

**COUNTY OF ALBEMARLE
PLANNING STAFF REPORT SUMMARY**

Project Name: ZMA 201500006 Shadwell Estates	Staff: Rachel Falkenstein
Planning Commission Public Hearing: June 20, 2017	Board of Supervisors Public Hearing: To Be Determined
Owners: Country Inns Extraordinaire Inc.	Applicant: Mitch Wiley, Clifton Inn
Acreage: Approximately 28.05 acres	Rezone from: Amend the proffers and application plan for previously approved PRD zoning (ZMA1977-24)
TMP: 07900-00-00-023F0 Location: 1296 Clifton Inn Drive	By-right use: Current zoning is PRD showing up to 9 lots on the west side of the lake.
Magisterial District: Scottsville	Proffers: Yes
Proposal: Amend the proffers and application plan for the previously approved PRD zoning to allow for the development of seven residential lots on the property.	Requested # of Dwelling Units: 7
Development Area: no Rural Area: yes	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: The property is mostly wooded with a gravel access drive, a lake and several areas of critical slopes.	Use of Surrounding Properties: Clifton Inn and Stone Robinson Elementary School are to the west; to the east (across the lake) are two parcels zoned PRD but are under conservation easement; properties to the north and east are a mix of residential and wooded/open space rural area properties.
Factors Favorable: 1. The revised application plan provides a reduction from nine to seven lots from the approved 1977 PRD. 2. The applicant has agreed to bring the dam into compliance with DCR regulations prior to the subdivision of the property.	Factors Unfavorable: 1. The proposal is not consistent with the Rural Area policies of the Comprehensive Plan; however, this is an update to an old rezoning from 1978 that predated many of the current policies. 2. Disturbances to critical slopes will be required for the construction of the proposed road (a critical slopes special exception is requested) and there are critical slopes on five of the seven proposed lots. A reduction in the number of lots could reduce the amount of critical slopes disturbance. 3. Areas containing steep slopes and required stream buffer are included on individual lots rather than in common area. Including environmentally sensitive areas in common areas provides for a potentially higher level of preservation, though the applicant is providing for a “tree conservation easement” to protect these areas.
RECOMMENDATION: Staff recommends approval of ZMA201500006 Shadwell Estates, provided changes are made to the proffers and application plan, as described below, prior to the Board of Supervisors meeting.	

STAFF PERSON:
PLANNING COMMISSION:
BOARD OF SUPERVISORS:

Rachel Falkenstein
June 20, 2017
To Be Determined

ZMA 201500006 Shadwell Estates

PETITION

PROJECT: ZMA201500006 Shadwell Estates

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCEL: 079000000023F0

LOCATION: Located on North Milton Road (Route 729) across from Stone Robinson Elementary School.

PROPOSAL: To amend the proffers for approved ZMA1977-24 to allow up to 7 residential lots. The following special exceptions are requested: Disturbance to critical slopes, modification of requirement for rectangular building site, modification of maximum setback requirement. Private Street authorization requested.

PETITION: Request to amend proffers for ZMA1977-24 on property zoned Planned Residential Development (PRD) which allows residential (3-34 units/acre) with limited commercial uses.

OVERLAY DISTRICT: Entrance Corridor (EC); Flood Hazard (FH)

PROFFERS: Yes

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 property is currently undeveloped. It contains a dirt and gravel access drive and overhead utilities. It is partially wooded with several areas of critical slopes. The eastern property line crosses through the center of a lake, which has 100-foot required stream buffer along its edge (Attachment A).

To the west of this property is the Clifton Inn (same owners as the subject parcel). Stone-Robinson Elementary School is to the northwest. There are two parcels east across the lake that were part of the original PRD zoning. These properties are wooded and currently under conservation easement. South of the site are additional areas of woods and the Rivanna River. To the north is the community of Shadwell and the Intersection of Richmond Road (Rt 250) and Louisa Rd (Route 22). All adjacent parcels, except the two across the lake are zoned Rural Areas.

