

# COUNTY OF ALBEMARLE

## APPLICATION FOR A SPECIAL EXCEPTION

☐ Request for a waiver, modification, variation or substitution permitted by Chapter 18 = \$457

☒ Variation to a previously approved Planned Development rezoning application plan or Code of Development = \$457

OR

☐ Relief from a condition of approval = \$457

### Provide the following

☐ 3 copies of a written request specifying the section or sections being requested to be waived, modified, varied or substituted, and any other exhibit documents stating the reasons for the request and addressing the applicable findings of the section authorized to be waived, modified, varied or substituted.

- ☒ 3 copies of the existing approved plan illustrating the area where the change is requested or the applicable section(s) or the Code of Development. Provide a graphic representation of the requested change.
- ☒ 1 copy of a written request specifying the provision of the plan, code or standard for which the variation is sought, and state the reason for the requested variation.

Project Name and Assigned Application Number (SDP, SP or ZMA): Brookhill NMD

ZMA 2015-007

Tax map and parcel(s): 04600-00-00-08A0, 04600-00-00-01800,

46-19A, 46-19B, 46-19B4, 46-19B3

Contact Person Ashley Davies, Williams Mullen

Address 321 E. main street City Charlottesville State VA Zip 22902

Daytime Phone# ( 434 ) 951-5725 <sup>cell</sup> Fax# ( 434 ) 409-9127 Email adavies@williamsmullen.com

Owner of Record multiple - ~~see attached~~ See Land Use Authorization on file at Albemarle County

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Daytime Phone# ( 434 ) 245-4932 Fax# ( \_\_\_\_\_ ) \_\_\_\_\_ Email alan@riverbenddev.com

Applicant (Who is the Contact Person representing?)

Alan Taylor, Riverbend Development, Contract Purchaser

County of Albemarle

Department of Community Development

401 McIntire Road Charlottesville, VA 22902 Voice: (434) 296-5832 Fax: (434) 972-4126

# COUNTY OF ALBEMARLE

## APPLICATION FOR A SPECIAL EXCEPTION

### Owner/Applicant Must Read and Sign

**Each owner-initiated application for a zoning map amendment shall be signed by the owner of each parcel that is the subject of the proposed zoning map amendment, provided that:**

- a. An owner whose parcel is subject to proffers may apply to amend the proffers applicable solely to the owner's parcel, provided that written notice of the application is provided to the owners of other parcels subject to the same proffers under Virginia Code §§ 15.2-2204(H) and 15.2-2302. However, the signatures of the owners of the other parcels subject to the same proffers shall not be required.
- b. An owner within an existing planned development may apply for a zoning map amendment, and the signatures of any other owners within the planned development is required only if the amendment could result in or require:
  - (i) a change in use, density or intensity on that parcel;
  - (ii) a change to any regulation in a code of development that would apply to that parcel;
  - (iii) a change to an owner's express obligation under a regulation in a code of development; or
  - (iv) a change to the application plan that would apply to that parcel.

The applicant must submit documentation establishing ownership of any parcel and the authority of the signatory to sign the application on behalf of the owner.

**SEE PAGE 3 FOR SIGNATURES**

**COUNTY OF ALBEMARLE****APPLICATION FOR A SPECIAL EXCEPTION****Owner/Applicant Must Read and Sign**

The foregoing information is complete and correct to the best of my knowledge.

By signing this application I am consenting to written comments, letters and or notifications regarding this application being provided to me or my designated contact via fax and or email. This consent does not preclude such written communication from also being sent via first class mail.

Ashley Davies  
Signature of Owner, Contract Purchaser, Agent

7/20/18  
Date

Ashley Davies  
Print Name

434-951-5725  
Daytime phone number of Signatory

\*\*\*If multiple property owners are required to sign the application per Section 33.2 b (1b) then make copies of this page and provide a copy to each owner to sign. Then submit each original signed page for the Special Exception Application.

