



ALBEMARLE COUNTY
STAFF REPORT

Project Name: Special Exception for disturbance of critical slopes and on TMP 05900-00-00-023G1	Staff: David Benish, Development Process Manager
Planning Commission Hearing: May 18, 2021	Board of Supervisors: TBD
Owner: Christian Aid Mission	Applicant: Christian Aid Mission
Acreage: 12 acres (whole parcel); 4,950 sf of impacted critical slopes	Zoning: Zoned CO, Commercial Office – offices, supporting commercial and service; residential by special use permit (15 units/acre)
TMP: 05900-00-00-023G1	Location: 3045 Ivy Road, Charlottesville
Magisterial District: Jack Jouett	Proffers: None
Proposal: Special Exception for disturbance of critical slopes §18-4.2 to allow construction of entrance on to Broomley Road.	Requested # of Dwelling Units: N/A
DA: <input type="checkbox"/> RA: <input checked="" type="checkbox"/>	Comp. Plan Designation: Rural Area - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots)
Character of Property: Developed with institutional and school uses (Christian Aid Mission and Regents School).	Use of Surrounding Properties: Commercial and institutional uses, residential to the north, east and west, and rural/agricultural use to the south and west.
Factors Favorable: <ol style="list-style-type: none"> 1. The small area of disturbed critical slopes is mostly man-made and not directly associated with other critical resource systems. 2. The County Engineer has identified no engineering concerns which would prohibit the disturbance of the critical slopes as proposed with this entrance location. 3. Disturbance of the critical slopes allow for the construction of alternative access to the property 	Factors Unfavorable: <ol style="list-style-type: none"> 1. No unfavorable factors related directly to the proposed disturbance of these critical slopes. 2. Additional traffic will be introduced on to Broomley Road with the resulting construction of the new entrance.

which can, in conjunction with the existing entrance on Rt. 250, better and more safely accommodate traffic generated by the uses on the site.

4. The proposed entrance location can meet VDOT entrance requirements and is generally acceptable to VDOT.

RECOMMENDATION: Staff recommends approval of the special exception request with conditions.

STAFF PERSON:
PLANNING COMMISSION:
BOARD OF SUPERVISORS:

David Benish
May 18, 2021
TBD

PETITION:

PROJECT: Special Exception for disturbance of critical slopes on Tax Map Parcel 05900-00-00-023G1
MAGISTERIAL DISTRICT: Jouett
TAX MAP/PARCELS: 05900-00-00-023G1
LOCATION: Parcel is located on the corner of Rt 250 and Broomley Road (address: 3045 Ivy Road, Charlottesville)
PROPOSAL: Special Exception request for disturbance of critical slopes per §18-4.2.3 of the Zoning Ordinance
ZONING: CO, Commercial Office
OVERLAY DISTRICTS: Entrance Corridor and Steep Slope
COMPREHENSIVE PLAN: Rural Area - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots)

CHARACTER OF THE AREA

The subject property is located at 3045 Ivy Road, north of Route 250, and abuts Broomley Road on the west side of the property. The surrounding area is primarily developed with commercial and medical/institutional uses, a church, and single-family residential uses. Railroad tracks form the northern boundary of the property and separate the adjacent residential development of Farmington Subdivision and Flordon Subdivision from the subject property. To the east are two commercially zoned properties. To the South is Route 250, Ivy Road. Broomley Rd serves the Flordon Subdivision and intersects with Old Ballard Road. Across Broomley Road is another commercially zoned property (Ivy Nursery). See Vicinity Map, Attachment 1.

PLANNING AND ZONING HISTORY

SP201600025 Regents School of Charlottesville – Amendment to Special Use Permit eliminating a previous condition (#9) stating SP201400005 (for the school use) shall expire on August 13, 2017.

SP201400005 Regents School of Charlottesville – Amendment to conditions of Special Use Permit to increase the student enrollment to 115 students for the 2014 - 2015 school year, increase the student enrollment to 130 for the 2015 - 2016 school year.

2014 Special Exception: Critical Slope Waiver Request – Along with SP201400005 application, the applicant requested a critical slopes waiver to allow a similar access to Broomley several hundred feet south of this currently proposed location (closer to the Broomley Road intersection with Rt. 250). The Board’s resolution denying the Special Exception stated that facilitating the intensification of the use of the property is contrary to

the Comprehensive Plan's policy of preserving the rural character of the County's Rural Area, and, in considering the scale and intensity of the use of the property, is contrary to several of the guiding principles for the Rural Area including, but not limited to, protecting and enhancing the rural quality of life for present and future Rural Area residents. As noted in the applicant's narrative for the current request (Attachment B), several Board members noted the timing of the closure of Broomley Road bridge over the railroad for its reconstruction/upgrade as a concern with the approving a new entrance onto Broomley Road at that time.

SP201300010 Regents School of Charlottesville – Amendment to Special Use Permit to allow a school of Special Instruction to increase the number of persons (students and teachers) permitted at the site from the current 69 allowed under SP201200012, to increase by 27 persons for a total of 96 persons permitted onsite.