SPECIFICS OF THE PROPOSAL

In 1978 the Board of Supervisors approved a rezoning of this property from A-1 to RPN Residential Planned Neighborhood. In 1980, the County changed all areas of RPN to PRD Planned Residential District zoning. The previous rezoning applied to what is today three separate parcels (TMP 79-23F, 79C-1 and 79-23) consisting of approximately 92 acres. The PRD allowed for the development of the property into 39 residential lots. The application plan associated with the approved PRD shows 42 lots, 30 lots on the east side of the lake and 12 west of the lake (Attachment B). However, the approved conditions (ZMAs at the time were subject to conditions rather than proffers) associated with this rezoning limited the total number of lots to 39 and required a reduction from 12 to 9 lots on the west side of the lake (Attachment C).

The applicant is requesting to amend the existing PRD zoning on an approximately 28 acre portion of the property west of the lake (TMP 79-23F) to update the application plan and conditions, submitted today as proffers. The proposal includes seven residential lots west of the lake, reduced from the approved nine lots. Updates to the proffers include removing previous conditions that are no longer applicable because of the reduction in size of the rezoned area and conditions that are obsolete because they are now required by ordinance.

The total acreage for TMP 79-23F is 28.05 acres. Approximately 6 acres will be added to two adjoining parcels with a future boundary line adjustment plat. These areas will retain their PRD zoning, but will not be part of the future development. Of the remaining 21.75 acres, the applicant proposes to develop 10.7 acres of the property as residential lots, 9.3 acres (43%) in open space and 1.75 acres in roads.

APPLICANT'S JUSTIFICATION FOR THE REQUEST

The applicant has made this request in order to develop the property for seven residential units and to update the application plan and proffers.

PLANNING AND ZONING HISTORY

- SP #308 – 1973 request for the development of “Collina Planned Community” concurrent with a site plan application for the development of 130 acres into 90 single family lots, 120 townhouses and 1.5 acres of small shops. The application was denied.
- ZMA1977-17 – 1977 request to rezone the property from A-1 to Residential Planned Neighborhood (RPN)/A-1 with 46 single family dwellings on 92 acres. The application was denied.
- ZMA1977-24 – request to rezone the property from A-1 to RPN/A-1 Residential Planned Neighborhood to allow the development of 39 residential lots on 92 acres. The application was approved on January 18, 1978.
- The 1980 Comprehensive rezoning changed the property from RPN to PRD Zoning
- ZMA2004-08 – Rezoning request to update the PRD plan and proffers on TMP 79-23 and 79C-1 to allow up to 23 lots on 66 acres. The application was withdrawn.
- ZMA 2013-13 – Rezoning request to update the PRD plan and proffers on TMP 79-23 and 79C-1 to allow up to 24 lots on 66 acres. The application was withdrawn.
- In 2014 TMPs 79C-1 and 79-23 were placed under conservation easement held by the Public Recreation Facilities Authority (PRFA).

COMPREHENSIVE PLAN

The Comprehensive Plan designates the property as Rural Area, which calls for the preservation and protection of agricultural, forestal, open space and natural, historic and scenic resources and recommends residential development be directed towards the Development Areas. Under today's policies, staff would not be supportive of a new application for a Planned Residential District in the Rural Area. However, this request is an amendment to an existing PRD and would result in fewer units than the originally approved PRD.

Relationship between the application and the purpose and intent of the requested zoning district

The PRD district is a residential district intended to encourage sensitivity toward the natural characteristics of the site and toward the surrounding area in land development. More specifically, the PRD is intended to promote economical and efficient land use, an improved level of amenities, appropriate and harmonious physical development, and creative design consistent with the best interest of the county and the area in which it is located. The PRD provides for flexibility and variety of development for residential purposes and uses ancillary thereto.

The proposed development includes 43% of the site as common open space, though the majority of this area is within the lake. Proposed lots include sensitive natural resources such as stream buffer and critical slopes. The applicant has proffered to protect areas of stream buffer, which includes a portion of the critical slopes, with a “tree conservation easement.” However, there are some areas of slopes outside of this easement area on private lots. Staff believes that better protection of these resources could take place if the applicant places all areas of stream buffer and critical slopes in common open space to be owned and maintained by the homeowners association. The applicant prefers to retain them on individual lots to retain the large lot size. If the resources are not to be placed in common open space, staff recommends that the tree preservation easement be expanded to cover all areas of critical slopes on private lots.

