

**Background**

Approval Process: The County’s Subdivision Ordinance allows for private streets to be approved in the rural areas and the development areas, administratively or by the Planning Commission, under §14-232 and §14-233.

<b><u>Rural Areas</u></b>		
	<b>Administrative</b>	<b>Planning Commission</b>
<b>Justification Type</b>		
Alleviate significant degradation to environment		X
General Welfare		X
Two Lot Subdivision	X	
Family Subdivision	X	
<b><u>Development Areas</u></b>		
	<b>Administrative</b>	<b>Planning Commission</b>
<b>Justification Type</b>		
Neighborhood model development		X
Two Lot Subdivision		X
General Welfare		X
Attached Residential and non-residential uses	X	
Family Subdivision	X	

Whether administrative or by the Planning Commission, the following considerations under §14-234(B) and findings under §14-234(C) must be made for approval.

§14-234(B): The agent and the Planning Commission shall consider that:

- i. Private streets are intended to be the exception to public streets; and
- ii. absent compelling circumstances, private streets should not cross over dams or bridges or involve other infrastructure that would be reasonably prohibitive to maintain, should not serve as the primary or sole interconnection between the subdivision and abutting property, or serve through traffic by being the connector between two or more public streets.

§14-234(C): The agent and the commission may authorize one or more private streets if it finds that one or more of the circumstances described in §14-232 or §14-233 exist and it determines that:

- i. The private street will be adequate to carry the traffic volume which may be reasonably expected to be generated by the subdivision;
- ii. The comprehensive plan does not provide for a public street in the approximate location of the proposed private street;
- iii. The fee of the private street will be owned by the owner of each lot abutting the right-of-way thereof or by an association composed of the owners of all lots in the subdivision, subject in either case to any easement for the benefit of all lots served by the street;
- iv. Except where required by the commission to serve a specific public purpose, the private street will not serve through traffic nor intersect the state highway system in more than one location; and

- v. If applicable, the private street has been approved in accordance with section 30.3, flood hazard overlay district, of the zoning ordinance and other applicable law.

**Street Standards:** The following table summarizes private street standards as provided in the Design Standards Manual, in addition to minimum standards included in §14-410 and §14-412 of the subdivision ordinance:

Private Street Standards for Albemarle County *										
Street	Design Speed mph	Min. CL radius ft.	Max. Grade	Min. . K-crest	Min. . K-sag	Min. Stopping Sight Dist. Ft.	Min. travelway width ft.	Min. ROW or easement width	Min. shoulder width	Sources
rural 2-lot	(no standard)							30	n/a	14-412A1
rural 3-5 lots	15	40	20%	5	15	100	14	30	3	14-412A2, 410, 415
6 lots or more	same as VDOT standards, see Detail 5									14-412A3, 415
multifamily, nonresidential	n/a	40	10%	5	15	100	20 (curb to curb) **	30	n/a	14-412B
Alleys	n/a	n/a	20%	n/a	n/a	100	12***	20	n/a	14-410

\* where standards are not specified (for guardrail or drainage for example) standards are to be as required by VDOT \*\* or 24' next to perpendicular parking spaces ( Zoning Ordinance parking lot requirements, 18-4.12.15)

\*\*\* with 14' wide stone base

1. Angle of intersection shall be 80 degrees minimum
2. Temporary turnaround shall be provided on phased streets more than 300ft in length. Cul-de-sacs must be provided for permanent street ends. See the graphic below.
3. Reserved or spite strips are prohibite
4. In the development areas, curb and gutter, sidewalks (5' min.), and planting strips (6' min) are required

**Maintenance:** All private streets require an instrument (deed) for the maintenance of the street under §14-317 to be recorded with the plat that is approved by the County Attorney’s office. The instrument must ensure perpetual maintenance by establishing the timing or conditions warranting maintenance, stating the means for collecting funds, setting out express enforcement rights (liens and other legal action), and providing for cost allocation among owners. A template that is provided to developers is included in Attachment B.

In addition, while not enforced by the County, the Property Owners’ Association Act of the Virginia State Code requires the following for any subdivision with 30 or more lots, in relation to common areas, which includes private streets:

1. Requires every association to be registered with the Virginia Common Interest Community Board (CICB), and annual reports must be filed with the CICB. Va. Code §§ [55.1-1802](#) and [55.1-1835](#).
2. [§55.1-1826](#) requires the board of directors of an association to conduct a reserve study for the maintenance of all common areas, including private streets, at least once every five years to determine the amount of reserves required to repair, replace, and restore capital components; review the results of the study annually to determine if reserves are sufficient; and make adjustments as the board deems necessary.

**Discussion:**

Staff has identified pros and cons of public vs private streets given the requirements of the ordinance, neighborhood model principles, the comprehensive plan recommendations, and VDOT standards.

