

**COUNTY OF ALBEMARLE
TRANSMITTAL TO THE BOARD OF SUPERVISORS
SUMMARY OF PLANNING COMMISSION ACTION**

AGENDA TITLE: Special Exception Request – disturbance of critical slopes and modification of a building site for TMP 63-19E SUBJECT/PROPOSAL/REQUEST: Special Exception request for disturbance of critical slopes and modification of a building site to construct a single-family residence per §18-4.2.3(a). SCHOOL DISTRICTS: Stony Point (Elementary School); Burley (Middle School); Monticello (High School)	AGENDA DATE: December 18, 2019 STAFF CONTACTS: Filardo, Benish, Nedostup, Kanellopoulos PRESENTER: Tori Kanellopoulos, Planner
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BACKGROUND:

On October 16, 2019, the Board of Supervisors referred this item to the Planning Commission. The Board requested that the Planning Commission review this request and directed staff to provide an analysis of the following information: a clearer timeline of when logging activities occurred, more information on the drainfield feasibility of the two possible building sites, more information on mountain resources per the Comprehensive Plan, and whether this parcel is within designated mountain resources per the Comprehensive Plan. This information is included as Attachment A7.

At its meeting on November 19, 2019, the Planning Commission voted to recommend approval of the special exception request with conditions. The Planning Commission staff report is attached (Attachment A).

DISCUSSION:

The Planning Commission voted 6-0 (Commissioner Firehock absent) to recommend approval of the special exception request with the conditions set forth in the staff report. The Planning Commission did not request any changes. There have been no revisions to the application or the conditions.

The Planning Commission discussed County regulations for timbering, which is a by-right use in the Rural Areas Zoning District. Commissioners inquired about residential versus agricultural uses and disturbance of critical slopes in the Rural Area. Staff responded that residential uses, site plans, and building permits all are subject to critical slopes regulations. Agricultural uses and structures are not subject to these regulations.

A concern of the Commission was the potential for other parcels in the Rural Areas to invoke agricultural uses to clear land, and then construct dwelling units in critical slopes areas. Staff responded that this particular parcel has many unique features, including its topography, approval prior to the Water Protection Ordinance stream buffers, the loss of a building site after the parcel was originally approved, the availability of a location outside of critical slopes that is also at the top of a hill, and issues with drainfield suitability. Staff believes that this particular project does not set a precedent, and these types of applications themselves are uncommon.

Several Commissioners wanted to highlight that the applicant has been working with the County throughout the process for constructing their house, even prior to applying for the special exception request. Commissioners found it to be favorable that the applicant has coordinated with the County on erosion and sediment control measures (many of which are voluntary) and on the permits needed for approval to construct the house.

When the Planning Commission voted, three members (Spain, More, Bivins) recommended approval with no additional input. Three members (Keller, Riley, Dotson) recommended approval but noted concern for the potential of other parcels in the County to invoke by-right agricultural uses to disturb critical slopes to then build dwelling units there.

RECOMMENDATIONS:

Staff recommends that the Board adopt the attached Resolution to approve the Special Exception Request (Attachment D).

ATTACHMENTS:

A – Planning Commission Staff Report

A1 – Vicinity Map

A2 – Critical Resources Map

A3 – Proposed location of the single-family house

A4 – Erosion and Sediment Control Plan, dated May 24, 2019(revised October 31, 2019)

A5 – Original Special Exception application and justification, received July 24, 2019

A6 – Updated letter from the soil consultant, dated November 4, 2019

A7 – Updated information requested by the Board of Supervisors during their October 16, 2019 meeting

B – Planning Commission Minutes

C – Planning Commission Action Letter

D – Resolution to approve Special Exception Request