The applicant is requesting a special exception for the disturbance of critical slopes for the construction of the roadway (see analysis provided below). The area of slopes to be disturbed is only a small portion of the total area of slopes on site and the disturbance is unavoidable if access is to be provided to the southern portion of the property.

Anticipated impact on public facilities and services

Streets:

Access to the site will be via North Milton Road with an entrance directly across from the southern entrance to Stone-Robinson Elementary. Access to the individual lots will be via a private street (see private street request analysis below). Due to the small number of lots being proposed, significant traffic impacts are not expected from this development. VDOT and engineering staff have no objections with the proposed street layout.

Schools:

Students living in this area would attend Stone-Robinson Elementary School, Burley Middle School, and Monticello High School. Based on average school enrollment statistics, a residential development of this size would typically include about 3 school age children.

Fire and Rescue:

The East Rivanna Fire Station provides fire services to the area. The Pantops Rescue Squad provides rescue service during the day and Charlottesville-Albemarle Rescue Squad provides service on weekends and nights. The site contains a dry hydrant on the southern portion of the property with a 20' lane for Fire/Rescue access. Fire/Rescue staff has no objection with this development as proposed.

Utilities:

This property is located in the County's jurisdictional area for water only to existing structures. There are no existing structures on the site and the proposed houses will not be eligible for public water. Because the property is not in the Development Areas and does not have any existing structures, it will be served by private well and septic systems. The Health Department has reviewed the proposal and was not able to comment on the appropriateness of the proposed drainfield locations because soils work was not provided by the applicant. The applicant will be required to provide soil studies for Health Department approval prior to the subdivision of the property.

It is important to note that if the applicant has difficulty locating well sites or finding suitable drainfield locations on the proposed lots, then this development would not be eligible for an extension of public water or sewer service. Current Rural Area policy precludes the extension of public utilities to the Rural Area unless there is a demonstrable public safety issue. Lots that do not pass a percolation test or that do not have well sites to serve future developments will not meet the criteria for the extension of public utilities into the Rural Area.

Since there is a history of difficulty with finding suitable well and drainfield sites in this area, staff recommends the applicant consider adding a note to the application plan to allow for fewer, larger lots, if adjustments are needed to find suitable well or septic sites. This would allow the applicant to increase lot sizes and adjust boundary lines, so long as a 30,000 square foot building site on each lot is still achievable.

Anticipated impact on environmental, cultural and historic resources

As mentioned above, significant areas of critical slopes and a required stream buffer are proposed on private lots. Even though the plat will show a tree conservation easement and deed restrictions will be put in place, homeowners are not always made aware of such restrictions. Given the location of the tree conservation areas between the backs of the proposed houses and the lake, staff is concerned that homeowners may have a desire to clear their backyards for lake views and easy access to the water. Furthermore, the tree conservation easement does not cover some areas of critical slopes on individual

lots. If areas of critical slopes and stream buffer are to be retained on individual lots staff recommends that the tree conservation easement be expanded to include all areas of critical slopes on lots.

There are no known cultural or historic resources on the site, but the property is located adjacent to the Clifton Inn, which is on the National Register of Historic Places. The property is also within the Southern Albemarle Rural Historic District. New residences will be visible from the Clifton Inn and the applicant has stated an intention to convene an architectural review board consisting of HOA members to ensure architectural compatibility with the Clifton Inn, but this has not been included as a proffer. Staff recommends the HOA architectural review be included as a proffer with language to allow historic preservation staff review of the architectural standards. Historic preservation staff have reviewed this request and do not anticipate negative impacts to historic resources if the residences are architecturally compatible with the Clifton Inn and allowing staff review of the architectural standards can ensure this compatibility.

