

**Albemarle County Planning Commission
FINAL Minutes May 18, 2021**

The Albemarle County Planning Commission held a public hearing on Tuesday, May 18, 2021 at 6:00 p.m.

Members attending were Julian Bivins, Chair; Karen Firehock, Vice-Chair; Rick Randolph; Daniel Bailey; Corey Clayborne; Jennie More; Tim Keller.

Members absent: Louis Carrazana (UVA Rep.).

Other officials present were Charles Rapp, Director of Planning; Andy Herrick, County Attorney's Office; and Carolyn Shaffer, Clerk to the Planning Commission.

Call to Order and Establish Quorum

Mr. Bivins said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster." He said opportunities for the public to access and participate in the electronic meeting will be posted at www.albemarle.org on the Community County Calendar, when available.

Ms. Schaffer called the roll. All Commissioners indicated their presence.

Mr. Bivins established a quorum.

Other Matters Not Listed on the Agenda from the Public

There were none.

Consent Agenda

There were no items on the consent agenda.

Regular Item

SP202000019 Christian Aid Mission Special Exception for disturbance of critical slopes

Mr. Benish, Planning Chief, presented the staff report. He said this special exception request is to allow the disturbance of critical slopes on tax map parcel 59-23-G1, which is the current location of the Christian Aid mission and also the Regents School. He said the purpose of the request was to allow for the construction of a new entrance onto Broomley Road. He said the property is zoned CO commercial; it also is within the entrance corridor overlay district and the steep slopes overlay district.

Mr. Benish said this area within all those zones for development is in the rural area and is designated as rural area property. He said the proposal is to allow for an entrance onto Broomley Road, and a critical slope waiver request is required as per 18-4.2.3 of the ordinance. He said the property is located on Route 250 and Broomley Road; it is on the western boundary. He demonstrated a vicinity map of the property which also showed the zoning for the area. He said to the east of the property are commercial properties, a tractor dealership and a church; to the

west was Ivy Nursery; to the north are residential neighborhoods Flordon and part of Farmington; and to the south are rural area uses and agricultural and open space area.

Mr. Benish presented an aerial photo of the property. He noted the area being impacted with Route 250 to the south, Broomley Road to the left, and the building on the far-left edge is Ivy Nursery. He demonstrated a slide of the improvement area and also a cross-section and a larger photo of the area highlighting the critical slope portions that would be impacted.

Mr. Benish provided history relevant to the proposal. He said in 2014, a critical slope waiver request was submitted in conjunction with special use permit 201400005. He said that special permit was for the expansion of Regents School, and it was to allow access to Broomley Road; in part, it was a way to address traffic concerns with that school expansion. He said the Board of Supervisors denied that prior special exception critical slopes waiver request noting the proposal would facilitate intensification of use of the property contrary to the comprehensive plan policies for preserving the rural area character of the area. He said this review was in conjunction with that special use permit expansion request for the private school.

Mr. Benish said as noted in the applicants' narrative, some Board members did note that the timing for the closure of the Broomley Road bridge at that time for reconstruction was a concern that they had in approving that new entrance at that time. He said to close the history on the special use permit, the special use permit was approved for the expansion of Regents School, but a sunset was placed on it at the time that said they would need to leave the site within three years; that sunset was rescinded in 2017 so they could actually stay on that site indefinitely, but the school has purchased another property in the County with the hopes of relocating in the future.

Mr. Benish noted in the specifics of this proposal that a little bit less than 5,000 square feet of critical slopes would be impacted, not quite 1% of the 12-acre parcel. He said the impacted slopes are mostly man-made and have been related over a number of years to the construction of Broomley Road, an old access road adjacent to the railroad tracks, the railroad track itself, the recent bridge upgrading, and some leftover fill area was deposited in this general area. He said there are no other critical resources that are identified that are located adjacent to these particular critical slope areas such as floodplain or stream buffer. He noted this entire area is in the South Fork Rivanna River watershed, which is an area of protection with a level of protection they want to make sure to cover.

Mr. Benish said the access road on the site onto Broomley Road and the entrance itself was in a location where it can meet County and VDOT design requirements.

Mr. Benish said in reviewing waiver requests, the County Engineer reviews aspects of the proposal under the noted zoning ordinance section, and they look at the impacts to movement of soil and rock, excessive stormwater runoff, siltation, loss of aesthetic resources, and effluent. He said the full engineer's report is in the Planning Commission staff report, but their conclusion was that there were no engineering concerns that would prohibit the disturbance of these critical slopes. Mr. Benish said Matt Wentland from the County Engineer's office was there for questions regarding that or any issues related to the proposed construction to the extent that that has been evaluated at this time.

