



COUNTY OF ALBEMARLE
Department of Community Development
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November 4, 2016

Scott Collins
200 Garrett St Suite K
Charlottesville Va 22902

RE: ZMA201500007 and SP201500025 Brookhill

Dear Mr. Collins,

The Albemarle County Planning Commission, at its meeting on August 16, 2016, The Planning Commission took actions on the following as noted below:

- Special Use Permit for grading activities in the floodplain
 - Private street authorization (Sections 14-233 and 14-234).
 - Modification of street standards
 - 14-422(E) - Sidewalks along private streets serving amenity oriented lots
 - 14-422(F) - Planting strips along private streets serving amenity oriented lots
 - Modification to Attachment G to add that the connection to Coralberry Place be pedestrian or bike only.
- By a vote of 4:1:2, **RECOMMENDED APPROVAL** of ZMA-2015-00007 with the changes as recommended by staff in attachment G.
 - By a vote of 4:0:2, **RECOMMENDED APPROVAL** of SP-2015-25 Brookhill with the conditions recommended by staff for the special use permit, as follows.
 1. Prior to final road plan approval or permitting of a land disturbance in the floodplain, the applicant shall obtain from the Federal Emergency Management Agency (FEMA) a Conditional Letter of Map Revision Based on Fill (CLOMR-F), and prior to road acceptance, the applicant shall obtain from FEMA a Letter of Map Revision Based on Fill (LOMR-F). In addition, the applicant shall copy the County Engineer on all correspondence with FEMA. Construction of the road shall be in compliance with approved road plans and FEMA approved CLOMR-F.
 2. Any residential or commercial lots and associated streets (public or private) resulting from the subdivision of the property, with the exception of the stream crossings, shall be located outside of the 100 foot stream buffer (as shown on the Brookhill Special Use Permit & CLOMR Plan, Existing Conditions, Sheet 2, last revised 06/15/16), Flood Hazard Overlay, and preserved slopes on the property. Approval of lots located within the stream buffer shall be subject Subdivision Agent approval.

- By a vote of 4:0:2, **AUTHORIZED** private streets for amenity oriented lots for the reasons stated in the staff report and in attachment H.
- By a vote of 4:0:2, **GRANTED** an exception from the requirement for sidewalks on those private streets that serve amenity-oriented lots, for the reasons stated in Attachment H, subject to the following condition:
 1. A five-foot wide sidewalk across the length of the amenity area shall be provided for access to and from the lots and shall connect to the sidewalk network along the public streets.
- By a vote of 4:0:2, **GRANTED** an exception from the requirement for planting strips on those private streets to serve amenity-oriented lots, for the reasons stated in Attachment H.
- By a vote of 5:0:2, **APPROVED MODIFICATION** to the list of changes in Attachment G needed for Brookhill, prior to it being approved by the Board of Supervisors to add that the connection to Coralberry Place on the application plan be for pedestrian or bike use only.

If you should have any questions or comments regarding the above noted action, please do not hesitate to contact me at (434) 296-5832.

Sincerely,

Megan Yaniglos
Principal Planner
Planning Division

Attachment G – Staff Report ZMA-2015-7 and SP-2015-25 Brookhill

Summary of Revisions Needed for ZMA2015-007 Brookhill

Engineering- Mark Graham (acting as Engineering reviewer)