Though the site is within the Entrance Corridor, the Design Guidelines do not apply to single-family detached houses, so no ARB review is required for this proposal. The property is also located within the Monticello viewshed. Staff from Monticello have reviewed the request and have no objections with the proposed amendment.

There is a dam above the lake, which, in 1978, was in need of repair. Staff is not aware that any of the repairs ever took place. DCR is requiring that the dam be inspected by and certified by their Division of Dam Safety (Attachment E). The applicant has proffered DCR review of the dam prior to subdivision of the parcel. Staff is supportive of the intent of this proffer but the proffer language should be updated for clarity, as described in more detail below.

Anticipated impact on nearby and surrounding properties

If the areas identified as tree conservation areas on the application plan are preserved, the development will be well screened from adjacent properties, except from the Clifton Inn to the west, which has the same ownership. Due to the limited number of new houses, significant impacts to nearby and surrounding properties are not anticipated.

Public need and justification for the change

The applicant is amending the proffers and application plan to bring the site into compliance with today's standards. While there is no demonstrated public need and justification for a residential development in this location, due to prior approvals of a much larger development, the proposed plan reduces the number of new lots and brings the proposal closer into compliance with Rural Area policies.

PROFFERS

The applicant has provided proffers, which are listed below (Attachment F).

1. The PRD is to be modified to a maximum of 7 lots plus open space. The open space, stream buffer will be protected by a tree preservation easement and deed restrictions in the HOA documents and will be recorded with the first plat.
2. DCR review of the dam and any requirements from the inspection for improvements will be done prior to recording of the first subdivision plat.

Staff recommends the following modifications to the proffers:

1. The proffers should reference the application plan and significant features such as the amount and location of open space and a maximum number of lots.
2. The tree preservation easement should be a separate proffer and should indicate who approves the deed restrictions (County Engineer and County Attorney).

3. Proffer 2 should be edited for clarity. Language should be added stating the dam is required to be certified by DCR's Division of Dam Safety and to comply with all recommendations of DCR for dam repairs, maintenance and operations prior to approval of the first subdivision plat.
4. Consider adding a proffer to require architectural review of the residences under the HOA to ensure architectural compatibility with the Clifton Inn and CDD staff review of the HOA architectural standards prior to recordation of the first subdivision plat.
5. Technical fixes to the proffers are needed.

Staff recommends the following modifications to the application plan:

1. The tree preservation area should be extended to cover all areas of critical slopes and required stream buffer on private lots.
2. Language referencing that Area Z and Area Y will revert back to RA zoning should be removed from the plan (these areas will remain zoned PRD).
3. All special exceptions should be listed on the application plan (critical slopes, building site modification, increased maximum setback) and the private street authorization.
4. Consider adding a note to allow a reduction in the number of lots and increased lot sizes, in case adjustments are needed to find suitable well and septic sites.

PRIVATE STREET AUTHORIZATION REQUEST

The applicant has requested private street authorization to allow a private street to serve the proposed development (Attachment G). The Subdivision Ordinance requires Planning Commission approval for any private streets in the Rural Areas, with the exception of private streets serving two-lot or family subdivisions. The Commission may authorize a private street under Section 14-232(A), provided the findings in section 14-232(C) are made. The applicant is requesting this private street to alleviate significant degradation to the environment and has submitted analysis and justification as required by this section and listed below: (ordinance language presented in ***bold italics*** followed by staff comment).

(i) the property is within either the rural areas (RA) or village residential (VR) zoning districts;

The subject parcel is in neither in the rural areas or village residential zoning districts; however, it is in the Rural Area of the county as identified in the Comprehensive Plan. Characteristics of the development are similar to other RA subdivisions.

(ii) the private streets will alleviate a clearly demonstrable likelihood of significant degradation to the environment of the property or any land adjacent thereto resulting from the construction of a public street in the same alignment;

The applicant provided an exhibit as part of the justification for the private street request (Attachment H). The exhibit demonstrates that to meet VDOT requirements the public street must provide for interconnectivity and would require a much longer street than the proposed private street. The exhibit shows the required extension of Clifton Lane as a public street with the same alignment and right-of-way as proposed for the private street request; however, the public street exhibit shows a connector road from the cul-de-sac at the end of Clifton Lane to Randolph Mill Lane, an existing private street along the adjacent property line.