Mr. Benish said in making a decision on this proposal, the Commission and the Board have to consider their decision based on certain findings contained in the section of the ordinance he displayed, which stated that waivers can be granted if there is a finding that there is no detrimental

impact to public health, safety or welfare, to the orderly development of the area, or to adjacent properties and that it would not be contrary to engineering practices.

Mr. Benish said the staff report had provided an assessment of those areas and the findings. He said the conclusion was that many of these slopes are man-made and have been reconstructed areas and that granting of the waiver could better serve the public health, safety, and welfare by allowing for a safer alternative access to a signalized intersection which would provide for safer development to the site. He said that was in regard to finding A, which is that strict application would not forward the purposes and intent of the ordinance or otherwise serve health, public safety, or welfare.

Mr. Benish said for finding B, the alternatives proposed by the developer would satisfy the intent of the ordinance to at least an equivalent degree. He said there have been no alternatives provided that would have no impact to critical slopes. He said there was another option for design that was looked at that would have greater impacts to critical slopes, and it also should be noted that any location of any new entrance onto Broomley Road would impact some level of critical slopes since most of the abutting property has critical slopes related to it.

Mr. Benish said the findings and areas to evaluate in C and D that there are unusual characteristics to the property or that conditions prohibiting the disturbance of the critical slopes would create an unreasonable ability to use the property were not the case in this proposal. He said for D (granting the modification or waiver would serve the public purpose to a greater degree than strict application of these regulations), this disturbance would be necessary to allow for a safer access to intersection onto Route 250. He said all the points made under A would also be applicable again to the public safety aspect of this proposal.

Mr. Benish said the factors favorable were that the relatively small area of disturbed critical slopes is mostly man-made and not directly associated with other critical slope systems; the County Engineer has identified no engineering concerns which would prohibit the disturbance of these critical slopes to allow for the entrance; the disturbance of critical slopes would allow for the construction of an alternative access which would better and more safely accommodate traffic generated by the uses on the site; and the proposed entrance location can meet both County and VDOT standards for construction.

Mr. Benish said the factor unfavorable is that the additional entrance would introduce additional traffic onto Broomley Road. He said it should be noted that the existing entrance on 250 will be retained, which would mitigate that additional traffic impact.

Mr. Benish said based on the findings contained in the report, staff has recommended approval of this special exception request with the condition reflected in an exhibit that just identifies the area that is proposed for construction.

Ms. Firehock said she knew Mr. Benish had talked about the fact that the school had found another place, and they needed this new entrance for other uses. She asked if Mr. Benish knew what those other uses were. She said obviously there was some need generated for this new bigger entrance, and she was trying to understand what that is.

Mr. Benish said the applicant was best to respond to that. He said as far as he knew, they had no specific proposal request or application for a different use on the site, though the property is being marketed. He said the uses that could be anticipated are those that are permitted under that CO

zoning, so there is a range of office and service and some level of retail uses/commercial uses that could be permitted by right within the site.

Mr. Bailey said he was trying to decipher the plans a bit. He noted it was a mounded area there; to get back to Broomley is a significant drop. He asked if the plan was to cut the road in. He said he saw it was just a step-back. He asked if they were just stepping it back or putting retaining walls in.

Mr. Benish said the applicant would be best to explain that. He said the cross-section that he had shown actually just showed grades, and he did not believe there were any retaining walls proposed at this point in time. He said Mr. Matt Wentland from the County Engineer's office may be available, and the applicant would probably go into that with their presentation.

Mr. Bailey asked if to maximize visibility when someone was coming out of that entrance to turn on Broomley, they were going to try to grade it back to reduce the height so one could actually see from their car up and down Broomley.

Mr. Benish said that would be a requirement of VDOT to meet the permitting requirement, and Mr. Adam Moore from VDOT was also there and available to answer those questions. He said the sight distance is roughly equivalent to ten times the posted speed limit, so they would have to meet whatever that requirement is by VDOT, and there will be sight distance requirements in both directions.

Mr. Bailey asked if that was figured into how much of the critical slopes would be disturbed.

Mr. Benish said it was his understanding that in the County Engineer's review, they did assess the feasibility of the access road so that they have a realistic proposal for what could be built and what that impact is on the critical slopes in that 4,959 square feet.

Mr. Bivins asked if they could hear a little bit about that intersection there from Mr. Adam Moore. He asked if the first intersection would still be a right in/right out.