1. I will not recommend acceptance of Proffer 1.A or 1.b as written. This will function much better if the proffer requires substantial completion, as determined by the County Engineer, prior to issuance of building permits rather than completion and bonds released prior to a Certificate of Occupancy. Two reasons for this: 1) Completion with bond release can occur many additional months beyond when the road improvements are operationally safe and convenient for use. This occasionally include some unforeseen circumstance beyond the control of the developer. (e.g. relocation of a utility line not previously found) 2) Related to the first reason, we have repeatedly seen circumstances where a Certificate of Occupancy requirement harms an innocent prospective property owner. The typical scenario is the new family has sold their old house based on the builder's commitment to complete the house by a date. The builder does complete the house per schedule, but no C.O. may be issued because the developer has not completed the proffer requirement. (this has included a wife who is 8 ½ months pregnant, children who are seriously ill, pets that are dying, the family losing the mortgage commitment due to the extra time, and a family who couldn't afford the extra cost of staying in a motel for 2 months).
2. I will not recommend acceptance of Proffer 1.C. as written. This proffer will function much better if it requires substantial completion, as determined by the County Engineer, prior to issuance of a building permit for the 500th dwelling. This is for the same reasons as noted in the first comment, plus recognizing a condition of the 500th single family detached dwelling is meaningless. First, there is no commitment with this Code of Development to build 500 single family detached dwellings. The developer could build 499 single family dwellings and the rest as single family attached or multi-family dwellings. That could result in the needed connection never being complete. Second, while a detached home may be assumed to generate more traffic, attached or multi-family homes also generate traffic. Based on my review of the submitted traffic study, I concur the connection is not needed before the 500th dwelling, but we do need to see it completed before this development goes much further than this.
3. I will not recommend acceptance of Proffer 1.D. as written. First, the second sentence contradicts itself. That sentence starts by saying the improvement will be completed prior to the later of two conditions and concludes by saying "...whichever occurs first." Second, this raises the same concern as raised above with respect to a commitment tied to issuance of a Certificate of Occupancy. This proffer will function much better if it requires substantial completion, as determined by the County Engineer, prior to issuance of a building permit for the 200th dwelling. Next, the commitment to dedicate the necessary right of way should include all necessary grading and drainage easements for completion of the improvements shown on the plat.
4. Proffer 1.E is acceptable with the following clarification on the intent of the proffer. The shelter will be expected to be equal or better to those currently used by Charlottesville Area Transit (CAT), as determined by the Director of Community Developer and CAT. Also, completed concurrently means the facility must be ready for use, as determined by CAT, as part of the substantial completion of the road improvements.
5. The last sentence of Proffer 1.G should be revised to clarify that once the public streets are completed and become part of the VDOT Secondary Street program, the Owner no longer has the authority to regulate the traffic on the streets.
6. I will not recommend acceptance of Proffer 2.A as written. This will function much better if the proffer requires substantial completion, as determined by the County Engineer, prior to issuance of the 50th building permit for a dwelling. This is for the same reasons as stated above in comments. Additionally, this proffer should include a commitment to complete the improvements within each subdivision plat concurrently with the streets being determined to provide a safe and convenient access.
7. I will not recommend acceptance of Proffer 5 as written. I noted that Marshall Swift provides a large number of building cost indices and this proffer is not specific as to which is proposed. I note the County has historically used the index for masonry walls in the Mid-Atlantic as a basis for adjustment. This proffer needs to be specific as to which cost index will be used.
8. I will not recommend acceptance of Proffer 6 as written. I note satisfaction of this proffer anticipates the

County and Owner to reach agreement on the value of the proffered improvements within 30 days of approval of this zoning. This is impracticable. First, the proffer cannot obligate the County to agree with the Owner's position. If agreement is not reached within the 30 days, this becomes a zoning violation and all activity in the development may be required to stop until this is resolved. That is a difficult position. Second, noting the value of the elementary school site is to include improvements, I do not see how the value of those improvements can be agreed upon until there is an approved plan for the improvements. Third, this proffer anticipates a credit for cash proffers will be provided long before the proffers may be delivered to the County. This leads to a number of "what ifs" that are not addressed. For example, should the value of the improvements on the elementary school site be evaluated annually per Proffer 5? If so, would this also include possible reassessments of the property value by the County or private appraisals by the Owner? For all of the above reasons, I strongly encourage the Owner to take the time in advance of this application being heard by the County Board to see if an agreed value can be reached with staff and then recommend this be used by the County Board in its evaluation.

9. I will not recommend acceptance of Proffer 7 as written. First, I note the last sentence of the first paragraph allows the County to use this property as a public park, but the second paragraph requires the property to be returned to the Owner within 10 years if it is not used as an elementary school. That contradiction needs to be addressed. Second, per Proffer 6, the Owner has already received a credit towards the cash contribution in Proffer 3 with this property. Thus, the County is effectively being penalized for not using school site within a timeframe. That may suggest the elementary school provides a value to the Owner that should be included in the credit calculations per Proffer 6. Third, I believe this proffer should include the same flexibility for "other public facilities as provided in Proffer 8. Without this, the proffer effectively obligates a future County Board to make decisions that may not be aligned with its goals at that time. Fourth, and finally I believe the proffer needs to be clear this is to be a minimum 7 acres of usable ground with an access entrance location approvable by VDOT for this school. This site provides no value to the County unless it is demonstrated this site is usable and accessible. At a minimum, I recommend the second paragraph be struck from Proffer 7 and the County's use of this property not be restricted.