SP201200012 Regents School of Charlottesville – Special Use Permit approved for a school of Special Instruction in an existing building, with limits of 60 students and 9 staff.

APPLICANT'S JUSTIFICATION FOR THE REQUEST

See Attachment 2 for the applicant's justification for the request.

SPECIFICS OF THE PROPOSAL

The applicant, Christian Aide Mission, is requesting a special exception to allow disturbance of approximately 5000 square feet critical slopes to construct an access road and entrance to the site from Broomley Road. The new entrance would allow traffic to and from the site to have access to the signalized intersection of Rt. 250, improving the safety for turning movements into and out of the site.

The disturbance of the critical slopes is prohibited by County Code §18-4.2.3(b):

No structure, improvement, or land disturbing activity to establish the structure or improvement shall be located on critical or preserved slopes except as otherwise permitted under sections 4.2.5, 4.2.6, 4.3.1, and 30.7.4.

This project qualifies for exception under §18-4.2.5(a). The applicant has submitted a request addressing the provisions of §18-4.2.5 (Attachment C). This includes addressing:

... how the modification or waiver, if granted, would address the rapid and/or large-scale movement of soil and rock, excessive stormwater run-off, siltation of natural and man-made bodies of water, loss of aesthetic resources, and, in the event of septic system failure, a greater travel distance of septic effluent (collectively referred to as the "public health, safety, and welfare factors") that might otherwise result from the disturbance of critical slopes.

Staff's analysis is included below.

ANALYSIS OF THE SPECIAL EXCEPTION

Engineering and Planning staff review is included in the following sections.

Special Exception for Disturbance of Critical Slopes
Planning Commission, May 18, 2021

Review of the request by Engineering Staff:

The critical slopes proposed to be impacted were created during the construction of Broomley Road, the construction of the railroad, the construction of an access road through the parcel for stormwater facilities, and some that are naturally occurring. The land cover is currently grass and scrub, with some woods. The applicant proposes critical slope impacts for a secondary access road to the existing improvements.

Proposed Entrance Location

Areas	Acres	
Total parcel	12 acres (522,720 sf)	
Project Limits of Disturbance	20,060 sf	3.8% of parcel area
Critical slopes disturbed in project	4,950 sf	24.7% of project area 0.9% of parcel area

Exemptions to critical slopes waivers for driveways, roads and utilities without reasonable alternative locations: The proposed disturbance is not exempt as defined in Section 4.2.6.

Compliance with Zoning Ordinance 18-4.2.5:

“movement of soil and rock”

The existing slope is stabilized. Proper slope grading, control of drainage, ESC measures, and vegetative stabilization will minimize movement of soil.

“excessive stormwater runoff”

The proposed engineered ditch and swale will control and direct stormwater and stormwater management will be required, so no excessive post-development runoff is expected.

“siltation”

The disturbed area is subject to the County’s Water Protection Ordinance and erosion and sediment control measures will be provided in a plan to be used throughout construction. Permanent stabilization and maintenance will ensure long term stability. The closest water body is approximately 600 ft from this project.

“loss of aesthetic resource”

This area has been previously cleared and graded during the construction of the Broomley Road bridge and the construction of a ditch along Broomley Road.

“septic effluent”

There are no septic systems proposed with this project.

Based on the review above, there are no engineering concerns which prohibit the disturbance of the critical slopes as proposed with this entrance location. (See County Engineer Review, Attachment 3).

Review of the request by Planning Staff:

Planning Staff has reviewed the applicant's submittal and offers the following comments.

As noted in the County Engineer's analysis, the critical slopes impacted by this request appear to be mostly man-made and related to construction and improvements to Broomley Road, the railroad, and site improvements. The disturbance of these critical slopes may be authorized by the Board of Supervisors by a Special Exception under Chapter 18 Sections 4.2.1(b) and 33.5.

Section 4.2.5 establishes the review process for granting a waiver of Section 4.2.3. The preceding comments by the County Engineer staff address the provisions of Section 4.2.5(a). Section 4.2.5(a)(3) establishes the findings the Commission (Board) may consider in granting modification or waiver of this section. This section of the Code states the following:

§ 18-4.2.5(a)(3): Findings. The commission may grant a modification or waiver if it finds that the modification or waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, or to adjacent properties; would not be contrary to sound engineering practices; and at least one of the following:

Staff has included the provisions of Section 4.2.5(a)(3), along with staff comment on the various provisions. Under 33.9, Special Exceptions, the Board of Supervisors may modify or waive any requirement of section 4.2 based on these provisions; however, no specific finding is required in support of the Board's decision.

"A. Strict application of the requirements of section 4.2 would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare;"

The critical slopes in the area of this request appear to be mostly man-made. Strict application of this section would not forward the purposes of this chapter. The County Engineer has stated that there are no engineering concerns which prohibit the disturbance of the critical slopes as proposed with this entrance location. The subject critical slope area is not associated with other adjacent critical resource areas, such as a floodplain, stream buffer or habitat area. The impacts slopes are not readily visible from the Entrance Corridor.