The applicant has stated that the total volume of grading for the construction of a public street would be 432% more than the amount of grading needed for the private street. Constructing the private street without the requirement for the second connection alleviates significant degradation to the environment because it avoids disturbance to large areas of critical slopes and reduces clearing, grading and the overall amount of impervious surface on the site.

(iii) no alternative public street alignment is available which would alleviate significant degradation of the environment;

No alternative public street alignment is available which would avoid disturbing additional areas of critical slopes. Additionally, extending the street any additional length as would be required to provide interconnectivity would increase the amount of impervious surface on the site, which would in turn, increase stormwater runoff.

(iv) no more lots are proposed on the private streets than could be created on a public street due to right-of-way dedication; and

No additional lots are proposed than could be created on a public street.

(v) the proposed private streets demonstrably promote sensitivity toward the natural characteristics of the land and encourages the subdivision of land in a manner that is consistent and harmonious with surrounding development.

County Engineering staff has analyzed the proposed street as required by Section 14-232. Staff has found that the location and design of the proposed private street promotes sensitivity towards the natural environment, due to the avoidance of additional critical slopes. The subdivision meets the requirement for authorization for a private street under this section.

ANALYSIS OF SECTION 14-234:

Per Section 14-234(C), the Commission may authorize a private street in a subdivision if it finds that one or more of the circumstances described in section 14-232 exists and that: (ordinance language presented in ***bold italics*** followed by staff comment)

1. The private road will be adequate to carry the traffic volume which may be reasonably expected to be generated by the subdivision;

The amount of traffic expected on the proposed private street is minimal. The design is adequate for this type of traffic and shall meet the private road standards as specified in Section 14-412 of the Subdivision Ordinance.

2. The comprehensive plan does not provide for a public street in the approximate location of the proposed private road;

The Comprehensive Plan does not provide for a public street in the location of the proposed private street.

3. 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;

The private street will be owned and maintained by a homeowners association composed of the owners of all lots in the subdivision. Staff review and approval of road plans and a private street maintenance agreement will be required prior to the approval of the subdivision of the property.

4. 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

The private streets will not serve through traffic, nor intersect the state highway system in more than one location.

5. 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.

As proposed, the private street will not impact the flood plain.

CRITICAL SLOPES SPECIAL EXCEPTION REQUEST

The applicant requested a special exception to allow for the disturbance of critical slopes on the site (Attachment I). Planning Commission action is not required for the special exception request; however, the Board may consider a recommendation by the Planning Commission.

The applicant is proposing to disturb 0.2 acres of existing critical slopes to allow for the construction of the private road. According to the applicant, the slopes to be disturbed are in grassed areas and were created when the existing gravel road was constructed. The slopes to be disturbed represent only 2.3% of the total area of critical slopes on site.

Engineering staff has reviewed the request under the requirements of section 4.2.5(A)(1) and has no objection to the proposed critical slope disturbances. Since the slopes appear to be manmade, staff believes that strict application of the requirements of Section 4.2 regarding preservation of critical slopes would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare. Staff recommends that the special exception for the disturbance of critical slopes be approved by the Board with the condition that any land disturbing activity located within the critical slopes comply with the Design Standards of Section 30.7.5 of the Zoning Ordinance. This would prevent the creation of additional manmade steep slopes on site and require that any resulting slopes be more gradual in nature and appearance.

BUILDING SITE SPECIAL EXCEPTION REQUEST

The applicant requested a special exception to allow for a modification of the rectangular shape requirement for a building site on the proposed lots (Attachment J). This special exception will apply to all seven proposed lots on the property. Planning Commission action is not required for the special exception request; however, the Board may consider a recommendation by the Planning Commission.