10. I recommend the County's use of the property identified with Proffer 8 not be restricted. The County is providing a cash proffer credit based on the agreed upon value of the property. If this property includes a restriction on the uses of the property, I believe that restriction must be included in the consideration of the property value.

11. I recommend that 2.4.2 of the Code of Development to be modified to allow the Director of Community Development to allow removal and replacement of trees in any wooded buffer with a determination that the existing trees create a substantial risk to people or property or they are diseased or dying. I have seen too many narrow buffers that included thin pine trees protected from the wind before development but creating a substantial risk to people and property after the development has occurred. Similarly, I have seen diseased trees where it is not clear the Homeowner's Association has the right to remove them before other trees are infected. As outlined here, that risk would be thrust onto the Homeowner's Association regardless of their concerns.

12. I recommend that 2.8 of the Code of Development include notation that private streets/roads are only allowed as specified by the Subdivision Ordinance or Zoning Ordinance. Nothing in this section preempts those regulations.

13. I recommend that 2.12 of the Code of Development include a commitment to serve all houses by gravity sewer laterals in connecting to the public sanitary sewer lines. We have experienced a number of recent developments taking advantage of a loophole in the County Code to use pressure laterals that will become problems in the future.

Historic Resources- Margaret Maliszewski

1. The cemetery delineations proffer should be revised to address the following issues:
 - a. The proffer only calls for delineation of cemeteries within Block 19. Such work can't determine the location of cemeteries outside of Block 19, as indicated in (iii). The proffer wording should be revised accordingly.
 - b. In (iii), "Brookhill dwelling" should be revised to "Brookhill property".
 - c. The permit, plan and plat approvals apply to Blocks 1, 3, 4, 6, 8 and 19.
 - d. Because cemetery delineation could impact block boundaries, delineation should be completed prior to submittal of the first site plan and prior to any subdivision approval or grading permit approval for Blocks 1, 3, 4, 6, 8 and 19. The proffer wording should be revised accordingly.
2. The National Register eligibility proffer doesn't appear to proffer anything that won't already be required by a state or federal agency, so it doesn't appear to be necessary. Clarify the meaning of "including the possible removal of some of the temporal designation".
3. The Code of Development states that the Brookhill manor house will be preserved. A proffer should be established to clarify the methods of preservation. At a minimum, such methods should include: The manor house shall not be demolished; additions shall not compromise the historic character of the property; repairs shall maintain historic fabric and character; and exterior alterations shall not destroy historic materials or the historic character of the property, all as determined by the Director of Planning or his designee.
4. A proffer should be established to address the two historical markers to be installed in the development, as indicated in the Code of Development.
5. A proffer should be established to address the preservation of existing landscaping on the Brookhill parcel and the establishment of the 20' buffer around the Brookhill house as described in the Code of Development.
6. A proffer should be established requiring treatment plans for all cemeteries located within the property of the proposed Brookhill development. The treatment plans shall be submitted by the applicant for review and approval by the Director of Planning or his designee prior to any site plan submittal or subdivision approval or grading permit approval for Blocks 1, 3, 4, 6, 8 and 19.
7. A proffer should be established to address the preservation of the Woodland Camp, at a minimum stating that the camp won't be negatively impacted by grading and construction associated with the greenway/trail system or other development activities.
8. A proffer should be established to indicate that block boundaries as illustrated on the application plan shall be shifted as necessary to accommodate preservation of historic/cultural resources if relevant new information is discovered, as determined by the Director of Planning or his designee.

Zoning- Amanda Burbage/Amelia McCulley

1. Proffer 1 - The proffer language related to the phasing of the proposed transportation improvements is still unclear. With the exception of the Ashwood Connection, the phasing of the internal road network (labelled A, B, C & D in Figure A: Brookhill Traffic Phasing Plan) is not addressed at all in the proffers. The Transportation Improvements proffer should address the timing and triggers for all roadway improvements, not just Polo Grounds Road, Route 29, Ashwood Boulevard, and Rio Mills.
2. Proffer 1C – Tying this proffer to the 500th CO for a single family detached dwelling is problematic if other types of dwelling units or commercial space are developed first. Please revise this proffer to reference a total number of dwelling units and provide an alternate trigger for commercial development.
3. Proffer 1D - Proffer 1C – Tying this proffer to the 200th CO for a single family detached dwelling is problematic if other types of dwelling units are developed first. Please revise this proffer to reference a total number of dwelling units.
4. Proffer 9 - The historic resources proffer should more specifically reference measures that will be taken to preserve the Brookhill manor house, woodland campsite, and any cemeteries that are identified on the property. The proffer should also address the installation of the two historical markers discussed in the Code of Development. See Margaret Maliszewski's comments for more guidance on adjusting proffer language.