Mr. Benish said regarding the existing entrance off Ivy Road/Route 250, right now with the approval of the Regents School, they were required to put in channelization. He said that channelization restricts lefts out; it allows lefts into the site but not lefts out, which would be lefts toward the City. He said currently to head toward the City, one must make a right and make a U-turn at some location. He said that is a requirement of the special use permit for the private school; once the private school vacates the site, that channelization would not be necessary because the use that requires it would no longer be there.

Mr. Bivins asked Mr. Moore to talk about that intersection as it is today and what might be expected if this were to go forward.

Mr. Moore said, as Mr. Benish explained, with the restricted movements at the one existing entrance, there are really a lack of opportunities for people heading east from the site to turn around. He said the Commissioners may remember that there have been public concerns in the past about people taking U-turns at unsafe locations. He said those complaints have died down somewhat, but the fact remains that there is no good place to make a U-turn anywhere immediately west. He said the presence of this location would mean that people exiting this site could easily access a signal and go eastbound with few hurdles.

Mr. Bivins asked if they had accident data for that intersection. He said he had the scatter map but was having a hard time reading the legend.

Mr. Moore said he would describe this as pretty typical for a rural signalized two-lane intersection; in the last five years, there have been approximately 13 crashes, the great majority of which are rear-end crashes, which is what one would expect at traffic signals. He said when a traffic signal is introduced, people not paying attention come up on a red light and hit the person right in front of them who is stopped for the signal. He said very few of the crashes at the intersection are related to this site or the existing entrance. He said only three of the 13 were not rear-end; most were just property damage. He said some minor crashes are another thing to be expected at signalized intersections. He said there are a lot of crashes, but oftentimes they are less severe because rear-end crashes are just generally not as severe. He said there are always a few crashes with every intersection that are sort of wild cards, hard to explain or not really attributable to anything about the intersection.

Mr. Bivins asked if Mr. Matt Wentland could speak to Mr. Bailey's question about what he had seen when he evaluated the slope.

Mr. Wentland said what they provided is they were doing just an upgrading to get the road in. He said he did not see where they were knocking down a mound more than what they had to. He said it was just to meet the slope requirements on the road itself and just the minimum disturbance possible.

Ms. Kelsey Schlein, a planner with Shimp Engineering, said she was there that evening representing the property owner and applicant, Christian Aid Mission, with the request for critical slopes disturbance. She said the 12-acre site was located at the intersection of Route 250 and Broomley Road adjacent to Ivy Nursery.

Ms. Schlein described some site characteristics. She said the total site is 12 acres; according to County GIF, the site area designated as critical slopes is approximately 3.03 acres, which is 25% of the site, and the area of slopes requested to be disturbed with this request is just under 5,000 square feet, which is approximately 3.7% of total slopes on the site. She demonstrated a map showing the critical slopes that are present on the site, which wrap around the developed areas of the property and extend along the entirety of Broomley Road. She said, as Mr. Benish alluded to, any entrance off Broomley Road would necessitate disturbance of critical slopes.

Ms. Schlein described the project proposal. She noted the entrance spacing for the new entrance exceeded VDOT spacing standards of 440 feet for this entrance location. She said Mr. Wentland had already clarified that there were no retaining walls proposed; the goal here was really to create an entrance to allow for a safer, controlled, out left movement at the intersection of Broomley and Route 250 and to minimize disturbance of critical slopes in order to achieve that traffic maneuver. She said they were serving just enough to get their entrance and travel way in there, and later in the presentation, she would go through a few design iterations that were presented to the County that ultimately got them to the lowest critical slopes disturbance of 4,950 that they are requesting from the Planning Commission.

Ms. Schlein demonstrated a cross-section showing that the proposed construction is a cut instead of a fill. She noted there was less likelihood for increased erosion with cutting into the slopes when compared to placing fill on a slope.

Ms. Schlein demonstrated approximately where the entrance would go off of Broomley Road extending up into the site. She demonstrated on the map an area approximately showing where the slopes exist that are proposed to be disturbed. She said this was also a good image to speak to the fact that much of these slopes in this area were disturbed in 2014 and 2015 during the reconstruction of the Broomley bridge. She pointed out the silt fences along the property line and along the access road back to the stormwater facility and some recent grading done just before this image was taken. She said the site is nearby to the railroad and Broomley bridge as well.

Ms. Schlein showed some images of how the slopes look currently with some aeriels showing the approximate entrance location. She said it was not incredibly steep there; she believed most of the slopes in this area were mostly in the 25% to 27%-28% range.

Ms. Schlein showed a picture looking from the site at the top of the slope toward the bridge and pointed out the Ivy Nursery entrance. She demonstrated another in the slope looking at the riprap channel that was reconstructed during the reconstruction of Broomley Road bridge and noted the fence was along Ivy Nursery.