County Code § 18-4.2.2(a)(3) authorizes the Board to waive or modify the rectangular shape requirement for a building site by special exception upon consideration of the recommendation from the Virginia Department of Health and consideration of the following circumstances: (ordinance language presented in ***bold italics*** followed by staff comment) .

(i) The parcel has an unusual size, topography, shape, location or other unusual physical condition;

A majority of the parent parcel is comprised of the lake, the stream buffer and critical slopes. In order to fit the proposed street and seven lots within this long, narrow parcel, the building site special exception is needed. Each proposed lot includes a 30,000 square foot building site, but due to the shape of the parcel and the presence of slopes and WPO buffer, the building sites are not able to be perfect rectangles, though they are, for the most part, rectangular in shape.

According the applicant, he has made every effort to provide the rectangular building sites on each lot, but due to the irregular lines on the edges of the stream buffer and critical slopes, the building sites are not able to meet this requirement. If the applicant were proposing fewer lots with this division, it may be possible for lots to achieve the rectangular building site as required by ordinance; however, the seven lots already represents a reduction in the number of lots previously approved.

(ii) No reasonable alternative building site exists;

There are no alternative building site locations for the seven lots as proposed.

(iii) Modifying or waiving the rectangular shape would result in less degradation of the parcel or adjacent parcels than if those dimensions were adhered to;

The building sites are 30,000 square feet and, according to the applicant, provide for enough area for the home site, primary and reserve drainfields and a well site on each lot. Allowing the irregular shaped building sites allows disturbances to be kept out of critical resources and therefore will result in less degradation to the slopes, stream buffers and wooded areas on the site.

The Virginia Department of Health has not yet granted approval of the individual onsite sewage systems for this proposed subdivision. The applicant has stated that he worked with and AOSE to identify areas for primary and reserve drainfields on each lot. Health Department approval of drainfield locations within the proposed building sites will be required prior to approval of the subdivision of the property.

MAXIMUM FRONT SETBACK SPECIAL EXCEPTION REQUEST

The applicant has requested a special exception to modify the maximum front setback of 25 feet for PRD zoning (Attachment J). Planning Commission action is not required for the special exception request; however, the Board may consider a recommendation by the Planning Commission. County Code § 18-4.19(4) authorizes the Board to increase the maximum front setback requirement by special exception to accommodate low impact design, unique parking or circulation plans, or a unique target market design.

The applicant is proposing the maximum front setback be modified from 25 to 125 feet to accommodate a unique target market design. The applicant's justification for this request is that because the property is located in an historic area and adjacent to Clifton Lake, the larger maximum setback of 125 feet will help maintain the rural character of the property. Even though this property is zoned PRD, staff is supportive of this request due to the location of the subdivision in the Rural Area of the County. Neighborhood Model principles were intended for developments within the Development Areas of the County and are not necessarily applicable to Rural Area subdivisions. Staff recommends approval of the maximum setback special exception.

SUMMARY

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

1. Fill in once final

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

1. Fill in once final

RECOMMENDATION

Staff recommends approval of ZMA201500006 Shadwell Estates, provided revisions are made to the proffers and application plan, as described above, prior to the Board of Supervisors meeting.

PLANNING COMMISSION MOTION:

A. If the ZMA is recommended for approval: Move to recommend approval of ZMA201500006 with revisions to proffers and application plan as recommended by staff.

B. If the ZMA is recommended for denial: Move to recommend denial of ZMA201500006 with the reasons for denial.

MOTION FOR PRIVATE STREET AUTHORIZATION:

A. Motion for approval: Move to approve the private street request for ZMA201500006 with the private street in the location shown on the application plan.

B. Motion for denial: Move to deny the private street request for ZMA201500006 with reasons for denial.

ATTACHMENTS

- A – [Location map](#)
- B – [1978 Approved application plan](#)
- C – [1978 Approved conditions](#)
- D – [ZMA2015-06 Application plan](#)

- E – [Letter from DCR regarding dam](#)
- F – [ZMA2015-06 Proffers](#)
- G – [Private street authorization request](#)
- H – [Public street exhibit](#)
- I – [Critical slopes special exception request](#)
- J – [Building site special exception request](#)