

**COUNTY OF ALBEMARLE
STAFF REPORT SUMMARY**

Project Name: ZMA201600023 Brown Toyota	Staff: J.T. Newberry, Senior Planner
Planning Commission Public Hearing: October 31, 2017	Board of Supervisors Public Hearing: TBD
Owner: Umansky TOC, LLC	Applicant: Clark Gathright with B. Clark Gathright, LLC
Acreage: 8.04 acres TMP: 07800000001400, 078000000014E0	Request: remove 0.05 acres of Managed slopes and approximately 0.20 acres of Preserved slopes from the Steep Slope Overlay District and establish a new area of approximately 0.25 acres of Managed slopes
Magisterial District: Rivanna	Proffers: Yes
Proposal: Amend Steep Slopes Overlay District as identified on the Rezoning Plan.	Requested # of Dwelling Units: Not applicable to this request.
DA (Development Area): Neighborhood 3	Comp. Plan Designation: Commercial Mixed Use – retail, commercial services, office, hotel/motel/conference facilities, and wholesale uses; Urban Mixed Use – retail, commercial services, office, and a mix of residential types (6.01 – 34 units/acre); and, Greenspace – undeveloped areas
Character of Property: The subject area lies at the rear of property, which is occupied by parking uses associated with the vehicle sales and service use.	Use of Surrounding Properties: The surrounding properties also contain vehicle sales and service uses, except Carriage Hill is an apartment complex adjacent to the rear property line.
Factors Favorable: <ol style="list-style-type: none"> 1. The Rezoning Plan corrects an inadvertent error in the adopted Steep Slopes Overlay District map. 2. The proposed slope designation balances protection of the new steep slopes with the potential need to remediate the area appropriately. 3. A preservation area at the rear of the site will provide protection for an intermittent stream that would otherwise not be required and is consistent with the intent of the original preserved slope designation. 	Factors Unfavorable: <ol style="list-style-type: none"> 1. An unpermitted disturbance of steep slopes created the need for this request.
RECOMMENDATION: Staff recommends approval of ZMA201600023 Brown Toyota with proffers.	

**STAFF PERSON:
PLANNING COMMISSION:
BOARD OF SUPERVISORS**

**J.T. Newberry
October 31, 2017
TBD**

PETITION:

PROJECT: ZMA201600023 Brown Toyota

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL: 07800000001400, 078000000014E0

LOCATION: 1357 Richmond Dr. (Rt. 250), approximately .30 miles east of the Riverbend Drive

PROPOSAL: Request to modify the Steep Slopes Overlay District. This area has been subject to prior grading activity.

PETITION: Request seeks to remove 0.05 acres of Managed slopes and approximately 0.20 acres of Preserved slopes from the Steep Slope Overlay District and establish a new area of approximately 0.25 acres of Managed slopes, which allows uses under Section 30.7.4 (a). No dwellings proposed.

ZONING: HC Highway Commercial – commercial and service; residential by special use permit (15 units/ acre)

OVERLAY DISTRICT(S): Steep Slopes; Entrance Corridor

PROFFERS: Yes

COMPREHENSIVE PLAN: Commercial Mixed Use – retail, commercial services, office, hotel/motel/conference facilities, and wholesale uses; Urban Mixed Use – retail, commercial services, office, and a mix of residential types (6.01 – 34 units/acre); and, Greenspace – undeveloped areas in the Pantops Development Area.

POTENTIALLY IN MONTICELLO VIEWSHED: Yes

CHARACTER OF THE AREA:

The subject parcels are part of a commercial corridor on Pantops that predominantly contains car dealerships. The subject area lies at the rear of the Toyota dealership, which is located between Flow Volkswagen and Mercedes-Benz of Charlottesville. The rear of the Toyota dealership is adjacent to parking areas for the Mercedes-Benz and the Auto Superstore dealerships, as well as the rear of the Carriage Hill apartment complex. The subject area contains a gravel parking area with a guardrail that lies above a wooded drainage area. This area collects drainage for these sites and directs it underneath South Pantops Drive and down to the Rivanna River.

SPECIFICS OF PROPOSAL:

The applicant is asking to modify a portion of the Steep Slopes Overlay District at the rear of the Toyota dealership. The request seeks to remove approximately 0.20 acres of preserved slopes and 0.05 acres of managed slopes while also establishing a new area of approximately 0.25 acres of managed slopes. The existing Steep Slope Overlay District map for this area is shown in Attachment A and the proposed Steep Slope Overlay District map from the applicant is found on Sheet C-1.1 in the Attachment B.