Planning

1. Revise the grading section within the COD (pages 23-24) to reflect the design requirements that are required for managed slopes under section 30.7.5 of the Zoning Ordinance. If the applicant wishes to allow retaining walls that do not meet these standards, add language to allow the exception by the Director of Community Development in coordination with the County Engineer. Language should include circumstances under which the exception may be granted such as to improve the overall design of the project and not for the proprietary interest of the developer/owner.

VDOT

1. In a meeting with the developer on 6/27/16 minor changes to the TIA were requested in the form of revisions to the average speed table(s) through the vicinity of the project. A revised TIA needs to be submitted and approved.

2. The traffic phasing plan as shown in Figure A appears to be in general conformance with the TIA. However, the Department recommends that the Polo Grounds Road improvements be made at the start of the project and not tied to occupancy of the 50th single family home as the Proffer Statement details.

Attachment H – Staff Report ZMA-2015-7 and SP-2015-25 Brookhill

Modification Requests- Staff Analysis

#1: Authorization of Private Streets

Private streets may be authorized by the Planning Commission as provided by any one of the provisions of Section 14-233.

The applicant has requested approval of private streets that serve as access to amenity oriented lots using Neighborhood model development as justification. Ordinance language presented in ***bold italics*** followed by staff comment.

ANALYSIS OF SECTION 14-233(A)(1) Neighborhood model development.

May be authorized if the proposed private street(s) would enable the principles of the neighborhood model to be more fully implemented than could be achieved with a public street, without diminishing other principles of the neighborhood model, in the following circumstances: (i) the subdivision would have a streetscape more consistent with the neighborhood model; (ii) the subdivision design would allow it to better achieve the density goals of the comprehensive plan; (iii) rear vehicular access to buildings would be provided so that the buildings may face a common amenity; (iv) a significant environmental resource would be protected; or (v) relegated parking would be provided to a greater extent than could otherwise be provided.

Staff has reviewed this request and recommends approval for private streets that serve amenity oriented lots. These streets provide rear access to lots that are oriented toward a common amenity, and the traffic generated from the streets will be for the residents and their visitors which will generate less traffic than those roads that access the center. The layout for these amenity oriented blocks will allow for a design that is consistent with the neighborhood model principles by providing rear access and relegated parking. The details of the amenity oriented lots can be found on pages 30 and 31 of COD.

ANALYSIS OF SECTION 14-234: Per Section 14-234(C), the Commission may authorize one or more private roads to be constructed in a subdivision if it finds that one or more of the circumstances described in Section 14-233 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 requested private streets is minimal. While Fire Rescue and Engineering Divisions find no objections to the proposed streets being private, the ultimate design of the streets are subject to approval by both agencies and must meet their requirements.

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

private road;

While the exact locations of the private roads are yet to be determined, the Places29 Master Plan only shows one possible public street on these properties and the applicant is providing that street as a public street.

3. The fee of the private road 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 road;

Section 14-317 of the Subdivision Ordinance requires that a maintenance agreement be submitted for review by Planning staff and the County Attorney in all situations where improvements are required to be maintained. This agreement will be required during the subdivision process. The applicant has indicated that the private streets will be entirely owned and maintained by the HOA.

4. Except where required by the commission to serve a specific public purpose, the private road will not serve through traffic nor intersect the state highway system in more than one location; While the location of the streets is yet to be determined, the proposed amenity oriented private streets serve a public purpose by enabling the principles of the neighborhood model to be more fully implemented than could be achieved with a public street by allowing a smaller pavement section and rear access to the lots.

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

The requested private streets will not require any upgrades nor impact the flood plain.

Summary:

Staff recommends approval of private streets serving amenity oriented lots.

#2: Modification of Street Standards

2a. Exception of Sidewalk Requirement

Sidewalks and planting strips for street trees and other vegetation are required to be established on both sides of each new street within a subdivision in the development areas. The applicant has requested a general sidewalk and planting strip exception for any private street serving amenity oriented lots. The requirements for sidewalks and planting strips may be waived by the commission as provided in section 14-203.1.

