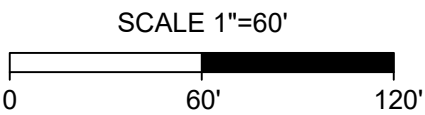




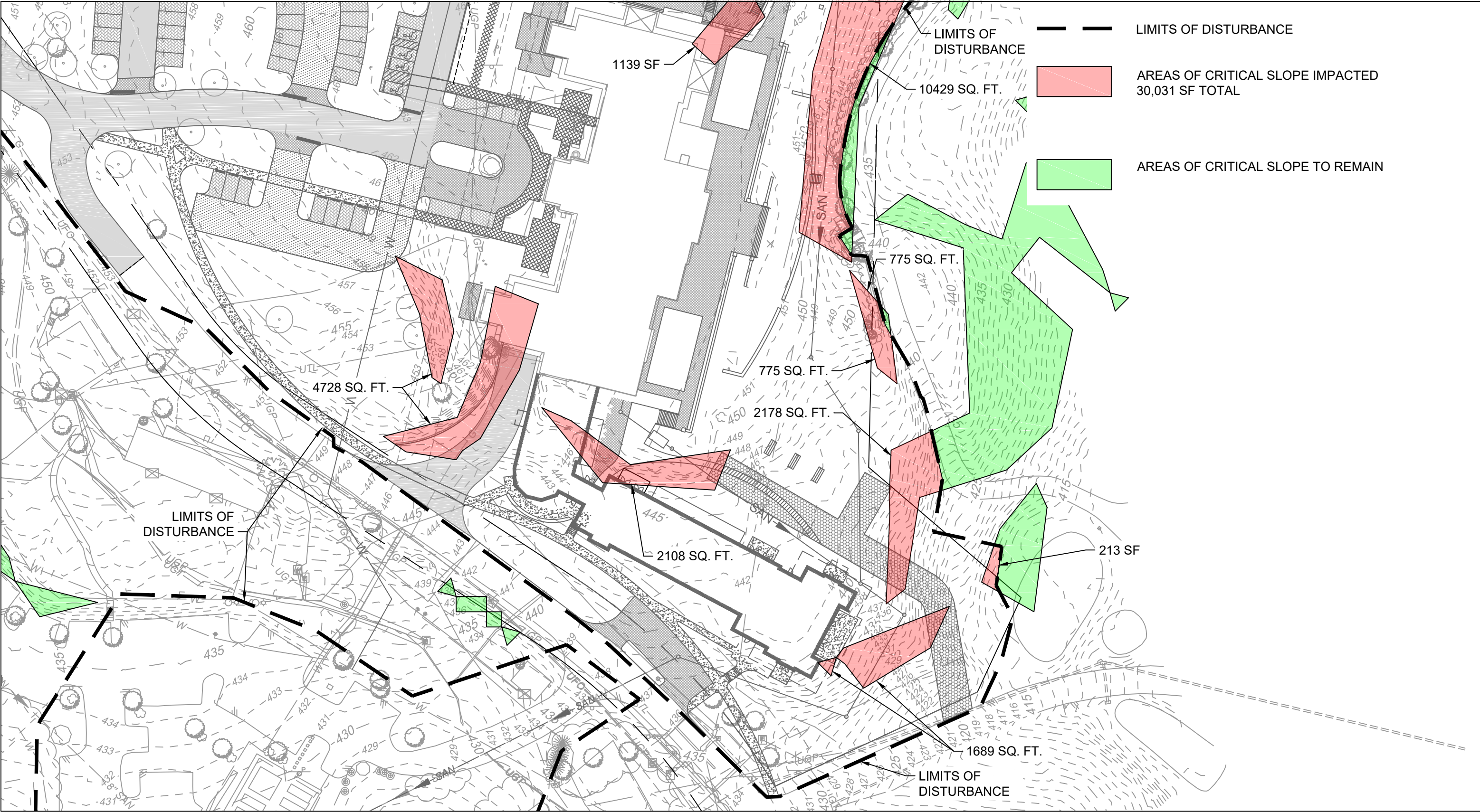


# KESWICK HALL - ADDITIONS AND SITE IMPROVEMENTS

6/25/18 CRITICAL SLOPES WAIVER EXHIBIT - SHEET 2

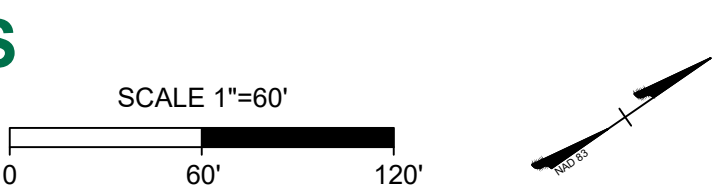