APPLICANT'S JUSTIFICATION FOR THE REQUEST:

The applicant is seeking to move forward in the abatement of a violation of the Steep Slopes Overlay District. In 2016, a pre-application meeting to discuss expansion of the parking area at the rear of the site revealed a prior unpermitted grading activity violated the Steep Slopes Overlay District. This activity created an expanded parking area at the rear of the site. Although the grading activity pre-dated the adoption of the Steep Slopes Overlay District (March 5, 2014), it was not part of an approved plan and therefore the disturbance requires an amendment of the overlay district by the Board of Supervisors. As a result, the applicant filed a zoning map amendment application in late 2016.

PLANNING AND ZONING HISTORY:

This site has been used for vehicle sales and service since at least the mid-1970's. The site plan has been continually amended throughout the 1980's and 1990's as the vehicle dealership and service uses were expanded. The most recently approved site plan amendment permitted a small addition to

the rear of the main building and an 18 foot wide interparcel connection with the adjacent Mercedes-Benz dealership ([SDP2000-00049](#)). An unapproved major site plan amendment proposed an additional 378 parking spaces at the rear of the site in 2002 (SDP2002-00026). This amendment was ultimately deemed withdrawn due to inactivity in 2005; however, information from this amendment provides important details about the existing site conditions at the time, which will be discussed later in the report.

COMPREHENSIVE PLAN:

The Comprehensive Plan designates this area for mainly Commercial Mixed Use and Greenspace, but there are also small areas designated for Urban Mixed Use at the eastern and western edges of the properties (see Attachment C).

Notably, the Transportation Plan and the Parks and Green Systems map in the Pantops Master Plan identifies the impacted area of the site for a “Possible Optional Roadway Network (Beyond 2025).” This roadway runs roughly parallel to Route 250 by connecting Rolkin Road to Spotnap Road (see Attachment D).

ANALYSIS OF REQUEST:

This request is the second application the County has ever received to amend the Steep Slopes Overlay District and it is the first time a request has been analyzed in the context of a zoning violation. Analysis from the first Steep Slopes Overlay District application focused on whether the proposed development impacted steep slopes that exhibited more characteristics of preserved slopes or more characteristics of managed slopes. In this case, the disturbance has already occurred, so the focus is on whether or not the impacted steep slopes should be reestablished and, if not, what steps are necessary to ensure the resulting condition is consistent with the goals of the Comprehensive Plan and complies with the Zoning Ordinance.

Origin of the Preserved Slopes’ Designation:

The designation of the slopes under review were established with the adoption of the maps used to create the overlay district. These maps relied on the 2007 topographical and elevation data used in the County’s GIS mapping at the time to classify all of the “critical slopes” in the Development Areas as either preserved slopes or managed slopes. This classification process was intensive and after closer examination of this site, it appears that the 2007 data inadvertently led staff to link a large soil stockpile at the rear of the site to another area of steep slopes nearby. As a result, the perceived “group of slopes” was designated as preserved slopes because the group as a whole appeared to exhibit more characteristics of preserved slopes than managed slopes: the area was larger than 10,000 square feet, it abutted a water feature, and the slopes appeared to be part of hillside system.

However, site visits, research on previous site plans, and the review of other maps corroborated information provided by the applicant that this portion of the preserved slopes was actually a soil stockpile. Figure 1 is from the withdrawn major site plan amendment, which labeled the stockpile on an “Existing Conditions” sheet. A comparison on the next page of the unapproved site plan amendment to the adopted overlay district map shows how the flattened top of the stockpile created the same “donut hole” in the area designated as preserved slopes. The adopted overlay district map is shown in Figure 2.

Figure 1: “Existing Conditions” from SDP2002-00026 (unapproved)