Ms. Schlein said going through a few design iterations that they had presented; it was proposed to them by the County to consider placing an entrance location perhaps where the existing accessway to the stormwater facility is. She said they explored that option, and that resulted in a significantly greater amount of critical slopes disturbance, almost 17,000 square feet compared to just under 5,000 that they are requesting. She said additionally, they were requesting approximately 5,500 square feet of disturbance and got a very helpful comment from engineering to think through how some water would run across the slope in the future, and that prompted them to put in a curb along one side, and that also allowed them to tighten up the grade even more, further reducing the critical slopes disturbance.

Ms. Schlein said County staff has reviewed the proposal several times, and they are thankful for that, because they think they have ultimately come up with a design that really limits critical slopes disturbance.

Ms. Schlein noted as Mr. Benish had mentioned that the proposal was reviewed back in 2014. She said the major change since that 2014 request was the construction of the Broomley Road bridge. She said it was noted in the Board minutes that several of the Board members had a little bit of heartburn about the premature nature of approving the disturbance of critical slopes to permit an entrance in a location that perhaps they would not be happy with at some point down the road.

Ms. Schlein said additionally, the entrance location as proposed now meets VDOT standards. She said with the construction of the Broomley Road bridge, they were able to move that entrance further down to the northern property line and meet VDOT standards. She said it was also noted in the minutes that it was a great concern of neighbors to be pursuing that VDOT waiver in this location, especially some concern about potential rear-end collisions from neighbors along Broomley Road for people turning in too closely to an entrance that was sighted too closely to the intersection of Route 250 and Broomley, so they are meeting VDOT entrance spacing standards with this request.

Ms. Schlein said in conclusion to please consider the man-made nature of the majority of these slopes and that strict adherence to the requirements to not disturb the critical slopes would not serve the public health, safety, and welfare, as there are no environmentally sensitive features

that are in the vicinity of the project area that would be negatively impacted by the disturbance of the slopes. She said granting of this waiver would better serve the health, safety, and general welfare by allowing for users exiting the site to make a controlled left-out movement at the intersection of Route 250 and Broomley.

Ms. Schlein said she would be available for any questions, and Mr. Justin Shimp, project engineer, was also on the call as well.

Ms. Firehock asked what, if any, conflicts they anticipated with locating the new entrance across from a busy plant nursery.

Ms. Schlein said they actually did receive a comment from VDOT early on just to consider if there would be any conflicting left movements. She said the real conflict point that would happen from having an entrance located across from Ivy Nursery would be somebody making a left out of Ivy Nursery and then also making a left out of the Christian Aid Mission site, and so the entrances are sighted outside of that conflict zone. She said that was one of the initial concerns that was brought up, and this design and spacing meets the requirements to avoid that situation.

Ms. Schlein said additionally, a future user has not been identified at this time. She said any by-right user or future user on the property would much appreciate this entrance and the option to allow people who are utilizing the site to make that controlled left movement so that they can head back into town, and this is really spurred by Regents School having the site perhaps moving off. She noted as Mr. Benish had said, if there was any opportunity or chance of the school remaining on the site, the special use permit would also have to be amended because this entrance is inconsistent with their approved concept plan.

Mr. Bivins asked Ms. Schlein if this was an in-and-out entrance, so people would enter the property and also exit the property.

Ms. Schlein replied that full access was correct.

Mr. Bailey referred to the one option Ms. Schlein had shared that would disturb more critical slopes, where those slopes were previously disturbed for other purposes and so were not being preserved per se. He said he wanted to get a sense from her and the discussion once again from VDOT and coming back to what Ms. Firehock was alluding to about having a staggered in and out with a busy nursery and the potential that may cause from people turning right out of the nursery to get back to 250 and someone turning left across and not seeing them (they are not directly across but staggered by some distance). He asked her to walk him through what the decision criteria was to not go with that iteration; he asked if it was mainly due to the critical slopes aspect and the amount of critical slopes affected or if there was a public safety concern and how that weighed. He asked about the discussion and the criteria around the decision for the final iteration Ms. Schlein was showing the Commissioners and applying for.

Ms. Schlein said it was mainly around the disturbance of critical slopes, but additionally that existing entrance is an access road to a stormwater facility, and so there was some concern just about upgrading a portion of that to a full access entrance and just exactly how those would function together. She said ultimately it was decided that ideally, they would keep the access to the stormwater management facility and access to the site separate. Ms. Schlein asked Mr. Shimp or Mr. Moore if there was anything additional to add.