Granting the modification request could better serve the purpose of this chapter or the public health, safety or welfare by allowing for an improved and safer alternative access to/from the site by providing access to a signalized intersection (at Broomley Rd./Rt. 250 intersection).

- Current traffic volumes on Rt. 250 are 13,000 trips (AADT), while Broomley/Old Ballard Road carries 590 trips.
- Left turns movements are currently restricted from this property as a conditional of approval for the Regents School most recent expansion (approved in 2014), requiring east bound traffic out of the property to make a right turn out of the site and then turn around at certain locations to travel east towards the city.

Regardless of whether this left turn restriction remains after Regents School relocates to its new location sometime in the future, turning movements (particularly left turn movements from the property) could be better managed/accommodated at the signalized intersection than at the property's existing unsignalized entrance directly on to Rt. 250.

- The proposed entrance location can meet VDOT entrance requirements. VDOT finds the plan for the entrance generally acceptable.
- The existing entrance directly on to Rt 250 will remain open and will continue to be used a primary access to the property, mitigating the amount of additional traffic on Broomley Road generated by the new entrance.

“B. Alternatives proposed by the developer or subdivider would satisfy the intent and purposes of section 4.2 to at least an equivalent degree;”

No alternatives have been proposed by the applicant as an alternative to avoid impacting critical slopes. Two options for the internal road design in this general area was reviewed—the other impacted significantly more critical slope area. Any entrance proposed on Broomley Road would require a critical slope waiver as most of the parcels frontage on the Road consists of (man-made) critical slopes.

“C. Due to the property’s unusual size, topography, shape, location or other unusual conditions, excluding the proprietary interest of the developer or subdivider, prohibiting the disturbance of critical slopes would effectively prohibit or unreasonably restrict the use of the property or would result in significant degradation of the property or adjacent properties; or”

Prohibiting the disturbance of critical slopes would not prohibit or unreasonably restrict the use of the property, but some disturbance of critical slopes would likely be necessary to establish any access onto Broomley Road, and thereby providing access to the signalized intersection and a safer access to Rt. 250.

“D. Granting the modification or waiver would serve a public purpose of greater import than would be served by strict application of the regulations sought to be modified or waived.”

Disturbance is necessary to establish access to a signalized intersection and controlled access to Rt. 250. Based on Engineering and Planning’s review above, there are no concerns that would cause staff to object to the approval of the critical slope disturbance request. Staff is recommending approval of this critical slope waiver request.

COMPREHENSIVE PLAN

The Land Use Plan designates this area as Rural Area. The land uses supported by the Rural Areas chapter of the Comprehensive Plan include agriculture, forestry, and conservation. This chapter also outlines the vision and goals for the Rural Areas, and recommends that land uses be small-scale and consistent with traditional rural scales. As stated in the chapter.

While the site is in the designated Rural Area, it is located along a section of Route 250, which consists of old commercial development and commercial and industrial zoned property. The property is zoned CO, Commercial Office and the zoning dates back to the

1960's prior to Comprehensive Planning in the County. Christian Aid Mission and the Regents school continue to utilize existing buildings. The zoning will permit some urban scale uses by-right on this property into the future.

SUMMARY

Staff has identified the following factors which are favorable to this request:

1. The small area of disturbed critical slopes is mostly man-made and not directly associated with other critical resource systems.
2. The County Engineer has identified no engineering concerns which would prohibit the disturbance of the critical slopes as proposed with this entrance location.
3. Disturbance of the critical slopes allow for the construction of alternative access to the property which can, in conjunction with the existing entrance on Rt. 250, better and more safely accommodate traffic generated by the uses on the site.
4. The proposed entrance location can meet VDOT entrance requirements and is generally acceptable to VDOT.

Staff has identified the following factors which are unfavorable to this request:

1. Additional traffic will be introduced on to Broomley Road with the resulting construction of the new entrance.

If this Special Exception request is approved, the applicant will need to submit an application to amend the Special Use Permit to revise the application plan associated with the SP (SP201600025, Regents [School] of Charlottesville) to show the new road and entrance, and an application for a major site plan amendment for the new internal access road and entrance.

RECOMMENDATION

Based on the findings contained in this staff report, staff recommends approval of the special exception request with the following conditions:

1. The area of land disturbance on critical slopes must be in general accord with the "Critical Slopes Disturbance Section A-A' Exhibit" prepared by Shimp Engineering P.C., dated October 26, 2020 (Revised April 22, 2021).

ATTACHMENTS:

Attachment 1: [Vicinity Map](#)

Attachment 2: [Applicant's Project Narrative for Special Exception for Christian Aid Mission](#)

Attachment 2a: [Narrative Attachment – Entrance Location Exhibit](#)

Attachment 2b: [Narrative Attachment – Critical Slopes Disturbance Section A-A' Exhibit](#)

Attachment 2c: [Narrative Attachment – VDOT Collision Data](#)

Attachment 3: [County Engineer Critical Slopes Impact Review](#)

Attachment 4: [VDOT Comments](#)