	<b>Pros</b>	<b>Cons</b>
<b>Public</b>	<ul style="list-style-type: none"> <li>• VDOT standards are ensured</li> <li>• VDOT provides long-term structural (repaving) and operational maintenance (snow removal, ditch clearing, etc.)</li> <li>• Requires interconnectivity</li> </ul>	<ul style="list-style-type: none"> <li>• In most cases, does not allow for a more urban design/neighborhood model development form due to VDOTs suburban street standards. (example: sight distance requirements restrict on-street parking or alleyway entrances close to intersections)</li> <li>• Roads are designed to move vehicles and does not allow for speeds slower than 25 MPH within neighborhoods.</li> <li>• VDOT requires interconnectivity/extension of streets to adjacent property as part of their Secondary Street Acceptance Requirements (SSAR). While this is consistent with the County’s policy in the Development Areas, in the Rural Areas this requirement could be seen as encouraging further development, which is not aligned with the County’s policy of reducing development in the Rural Areas.</li> </ul>
<b>Private</b>	<ul style="list-style-type: none"> <li>• Allows for more urban design/neighborhood model</li> <li>• Reduced costs for developer/owner</li> <li>• Allows for less pavement, environmental degradation for by-right subdivisions in the Rural Areas. In addition, the VDOT requirement for interconnection could be viewed as encouraging further development in the Rural Areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Long term structural and operational maintenance by property owners (pavement, drainage structures/pipes, snow removal, etc.).</li> <li>• Will most likely never be adopted by VDOT in the future because it may be cost prohibitive or impossible due to inadequate right-of-way.</li> <li>• Public access over private streets may be closed (example: West Leigh during the bridge closure).</li> </ul>

**Possible Solutions:**

Staff has identified the following solutions for Board feedback to reduce the number of private street approvals and address the long-term maintenance of those private streets that are approved.

**Multimodal System Plan:**

VDOT and the Department of Rail and Public Transportation (DRPT) define Multimodal System Plan as *“simply a comprehensive look at all the modal transportation networks in an area, whether auto, transit, freight or bike/ped, along with the key land use destinations and centers that they connect.”*

Community Development has already identified the multimodal system plan within its work program. Through the development of this plan, it may be possible to establish new standards acceptable to VDOT for public roads in urban areas within the development areas. As noted in the chart as a current disadvantage of public roads, many of the roads proposed utilizing neighborhood model forms of development are being approved as private streets at this time. Staff believes that with the establishment of more urban design standards that are acceptable to VDOT in the County's Development Areas, that the number of private street requests can be reduced by a considerable amount. Additional research and exploration of this option needs to be done in coordination with VDOT. This solution will need to be included in the scope the Multimodal System Plan.

Maintenance Agreement and Public Access:

While the County requires a maintenance agreement for all private streets, staff recommends that additional language be explored to strengthen the requirements for long term maintenance. For example, one option would be to require that the agreement include a maintenance schedule that mimics the VDOT maintenance schedule. Staff can explore this and other options to add to the existing template and implement as needed.

In addition, the approval of private streets administratively or by the PC allows for conditions to be imposed that are deemed reasonable and necessary. Staff can implement a policy and procedure to require a condition of the approval of private streets to require public access easements over the private street right of way where necessary.

Both solutions would require additional Staff time including the County Attorney's office.

Frontage Requirement:

Staff has found that many private street requests, particularly for attached units, are due to the subdivision requirement for frontage under §14-403: *Each lot within a subdivision shall have frontage on an existing or proposed public or private street;*

Along with the definition of frontage: *"Frontage" means the continuous uninterrupted distance along which a parcel abuts a single adjacent road or street.*

Staff believes that this definition and requirement are outdated and would like to further explore a revision to the ordinance to require safe and convenient access as determined by the County Engineer and Fire/Rescue in lieu of frontage, and explore revisions to the district regulations to include lot width requirements in lieu of frontage requirements. This would require a zoning and subdivision text amendment that would require additional Community Development Staff time that should be considered in the Community Development work program and would also require Staff time within the County Attorney's office.

Process and Text Amendments:

Additional options to reduce the number of private streets approved might include:

1. Establishing a Board policy statement to encourage public streets and discourage private streets.
2. Shift the decision making for a private street from administrative and Planning Commission, to the Board of Supervisors.
3. Further restrict the qualifying criteria for consideration of private streets.
4. Explore prohibiting private streets.

Option 1 would require additional Staff and Board time to develop a policy statement. Options 2, 3, and 4 will require a Subdivision Text Amendment. This involves additional staff time and would need to be considered with other priorities within the Community Development work program. Staff time includes the County Attorney's office, as well as engagement with the development community. In addition, Option 2 will result in additional staff and Board time for review of all private streets and may lengthen the review time for development proposals.

**Recommendation**

Staff requests that the Board of Supervisors provide feedback on the following: a) including in the scope for the Multimodal System Plan, the exploration and adoption of urban design standards for streets within the development areas that are acceptable for VDOT approval; b) revisions to the frontage requirement, c) revisions to maintenance agreements, including public access, and d) the process and text amendment solutions outlined. In addition, staff also seeks input on any additional private street concerns.