Mr. Bailey asked them to speak to the second part of the question, which was the discussion around potential impacts of safety with having these two staggered entrances onto Broomley Road from Ivy Nursery and this site.

Ms. Schlein said the entrance location and how these entrances interact with one another has been reviewed by VDOT; any entrance permit ultimately is going to be granted by VDOT, and so at this point, they have not been made aware of any conflicts that would occur with the entrance across the street.

Mr. Benish added that staff focused in on limiting the impacts and grading and water supply and watershed, and so the reduced area of grading was beneficial to the County. He said it was their understanding that the offset is conceivably acceptable under VDOT standards. He said Mr. Moore could speak better to that. He said he knew from some history that there has been some discussion that offset intersections may actually be just as safe or no more dangerous than aligned intersections because the same lack of visibility can occur; when two people not looking at each other are making a turn, when they are offset, there is actually margin for error for that activity to occur. He said staff's understanding was that the offset was acceptable to VDOT pending further detailed planning.

Mr. Moore said he reviewed the entrance location. He said the entrance across the street is not of significant concern; it is a very low volume road and relatively low volume entrances, and there should not be too many conflicting movements, especially with the lack of concentrated peak times of travel not being aligned as well.

Ms. Shaffer said there were no public comments.

Mr. Randolph said he was delighted to see this before them that evening because when they last reviewed this as a Planning Commission in 2014, many of them were concerned from a safety standpoint of traffic going onto 250 from the site, especially because of the exponential growth of the school (and kudos to the school for that growth). He said he was delighted that they had found a larger facility; he had said at the time in 2014, he hoped as they continued to grow, they would be able to identify another campus in Albemarle County, and they have done that, and he is happy for the school that that has happened. He said he is also happy for the traffic flow on 250 as a result of that happening, for there would be fewer U-turns as a result of the future use of the site.

Mr. Randolph said given the fact that the Broomley bridge enhancement and redevelopment has occurred, this is the appropriate and logical and really owed next step for this site; regardless of who uses the site, from a public safety standpoint, this will be a major enhancement of safety on this particular site. He said the fact that they have worked to go from almost 17,000 square feet of disturbance down to just under 5,000 square feet of disturbance was a really forward step because impact to the critical slopes was agonized over in 2014, and therefore he thought it was a solid proposal and has his enthusiastic support.

Mr. Keller said he had served on the Planning Commission at that time with Mr. Randolph, and he has done a very fine job of summarizing the situation as they saw it. He said there was a lot of discussion and a lot of positive feeling about moving traffic onto Broomley Road, but then the issues of the slopes came in, and the Supervisors weighed in. He said he agreed that this was the time to go forward with this, and he supports it.

Mr. Bivins said he is in and out of Ivy Nursery a lot; it makes sense coming to that entrance there

to just look slightly right and left, and that entrance would catch someone's eye as opposed to looking straight ahead. He said he was not on the Planning Commission, but he also thought having it offset actually works for the way he comes to that entrance. He mentioned the one time that it would be a little challenging there would be around the Christmas holiday; the way they move vehicles through Ivy Nursery getting Christmas trees through there is quite a production, but that is also for the people coming down Broomley too—they have to deal with that. He said that would be the only time he thought one would see the level of traffic that a number of them might have been concerned with.

Mr. Bivins said with Northridge becoming the western clinics and also the rehabilitation hospital and also the Radiation Oncology Moser there, there is a lot of traffic that probably was not there in 2014 when his two colleagues were reviewing this proposal, so anything that would help to mitigate some of the traffic flow going directly onto 250 would be helpful. He said this project does that and would be helping to bring a bit more logic to the way people get in and out of that particular parking over there, so he too would support this.

Mr. Bailey said anything to get some of the traffic off 250 is a win in his book, so he wholeheartedly supports this; he had just wanted to understand and make sure what the decision between how much critical slopes was versus other factors.

Mr. Keller moved to recommend approval of SE202000019, Christian Aid Mission Critical Slope Waiver, for the reasons stated in the staff report with the following condition: The area of land disturbance on critical slopes must be in general accord with the "critical slopes disturbance section A-A' exhibit" prepared by Shimp Engineering P.C., dated October 26, 2020, revised April 22, 2021.

Mr. Randolph seconded the motion, which carried unanimously (7:0).

Items for Follow-Up

There were no items.

Adjournment

At 7:29 p.m., the Commission adjourned to June 1, 2021, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.



Charles Rapp, Director of Planning

(Recorded by Carolyn S. Shaffer, Clerk to Planning Commission & Planning Boards, transcribed by Golden Transcription Services)

Approved by Planning Commission
Date: 06/01/2021
Initials: CSS