Tax Map & Parcel Number : 04600-00-00-018AD, 04600-00-00-01800, 46-19A, 46-19B, 46-19B3, 46-19B4

Owner Name of above Parcel: Multiple - see Land Use Authorization form on file at Albemarle County

FOR OFFICE USE ONLY SDP, SP or ZMA # ZMA2015-7 Fee Amount \$ 457.00 Date Paid 7/23/18  
By who? Riverbend Management Inc Receipt # 1146004 Clk# 17394 By JS

# BROOKHILL SPECIAL EXCEPTION REQUEST

July 20, 2018

## **Variation Request #1: Minimum Rear Setback Requirement, Urban Density Residential, Blocks 2-4**

Pursuant to Albemarle County Zoning Ordinance Section 8.5.5.3 VARIATIONS FROM APPROVED PLANS, CODES, AND STANDARDS OF DEVELOPMENTS, and on behalf of our client, Riverbend Development (the "Applicant"), the developers of the Brookhill Property, (the "Property"), we hereby request a variation of the Brookhill Neighborhood Model Code of Development, dated October 13, 2016 and approved by the Board of Supervisors on November 9, 2016 as part of ZMA 2015-007.

Specifically, we request relief from the provision requiring a minimum setback of 10 feet in Block 4 adjacent to the Route 29 buffer area to allow for the proposed Development of Block 4 (the "Development"), currently under review by Albemarle County staff and the Architectural Review Board. The Route 29 Buffer (the "Buffer") requires a 100-foot landscape buffer, therefore creating an extensive setback area along the Entrance Corridor and primary frontage of the property. In addition, the Applicant has agreed to extensive reforestation of areas within the Buffer that were previously timbered to ensure an adequate and naturally landscaped frontage. This includes hundreds of trees and shrubs within the 100-foot deep swath of land.

According to subsection a of 8.5.5.3,

The director of planning is authorized to grant a variation from the following provisions of an approved plan, code or standard:

1. Minor changes to yard requirements, build-to lines or ranges, maximum structure heights and minimum lot sizes.

We request relief from the 10-foot minimum rear setback requirement for Block 4 as established on page 17 of the Code of Development in Table 2.3.2.2. The notes section of this table states: "Rear setback for Block 4 shall be adjacent to the Route 29 Buffer". The Application Plan and Code of Development are attached for your reference. As noted previously, the Route 29 Buffer already provides at minimum a 100-foot setback along the Route 29 frontage that will be extensively landscaped due to the Applicant's reforestation efforts.

The Development of Block 4 includes multiple apartment buildings and associated parking and support structures. There are three areas within the Block 4 site plans in which the 10-foot rear setback is not met, as shown in the attached exhibit. We contend that the 100-foot setback established by the Buffer is more than adequate in this case and the addition of 10 feet of setback adjacent to the Buffer is not necessary and does not provide any additional public benefit. Renderings of the proposed Development from Route 29 are also attached, demonstrating the extensive buffer area and providing a simulation of the reforestation efforts of the Applicant.

We ask for the County's support of this minor variation request to the Brookhill Code of Development.

- We find that this request is consistent with the goals and objectives of the comprehensive plan. The Brookhill Neighborhood Model District was approved as being

consistent with the Land Use Plan of Albemarle County. The Development provides opportunities for economic development in Albemarle County and a variety of new housing options within the Development Area. Brookhill, proposed as a mixed-use and walkable community, is consistent with the principles of the Neighborhood Model while also protecting areas of environmental sensitivity. This variation does not propose any change that would impact the Application Plan or the Development's overall consistency with the Comprehensive Plan.

- We find that this request does not increase the approved development density or intensity of development. The density of the Brookhill Development is established through the Code of Development and this document provides overall limits and parameters of density, and well as the allowed intensity of development within the various blocks of the Neighborhood Model District. The proposed apartment buildings are within compliance of the density regulations as established by ZMA 2015-007, and no change to density is requested.
- We find that this request does not adversely affect the timing and phasing of development of any other development in the zoning district. This request has no impact to any other development within the Brookhill Development or any other development in the general vicinity. The Site Plan for the proposed apartment buildings is currently under review by County staff, and the Architectural Review Board has also initially reviewed the portions of Block 4 that are visible from the Entrance Corridor.
- We find that this request does not require a special use permit. The proposed apartment buildings are a by-right use within Block 4 of the Brookhill Development.
- We find that this request is in general accord with the purpose and intent of the approved application. The Purpose and Intent of the Brookhill Code of Development is stated as such:

*The intent of the Code of Development and Application Plan is to provide a framework for the Development of Brookhill that is in accordance with the principles of the Neighborhood Model, Albemarle County Comprehensive Plan, and Albemarle County Zoning Regulations, while allowing for maximum flexibility and creativity in the establishment of the Application Plan, mixture of uses, building locations, street networks, densities within the property, and overall design of the project.*

The Route 29 Buffer area is a clearly established component of both the Code of Development and the Application Plan. Because this extensive area of buffering is already required and established in the proposed site plan for the apartments, the variation request for relief from an additional setback beyond the 100 feet is consistent with the intent of both the Application Plan, which shows the buffer area, and the Code of Development, which contemplates flexibility and creativity.

## **Variation Request #2: VDOT Stormwater Management Facility Buffer**

Pursuant to Albemarle County Zoning Ordinance Section 8.5.5.3 VARIATIONS FROM APPROVED PLANS, CODES, AND STANDARDS OF DEVELOPMENTS, and on behalf of our client, Riverbend Development (the "Applicant"), the developers of the Brookhill Property, (the "Property"), we hereby request a variation of the Brookhill Neighborhood Model Code of Development, dated October 13, 2016 and approved by the Board of Supervisors on November 9, 2016 as part of ZMA 2015-007.

Specifically, we request relief from the provision within Section 2.4.2 of the Code of Development regarding Buffers. In this section, the Route 29 Buffer (the "Buffer") is established, requiring a 100-foot landscape buffer along Route 29. Within the Buffer, there is an allowance to reduce the depth to 50 feet in the area of an existing VDOT stormwater management facility (the Stormwater Facility Buffer). The purpose of the Buffer is to screen Development from the Entrance Corridor. In the Notes Section of the Buffer Classification Table on page 19 of the Code of Development, it states:

*Buffer shall be reduced to 50' between the VDOT stormwater management facility and the Development. Any portion of the 50' buffer that is disturbed shall be replanted with a mixture of deciduous and evergreen shrubs and trees to be approved by the Director of Planning.*

As part of the Brookhill Development, the existing VDOT stormwater management facility (the "Facility"), located along the Route 29 frontage of the Property, is being expanded to accommodate additional stormwater runoff. Due to the location of the Facility, the existing dam, and the surrounding grades, expansion of the Facility will bring it further into the Development area of the site and within closer proximity to the proposed apartment building in Block 4 of the Development. See the attached exhibit showing the expanded Facility and proposed buffer areas. The expanded Facility presents challenges in achieving the 50-foot buffer required between the Facility and the Development, as required in the Code of Development.

The Applicant has committed to provide 50 feet of buffer area in the vicinity of the Facility, however, due to the expanded size of the Facility, the total 50-foot area is not available in between the Facility and the proposed apartment building. Instead, this requested variation would allow flexibility for the full depth of the Stormwater Facility Buffer to be provided not just in between the Facility and the Development, but also in between the Facility and the Entrance Corridor. The area between the Facility and Route 29 includes land within the VDOT right-of-way, however VDOT has already agreed to allow the plantings as shown on our exhibit and the necessary easement document is underway.

Thus, the 50-foot requirement could be successfully accomplished using both areas. This option creates far superior screening from the Entrance Corridor because both the proposed expanded Facility and the Development will be appropriately screened from view. The attached rendering demonstrates the proposed landscaping of the expanded Facility compared to the existing conditions. The proposal also includes the removal of the existing chain link fence surrounding the Facility and replacement with a more attractive dark metal fence, as preferred by the Architectural Review Board.

In addition, the Applicant has agreed to extensive reforestation of other areas within the Buffer that were previously timbered to ensure an adequate and naturally landscaped frontage. This includes hundreds of trees and shrubs within the standard 100-foot deep swath of land.