ANALYSIS OF SECTION 14-422 (E) Waivers from sidewalk requirements: Per Section 14-422(E)(2), in reviewing a request to waive the requirement for sidewalks, the commission shall consider whether: (ordinance language presented in **bold italics** followed by staff comment)

i. A waiver to allow a rural cross section has been granted;

A waiver to allow a rural cross section has not been granted or requested.

ii. A surface other than concrete is more appropriate for the subdivision because of the character of the proposed subdivision and the surround neighborhood;

No alternative surface is proposed.

iii. Sidewalks on one side of the street are appropriate due to environmental constraints such as streams, stream buffers, critical slopes, floodplain, or wetlands, or because lots are provided on only one side of the street;

Sidewalks are not being proposed on one side of the street.

iv. The sidewalks reasonably can connect to an existing or future pedestrian system in the area;

Sidewalks will be required along all public streets that will created a pedestrian network throughout the development. Staff is recommending a condition that a five foot sidewalk across the length of the amenity area be provided for access to and from the lots and connect to the sidewalk network along the public streets.

v. The length of the street is so short and the density of the development is so low that it is unlikely that the sidewalk would be used to an extent that it would provide a public benefit;

The length of the streets is unknown at this time. However, the streets are for rear vehicular access and sidewalks will be provided within the amenity to allow pedestrian access from the lots to the surround sidewalks and pedestrian network.

vi. An alternate pedestrian system including an alternative pavement could provide more appropriate access throughout the subdivision and to adjoining lands, based on a proposed alternative profile submitted by the subdivider;

The subdivider has not proposed an alternative profile and is proposing sidewalks that meet the County's design standards.

vii. *The sidewalks would be publicly or privately maintained;*

Sidewalks for private streets would be maintained by the Homeowner's Association. Sidewalks adjacent to public streets will be maintained by VDOT.

viii. *The waiver promotes the goals of the comprehensive plan, the neighborhood model, and the applicable neighborhood master plan; and*

This waiver promotes the goals of the neighborhood model and the rezoning plan. Alleyways without sidewalks and planting strips are encouraged under the neighborhood model for blocks that provide rear access to proposed lots.

ix. *waiving the requirement would enable a different principle of the neighborhood model to be more fully achieved.*

Waiving the requirement will allow the lots to be accessed from the rear of the property. This allows the relegated parking principle to be fully achieved.

SUMMARY:

Staff's opinion is that sidewalk does not need to be provided along the private streets providing rear access to the amenity oriented lots. Additionally, this request has been previously approved in other neighborhood model developments (Old Trail).

Staff recommends approval of the sidewalk exception for the private streets serving amenity oriented lots only with the following condition:

Recommended Condition:

1. A five foot sidewalk across the length of the amenity area shall be provided for access to and from the lots and connect to the sidewalk network along the public streets.

2b. Exception of Planting Strip Requirement

Planting strips for street trees and other vegetation are required to be established on both sides of each new street within the development areas. The applicant has requested a general exception to the planting strip requirement any private street serving amenity oriented lots. The requirements for planting strips may be waived by the commission as provided in Section 14-203.1.

ANALYSIS OF SECTION 14-422 (F) Waivers from planting strip requirements: Per Section 14-422(F)(2), the commission shall consider whether: (ordinance language presented in ***bold italics*** followed by staff comment)

i. *A waiver to allow a rural cross section has been granted;*

A waiver to allow a rural cross section has not been granted or requested.

ii. *A sidewalk waiver has been granted;*

A sidewalk waiver is included with this request and is recommended for approval by staff.

iii. *Reducing the size of or eliminating the planting strip promotes the goals of the comprehensive plan, the neighborhood model, and the applicable neighborhood master plan; and*

Eliminating the planting strip maximizes the area available for open space and creates an alley-like streetscape for rear access to each lot. Sidewalks and street trees are required on both sides of the street on all other roads within the development.

iv. *Waiving the requirement would enable a different principle of the neighborhood model to be more fully achieved.*

This waiver promotes the goals of the neighborhood model by allowing an alleyway like condition to allow the lots to front on an amenity while relegating parking to the rear.

SUMMARY:

Staff's opinion is that the proposed private streets would function as alleys and planting strips are not required for alleyways. Planting strips are required to be provided along the proposed public roads within the development and there will be the amenity open space as well.

Staff recommends approval of the planting strip exception for the private streets serving amenity oriented lots only.

