

Modification Requests- Staff Analysis

#1: Authorization of Private Streets for Roads D and E

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 for Roads D and E 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 for Road E only. Road E provides 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 and not cut through traffic. The layout for the amenity-oriented block will allow for a design that is consistent with the neighborhood model principles by providing rear access and relegated parking.

However, staff does not recommend approval for the private street request for Road D. While the road does provide interconnection internally to the development, staff does not believe this interconnection outweighs the cost for the residents to maintain the road. In addition, the layout for public roads would provide an opportunity to provide interconnection to adjacent property by extending the right of way to the property line at the end of the western most cul-de-sac. Also, a pedestrian access could be provided between the cul-de-sacs within the created open space, and the same number of lots and types of units are achievable with the public street layout.

The analysis provided below is only for Road E, which staff is supporting.

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;*

The Southern and Western Neighborhood Master Plan does not show a public street in this location.

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 street will intersect the state highway system in more than one location, staff believes with the low number of lots served by the street, that there will be minimal if any cut-through traffic. 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 street Road E which serves amenity-oriented lots.

#2: Modification of Street Standards

2a. Exception of Sidewalk Requirement for Road E

Sidewalks are required to be established on both sides of each new street within a subdivision in the development areas. The applicant has requested a sidewalk variation for Road E. The requirements for sidewalks may be varied by the commission as provided in section 14-203.1(B)(1).

ANALYSIS OF SECTION 14-422 (E) Waivers from sidewalk requirements:

Per Section 14-422(E)(2), in reviewing a request to vary 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 create a pedestrian network throughout the development. Staff is recommending a condition that a five (5) foot sidewalk be provided across the length of the amenity area, outside of the stream buffer, 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 short, and the density within this area is minimal and other nearby pedestrian facilities are provided to connect to the larger development. Also, a trail 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. 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 for Road E. Additionally, this request has been previously approved in a number of other planned development in the County.

Staff recommends approval of the sidewalk exception for the Road E only with the following condition:

1. A five (5) foot sidewalk across the length of the amenity area, outside of the stream buffer, will 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 for Road E

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 an exception to the planting strip requirement for Road E. The requirements for planting strips may be waived by the commission as provided in Section 14-203.1(B)(3).

ANALYSIS OF SECTION 14-203.1 (B)(3) Findings for an exception:

Per Section 14-203.1(B)(3) the commission may approve a request for an exception from any requirement of the applicable regulation upon finding that: (ordinance language presented in ***bold italics*** followed by staff comment)

i. Because of an unusual situation, including but not limited to, the unusual size, topography, shape of the site or the location of the site; or

No unusual situation exists.

ii. When strict adherence to the requirements would result in substantial injustice or hardship by, including but not limited to, resulting in the significant degradation of the site or to adjacent properties, causing a detriment to the public health, safety or welfare, or by inhibiting the orderly development of the area or the application of sound engineering practices.

The neighborhood model principles encourage relegated parking and rear access to lots. Since the proposal will include amenity-oriented lots in this location and Road E is functioning as an alley, staff believes planting strip requirements are not needed in this location. The orderly development, as recommended in the comprehensive plan, would be better served by not providing planting strips.

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 majority of 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 Road E only.

2c. Exception of Curb and Gutter Requirement for Road E

Curb or curb and gutter are required to be established on both sides of each new street within a subdivision in the development areas. The applicant has requested an exception for Road E. The requirements for curb or curb and gutter may be waived by the commission as provided in section 14-203.14-203.1(B)(3).

ANALYSIS OF SECTION 14-203.1 (B)(3) Findings for an exception:

Per Section 14-203.1(B)(3) the commission may approve a request for an exception from any requirement of the applicable regulation upon finding that: (ordinance language presented in ***bold italics*** followed by staff comment)

i. Because of an unusual situation, including but not limited to, the unusual size, topography, shape of the site or the location of the site; or

No unusual situation exists.

ii. When strict adherence to the requirements would result in substantial injustice or hardship by, including but not limited to, resulting in the significant degradation of the site or to adjacent properties, causing a detriment to the public health, safety or welfare, or by inhibiting the orderly development of the area or the application of sound engineering practices.