According to subsection a of 8.5.5.3,

The director of planning is authorized to grant a variation from the following provisions of an approved plan, code or standard:

...4. Minor changes to landscape or architectural standards

We request relief from the 50-foot buffer requirement in between the Facility and the Development in order to provide a solution which splits the buffer area to buffer both the Facility and the Development. The full 50-foot depth of buffering will be accomplished with this request; however, the area in between the Facility and Route 29 will be utilized.

As noted previously, the remainder of the Route 29 Buffer provides a 100-foot landscape buffer along the Route 29 frontage that will be extensively landscaped due to the Applicant's reforestation efforts.

We ask for the County's support of this minor variation request to the Brookhill Code of Development.

- We find that this request is consistent with the goals and objectives of the comprehensive plan. The Brookhill Neighborhood Model District was approved as being consistent with the Land Use Plan of Albemarle County. The Development provides opportunities for economic development in Albemarle County and a variety of new housing options within the Development Area. Brookhill, proposed as a mixed-use and walkable community, is consistent with the principles of the Neighborhood Model while also protecting areas of environmental sensitivity. This variation does not propose any change that would impact the Application Plan or the Development's overall consistency with the Comprehensive Plan.
- We find that this request does not increase the approved development density or intensity of development. The density of the Brookhill Development is established through the Code of Development and this document provides overall limits and parameters of density, and well as the allowed intensity of development within the various blocks of the Neighborhood Model District. The proposed adjustments to the buffer do not impact the density as approved for the Property.
- We find that this request does not adversely affect the timing and phasing of development of any other development in the zoning district. This request has no impact to any other development within the Brookhill Development or any other development in the general vicinity. The Site Plan for the proposed apartment buildings is currently under review by County staff, and the Architectural Review Board has also initially reviewed the portions of Block 4 that are visible from the Entrance Corridor. The Board of Architectural Review discussed this variation request and determined that it is favorable to screen the Facility from the Entrance Corridor.
- We find that this request does not require a special use permit. The proposed apartment buildings and Facility are a by-right use within Block 4 of the Brookhill Development.

- We find that this request is in general accord with the purpose and intent of the approved application. The Purpose and Intent of the Brookhill Code of Development is stated as such:

*The intent of the Code of Development and Application Plan is to provide a framework for the Development of Brookhill that is in accordance with the principles of the Neighborhood Model, Albemarle County Comprehensive Plan, and Albemarle County Zoning Regulations, while allowing for maximum flexibility and creativity in the establishment of the Application Plan, mixture of uses, building locations, street networks, densities within the property, and overall design of the project.*

The Route 29 Buffer area is a clearly established component of both the Code of Development and the Application Plan. Because this extensive area of buffering is already required and established in the proposed site plan for the apartments, the variation request to allow flexibility on the location of the 50-foot Facility Buffer is consistent with the intent of both the Application Plan, which shows the buffer area, and the Code of Development, which contemplates flexibility and creativity.

List of Attachments:

Brookhill Code of Development, dated October 13, 2016, Approved by the Board of Supervisors on November 6, 2016