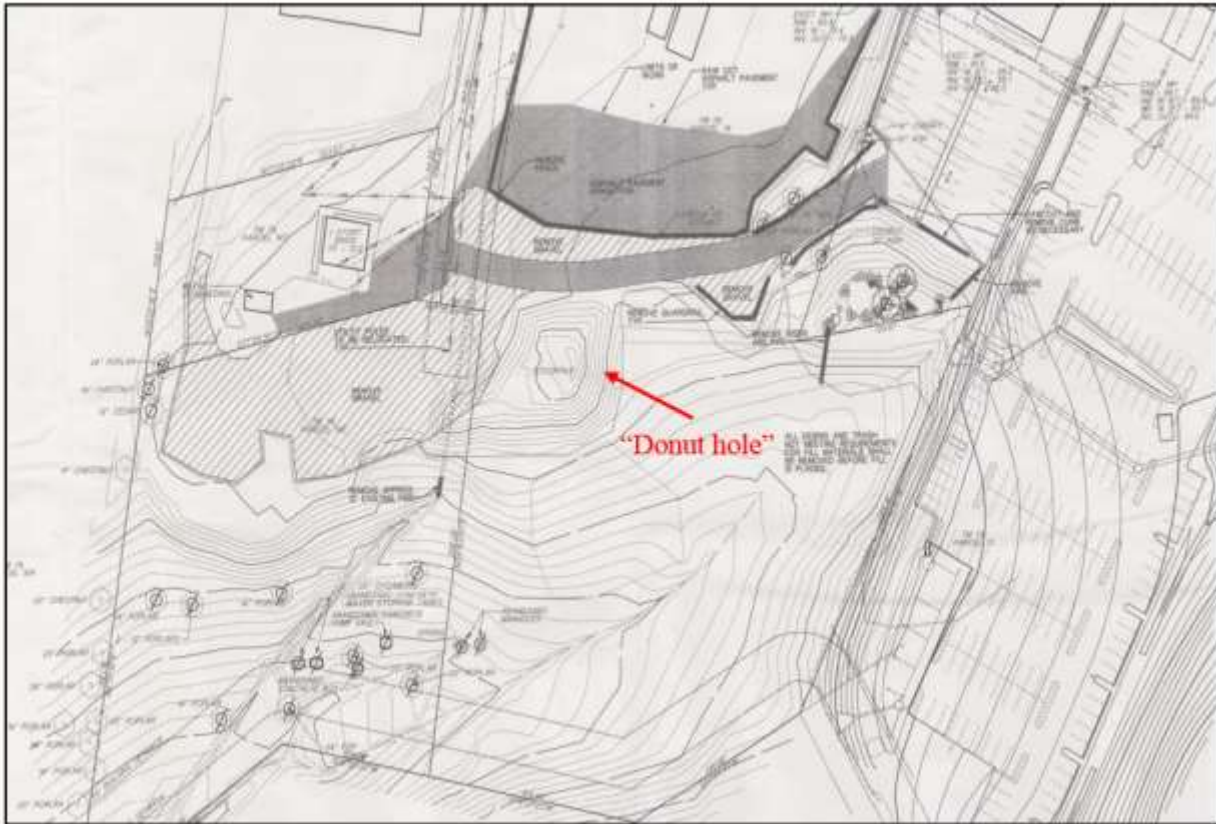
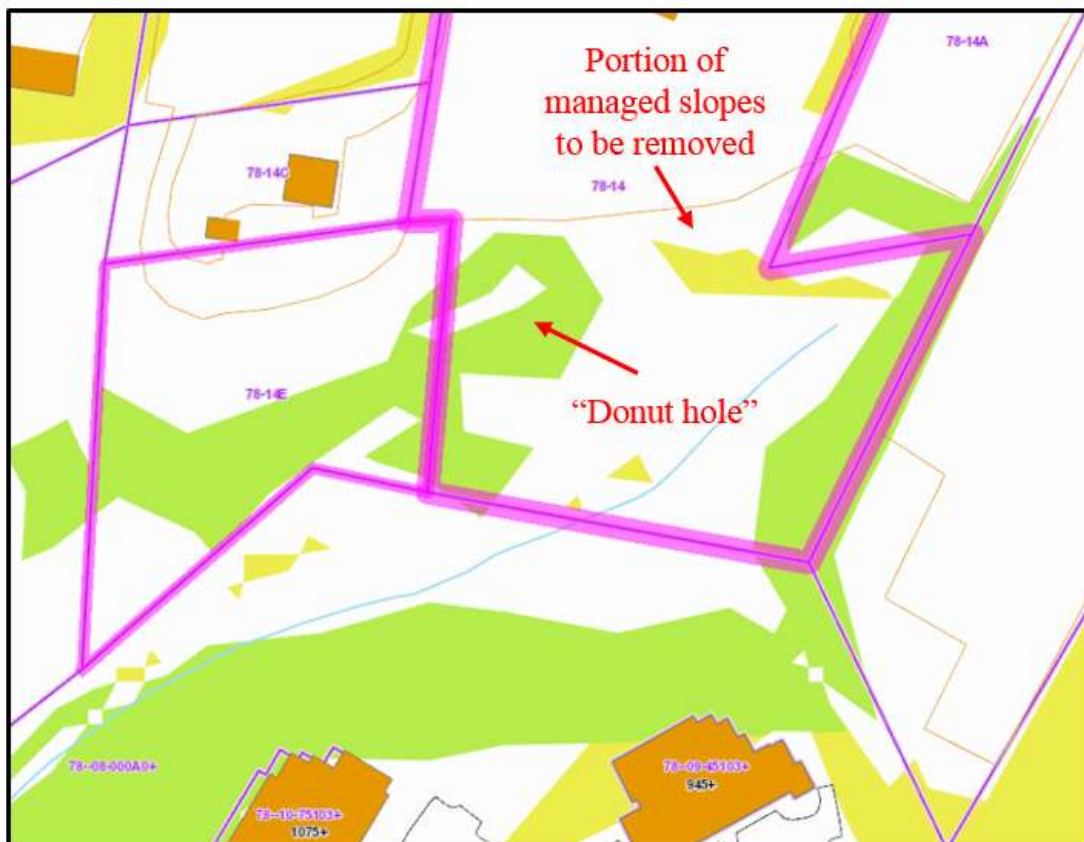