Staff believes that curb and gutter should be provided to protect the health, safety and welfare by allowing for better stormwater management and limiting parking along the shoulder.

ANALYSIS OF SECTION 14-410 (I) Waivers from curb and curb and gutter requirements:

Per Section 14-410(I)(2), in reviewing a request to waive the requirement for curb or curb and gutter, the commission shall consider whether: (ordinance language presented in ***bold italics*** followed by staff comment)

i. The number of lots in the subdivision and the types of lots to be served;

There are a low number of lots to be served from Road E.

ii. The length of the street;

The length of the street is approximately 250 feet.

iii. Whether the proposed street(s) or street extension connects into an existing system of streets constructed to a rural cross-section;

The proposed street does not connect to an existing system of streets constructed to a rural cross-section.

iv. The proximity of the subdivision and the street to the boundaries of the development and rural areas;

The rural area boundary is across Route 20, however the street does not connect directly to Route 20 and is internal to the development, which is in the development areas.

v. Whether the street terminates in the neighborhood or at the edge of the development area or is otherwise expected to provide interconnections to abutting lands;

The street terminates in the neighborhood and is not expected to provide interconnections to abutting lands.

vi. Whether a rural cross-section in the development areas furthers the goals of the comprehensive plan, with particular emphasis on the neighborhood model and the applicable neighborhood master plan;

A rural cross section in this location does not further the goals of the comprehensive plan, nor the neighborhood model or neighborhood master plan.

vii. Whether the use of a rural cross-section would enable a different principle of the neighborhood model to be more fully implemented; and

Use of a rural cross section would not enable a different principle of the neighborhood model to be more fully implemented.

viii. Whether the proposed density of the subdivision is consistent with the density recommended in the land use plan section of the comprehensive plan.

The proposed density of the rezoning is not consistent with the recommended density within the comprehensive plan.

SUMMARY:

Engineering and Planning staff has reviewed this request and recommends denial. The County Engineer recommends curb and gutter for better management of stormwater. Additionally, a number of other developments within the County that have private streets serving amenity-oriented lots, including Old Trail and Cascadia, have provided curb and gutter.

#3. Modification of Planned Residential Development Setbacks for front and rear setback

The applicant is requesting to modify the front and rear setbacks for structures accessed by proposed private street Road E. Section 4.19 of Chapter 18 of the Zoning Ordinance, requires a five (5) foot minimum front setback and a 20-foot minimum rear setback for PRD zoning district. The applicant proposes a minimum front setback of three (3) feet and a minimum rear setback of five (5) feet.

County Code § 18-8.2(b) permits any regulation under Section 4 to be modified or waived by the Board of Supervisors as a Special Exception under County Code §§ 18-33.43 through 18-33.51. Staff analysis for County Code § 18-8.2(b)(3) is provided below:

3. Findings. In addition to making the findings required for the granting of a waiver or modification in sections 4, 5, 21, 26, or 32, a waiver or modification may be granted only if it is also found:

No findings are required under Section 4.19.

i. To be consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of section 8;

Staff has reviewed the intent and purposes of the Planned Residential Development District and found the proposal to be consistent with the purposes of the district, including promoting efficient land use, and encourage sensitivity toward the natural characteristics of the site. The proposed PRD provides several residential types, and open space/stream buffer along the frontage of Route 20 provides a buffer to the adjacent rural area across the street.

ii. To be consistent with planned development design principles;

The application has been reviewed under the Neighborhood Model Principles and has been found to meet those principles.

iii. That the waiver or modification would not adversely affect the public health, safety or general welfare;

Staff has found that the public health, safety, and general welfare will be maintained.

iv. In the case of a requested modification, that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification.

The proposed amenity-oriented lots served by proposed private street Road E 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. However, staff believes that the front setback should be maintained for those lots fronting on the public streets, Road A and B.

SUMMARY:

Staff recommends approval of the front setbacks only for the amenity-oriented lots accessed by Road E and recommends approval of the rear setback for all lots accessed by Road E. Therefore, lots that front on Roads A and B must meet the front setback requirements under 4.19.