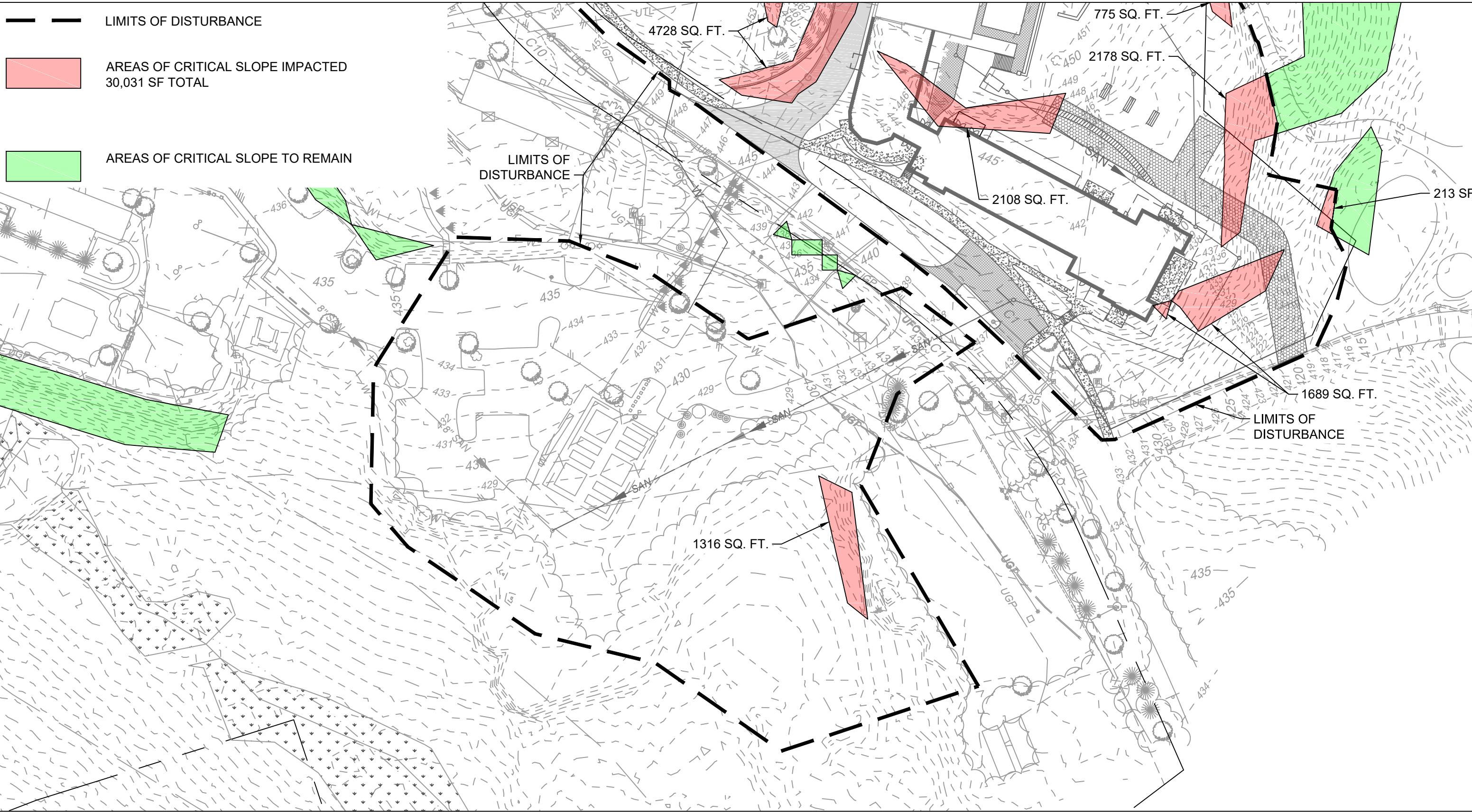


# KESWICK HALL - ADDITIONS AND SITE IMPROVEMENTS

6/25/18 CRITICAL SLOPES WAIVER EXHIBIT - SHEET 3

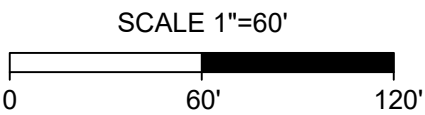




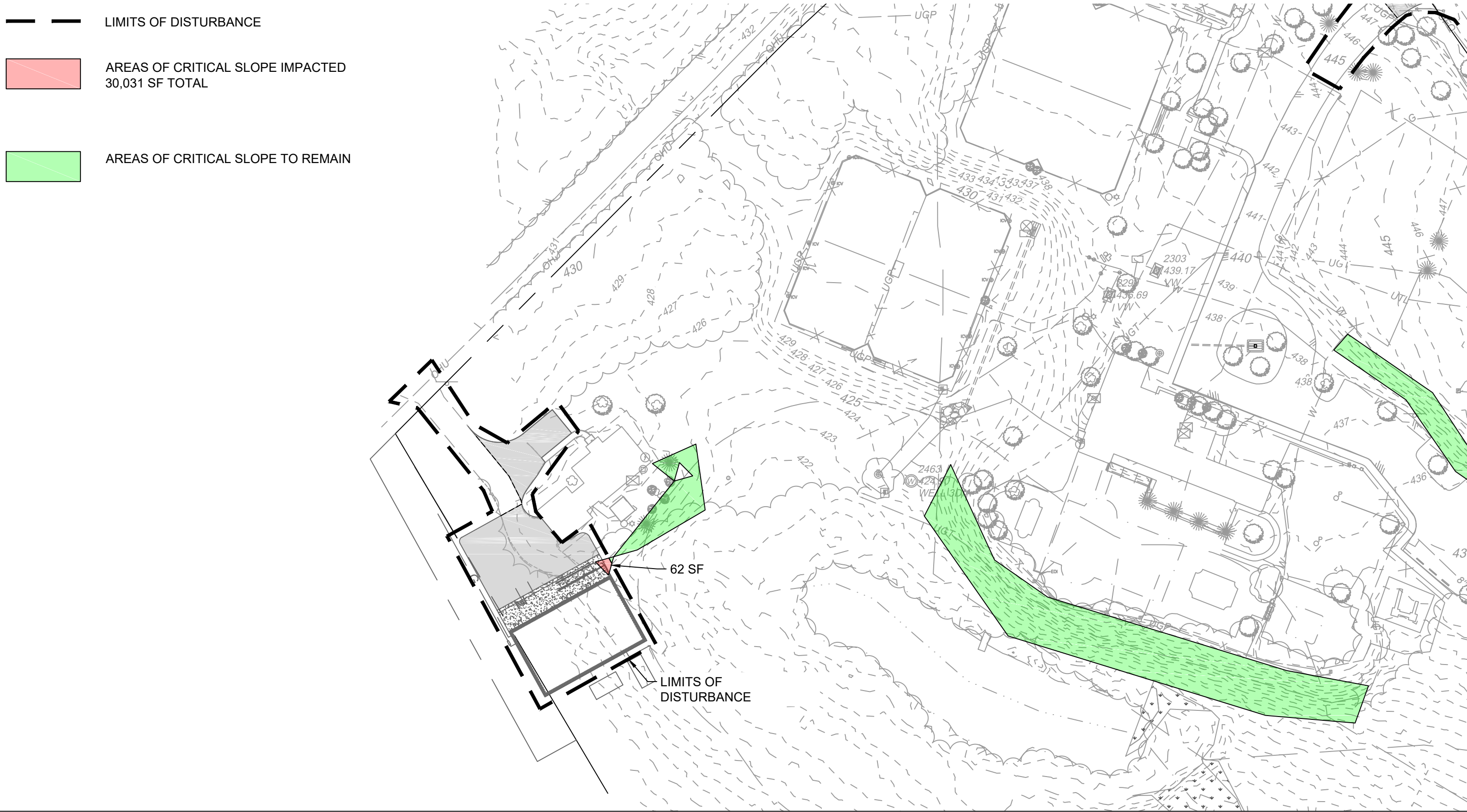


# KESWICK HALL - ADDITIONS AND SITE IMPROVEMENTS

6/25/18 CRITICAL SLOPES WAIVER EXHIBIT - SHEET 4







# KESWICK HALL - ADDITIONS AND SITE IMPROVEMENTS

6/25/2018 CRITICAL SLOPES WAIVER EXHIBIT - SHEET 5