Brookhill Application Plan, dated September 16, 2016

Setback Exhibit, dated July 12, 2018

SWM Buffer Exhibit, dated July 12, 2018

Project Renderings, no date

SWM Renderings, dated July 12, 2018

36586091\_1



PHOTO KEY



**1** LOOKING NORTHEAST FROM THE INTERSECTION OF SEMINOLE TRAIL AND POLO GROUNDS ROAD



**3** LOOKING SOUTHEAST FROM SEMINOLE TRAIL INTO THE ENTRANCE AT ARCHER AVENUE



**5** LOOKING SOUTHEAST FROM SEMINOLE TRAIL INTO BROOKHILL BLOCK 4B AT THE SWM POND



**2** LOOKING SOUTHEAST FROM SEMINOLE TRAIL INTO BROOKHILL BLOCK 4A



**4** LOOKING SOUTHEAST FROM SEMINOLE TRAIL INTO BROOKHILL BLOCK 4B



ROUTE 29 NORTH EXISTING CONDITIONS



ROUTE 29 NORTH PROPOSED SCREENING

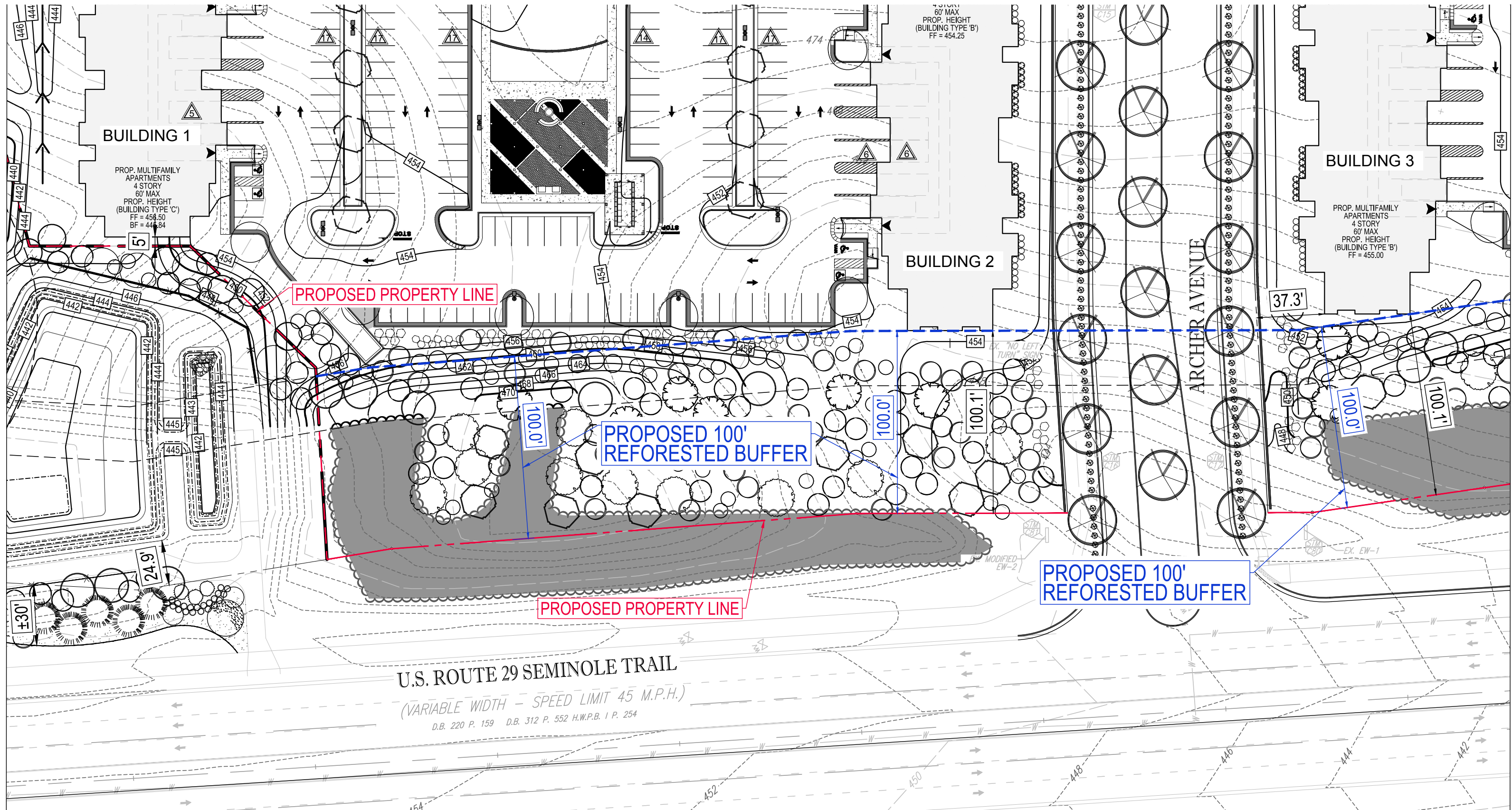
## LANDSCAPE SCREENING EXHIBIT

BROOKHILL APARTMENTS, ALBEMARLE COUNTY, VIRGINIA

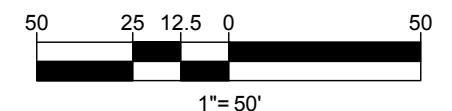
07/12/18

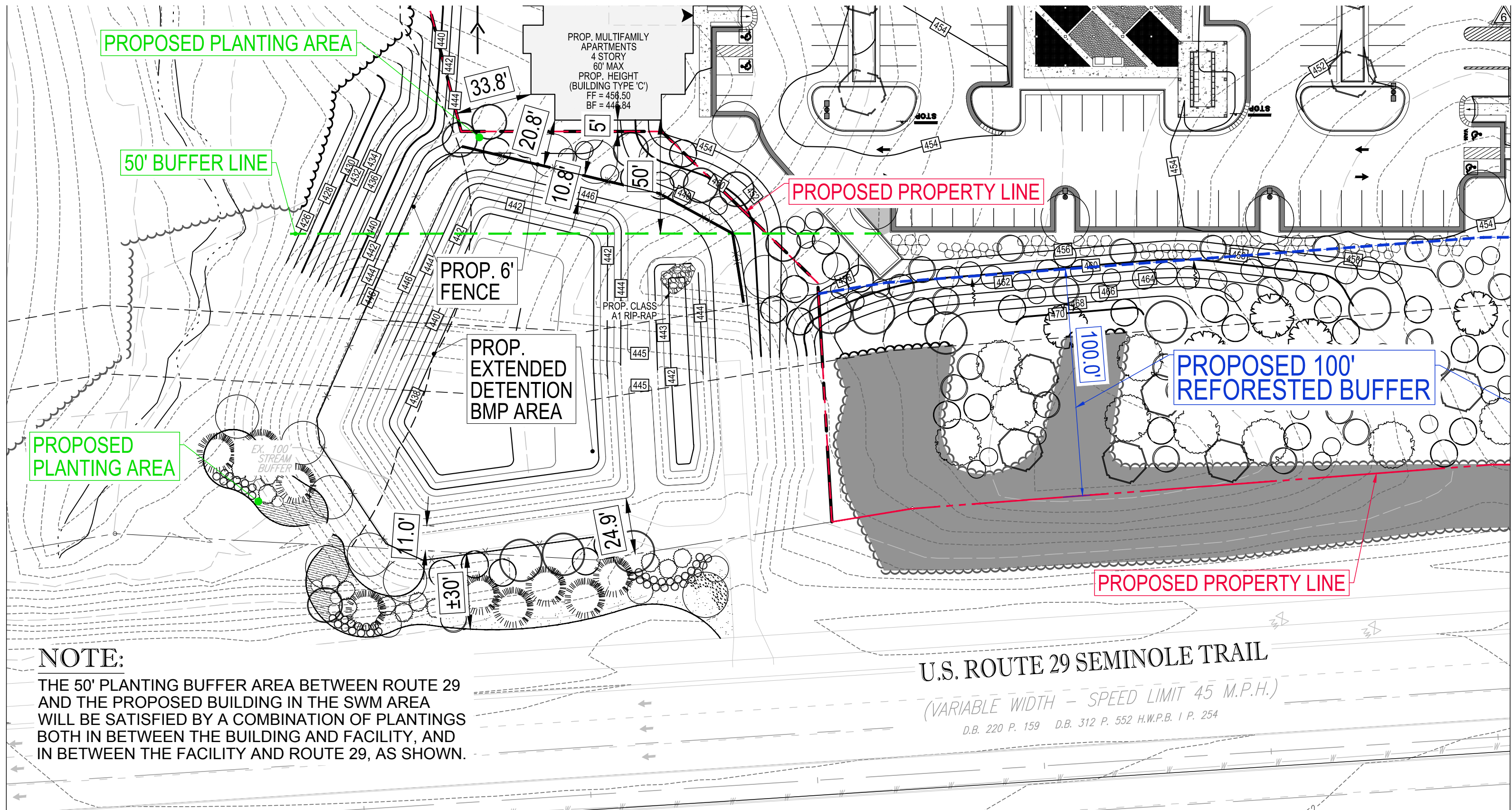
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## BROOKHILL - BLOCK 4 APARTMENTS SETBACK EXHIBIT





## BROOKHILL - BLOCK 4 APARTMENTS SWM BUFFER EXHIBIT