Figure 2: Map of Adopted Steep Slopes Overlay District



Recommendation on Removal of Existing Slopes' Designation

Previous site plans showed the area of the stockpile to be less than 25% slope before the accumulation of soil began. Staff is also unable to identify any benefit to reestablishing these slopes. Therefore, because the slopes in this area were both manmade and temporary in nature, staff believes they should not have been designated as preserved slopes or managed slopes with the creation of the district in 2014. Staff supports this area's removal from the Steep Slope Overlay District.

The other area under consideration for removal from the district is the area of managed slopes located within the existing gravel parking area to the east. Sheet C-1.0 of the Rezoning Plan outlines the small area of managed slopes that were impacted by the disturbance. Staff finds that this area could have been disturbed subject to the performance standards in the overlay district. Staff supports the adoption of a map with updated topographic information to more accurately reflect the existing site conditions.

Recommendation on the Proposed Slopes' Designation

In addition to removing these areas, the Rezoning Plan also seeks to establish a new area of managed slopes that is consistent with the existing site conditions. This request results in an almost even exchange between the acreage of steep slopes proposed to be removed and the acreage of steep slopes proposed to be established. The table on Sheet C-1.1 of the Rezoning Plan breaks down these acreages and labels the new area as "New Managed Steep Slopes." Staff is supportive of the proposed managed slope designation for two reasons.

First, it clearly allows any disturbance that may be necessary for this area to be further cleaned-up and appropriately maintained long-term. Staff and the applicant are aware of a long history of dumping in this area. Some litter and debris are still present and the applicant has already proactively removed much of it. Subsequent applications that are needed to abate the existing zoning violation (such as a WPO plan and site plan amendment) will require additional trash removal. Similarly, there is an area of dense bamboo on these slopes that may require active management to prevent it from spreading in the future. A preserved slope designation may unnecessarily complicate these efforts.

Secondly, and more importantly, the applicant has agreed to classify a 2.47 acre area at the rear of the site as a preservation area that would not allow further development. This area is outlined in yellow in Figure 3 and described within the proffer statement found in Attachment E.

One intent of establishing the original preserved slope designation in this area was "to protect downstream lands and waterways from the adverse effects of the unregulated disturbance of steep slopes." The preservation area offered by the applicant ensures this protection is provided and also implements the Greenspace recommendation for this area shown in Comprehensive Plan. In this context, the managed slope designation strikes the right balance between resource protection and any remediation or maintenance needed for this area.

Figure 3: Preservation Area



SUMMARY:

In evaluating this rezoning request, staff evaluated whether or not the impacted slopes should be reestablished and if any additional steps are needed for the existing condition to be consistent with County policies. Staff finds there is no benefit to reestablishing the disturbed slopes and that adopting the proposed designations shown in the Rezoning Plan is consistent with the Comprehensive Plan. Staff has identified the following factors as favorable to the rezoning requested:

1. The Rezoning Plan corrects an obvious error in the adopted Steep Slopes Overlay District map.
2. The proposed slope designation balances protection of the new steep slopes with the potential need to remediate the area appropriately.
3. A preservation area at the rear of the site will provide protection for an intermittent stream that would otherwise not be required and is consistent with the intent of the original preserved slope designation.

Staff has identified the following factors as unfavorable to this request:

1. An unpermitted disturbance of steep slopes created the need for this request.

RECOMMENDATION

Staff recommends approval of ZMA201600023, Brown Toyota, to amend the Steep Slope Overlay District zoning map with the steep slopes shown in the Rezoning Plan and with associated proffers.

PLANNING COMMISSION MOTION—Zoning Map Amendment:

- A. Should a Planning Commissioner **choose to recommend approval of** this zoning map amendment:

Move to recommend approval of ZMA2016-00023, Brown Toyota, with proffers as recommended by staff.

- B. Should a Planning Commissioner **choose to recommend denial of** this zoning map amendment:

Move to recommend denial of ZMA2016-00023, Brown Toyota. *Should a commissioner motion to recommend denial, he or she should state the reason(s) for recommending denial.*

ATTACHMENTS

[Attachment A: Existing Steep Slope Overlay District Map](#)

[Attachment B: Rezoning Plan showing proposed Steep Slope Overlay District](#)

[Attachment C: Comprehensive Plan Map](#)

[Attachment D: Parks and Green Systems Map in the Pantops Master Plan](#)

[Attachment E: Proffer Statement](#)