

**COUNTY OF ALBEMARLE
PLANNING STAFF REPORT SUMMARY**

Project Name: ZMA202300005 Berkmar Flats	Staff: Rebecca Ragsdale, Planning Manager
Planning Commission Public Hearing: June 11, 2024	Board of Supervisors Public Hearing: TBD
Owners: Third Mesa, LLC	Applicant: Shimp Engineering (Kelsey Schlein)
Acreage: Approximately 3.621 acres	Rezone from: R-6 Residential to R-15
TMPs: 04500000008100; 04500000008200; 045000000082A0	Location: 1275 Woodburn Road, east side of Woodburn Road and west side of Berkmar Drive.
School Districts: Albemarle High, Burley Middle, Agnor-Hurt Elementary	By-right use: 28 dwelling units
Magisterial District: Rio	Proffers: Yes
Proposal: Rezone three parcels from R-6 (six units/acre) to R-15 Residential, which allows residential uses at densities up to 15 units/acre to allow multifamily units.	Requested # of Dwelling Units: 54
DA (Development Area) – Places29 Master Plan area – Neighborhood 1	Comp. Plan Designation: Office/R&D/Flex/Light Industrial – commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly, packaging; residential is a secondary use (no maximum density).
Character of Property: Existing single-family detached house and mostly wooded.	Use of Surrounding Properties: A mix of residential developed at RA, R6, and R15 density along with HC commercial uses to the south/southeast.
Affordable Housing: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	AMI (Area Median Income): 80% of AMI as determined by U.S. Dept. of Housing & Urban Development, for 15% of the number of constructed units.
Positive Aspects: 1. The request provides 15% affordable housing consistent with the County's affordable housing policy applicable at the time this rezoning was submitted.	Concerns: 1. The request is not consistent with the Places 29 master plan, which does not recommend residential as a primary use. However, residential would be consistent with the character of most surrounding properties and their current residential zoning. 2. There are no interconnections provided to adjacent properties. This could be addressed by providing a second entrance to the property from Woodburn Road, or to adjacent properties.
RECOMMENDATION: Staff recommends denial of ZMA202300005 Berkmar Flats given the outstanding concern related to interconnections.	

STAFF PERSON:
PLANNING COMMISSION:
BOARD OF SUPERVISORS:

Rebecca Ragsdale
June 11, 2024
To be scheduled

ZMA202300005 Berkmar Flats

PETITION

PROJECT: ZMA202300005 Berkmar Flats

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL(S): 04500000008100; 04500000008200; 045000000082A0

LOCATION: 2175 Woodburn Road

PROPOSAL: Rezone three parcels to allow a maximum of 54 residential units.

PETITION: Rezone 3.621 acres from the R-6 Residential Zoning District, which allows residential uses at densities up to six units/acre, to R-15 Residential, which allows residential uses at densities up to 15 units/acre. A maximum of 54 multi-family dwelling units is proposed, at a gross and net density of 15 units/acre.

ZONING: R-6 Residential – 6 units/acre

OVERLAY DISTRICT(S): AIA – Airport Impact Area and Steep Slopes – Managed

PROFFERS: Yes

COMPREHENSIVE PLAN: Office/R&D/Flex/Light Industrial – commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly, packaging; residential is a secondary use (no maximum density). In Neighborhood 1 in the Places29 Master Plan area.

CHARACTER OF THE AREA

The subject property includes three parcels (which total approximately 3.6 acres), between Woodburn Road and the west side of Berkmar Drive. (see Attachment 1 – Location Map and Attachment 2 – Zoning Map). The property is mostly wooded and there is a 20' Rivanna Water and Sewer Authority (RWSA) easement that runs along the southern property line shared with Victorian Heights.

The area surrounding this proposed development has a mix of uses, primarily residential. Berkmar Heights townhomes are located to the south and is zoned R6. The adjacent single-family property to the north is also zoned R6. Further to the north is property zoned R15, known as Victorian Heights, developed as townhomes. To the east and southeast of the property, properties are zoned HC Highway Commercial. Across Woodburn Road to the west lie single-family detached houses. These properties are all zoned RA Rural Areas. Woodburn Road also acts as the boundary line between the designated Rural Areas and the designated Development Areas in the Comprehensive Plan.

PLANNING AND ZONING HISTORY

SDP202300023 Berkmar Flats- A final site plan was submitted and is under review to allow 28 townhomes.

BY-RIGHT USE OF THE PROPERTY

Without the rezoning, the applicant could develop 28 dwelling units on the property.

SPECIFICS OF THE PROPOSAL

This rezoning proposes up to 54 multifamily units and townhouses. (See Attachment 3 – Project Narrative and Attachment 4 – Concept Plan.) The major elements of the Concept Plan include:

- Three building envelopes with one oriented along Woodburn Road, one interior, and one oriented towards Berkmar Road.
- The concept plan has provided open space areas to accommodate the required recreational amenities under Section 4.16 to be provided at site plan stage, such as playgrounds and basketball courts, or equivalent such as pools or clubhouses, subject to approval by the Planning Director. A minimum of 200 square feet per unit of recreational area shall be provided in common area or open space on the site, this requirement not to exceed five percent of the gross site area.
- The primary access to the property is proposed from Berkmar Drive. Only emergency access is currently proposed from Woodburn Road with conversion from a full entrance to emergency only proposed at the 29th CO. Sidewalks and a ROW dedication are proposed along Woodburn Road. There are already existing sidewalks along Berkmar Drive. There are no vehicular interconnections proposed to adjacent properties
- The applicant has provided a draft proffer statement (see Attachment 5) to address traffic and transportation impacts of this development. These proffers include the following:
 1. To develop the property in general accord with the Concept Plan, including the following major elements:
 - Location of building envelopes
 - Minimum of 3,000 square feet central recreation amenity
 - Conversion of Woodburn Road entrance from full entrance to emergency only at 29th CO
 - Sidewalk along Woodburn Road and sufficient right of way dedication for two lanes of travel
 2. To provide 15% of the total number of residential units as either for-sale or for-rent affordable housing. If all 54 units are developed, that would result in 9 affordable units.

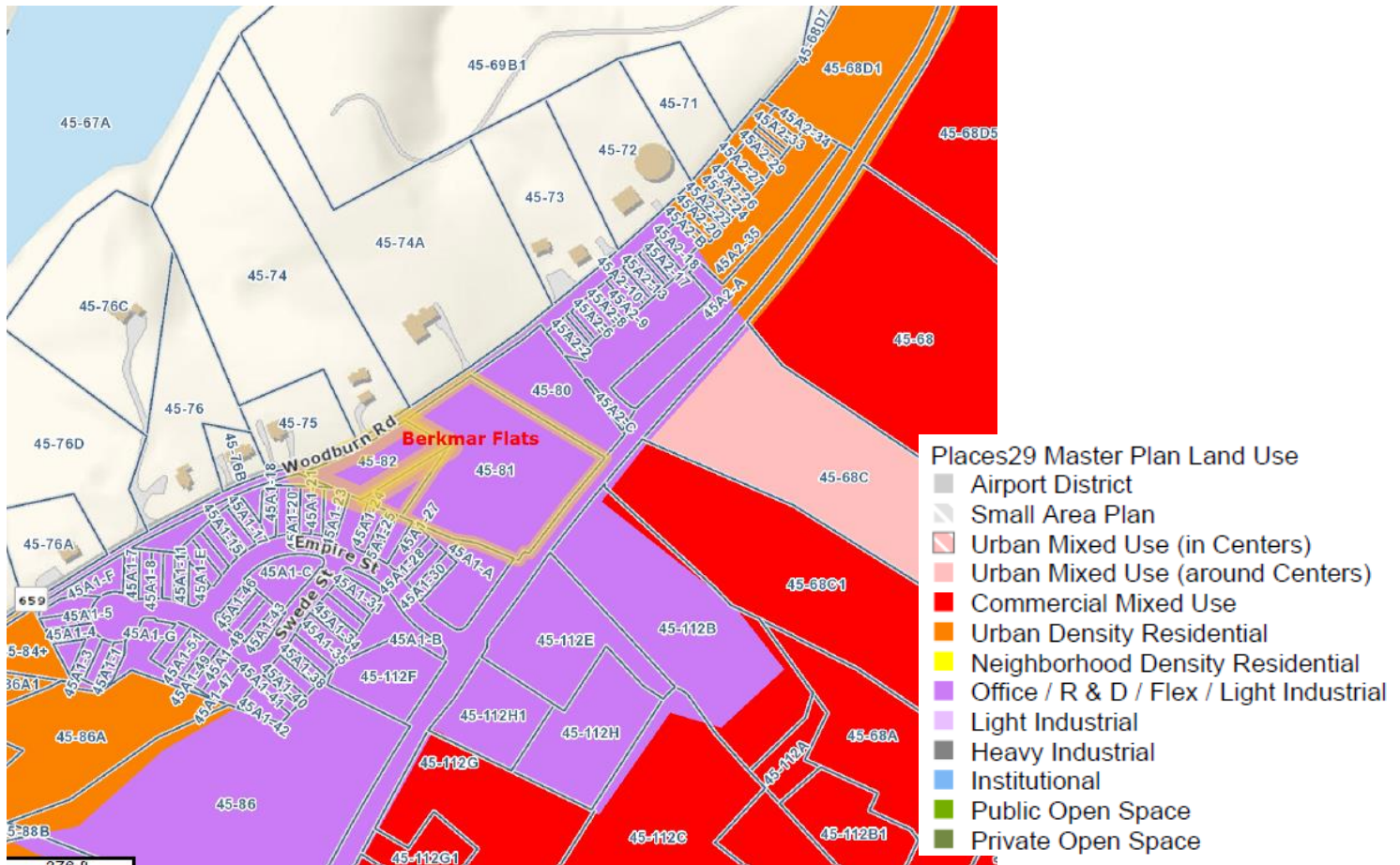
COMMUNITY MEETING and COMMUNITY MEMBER INPUT

A community meeting was held in person for this proposal on July 27, 2023, at a regularly scheduled meeting of the Places29-Rio Community Advisory Committee (CAC). Questions were asked by CAC and community members, which included:

- Loss of Rural Character along Woodburn Road.
- Adequate parking
- Loss of trees
- Adequate amenities
- Adequate Stormwater Management
- Location of public transit in relation to the property

COMPREHENSIVE PLAN

The Places29 Master Plan designates all of the subject property as Office/R&D/Flex/Light Industrial (see the purple on the map inset below; subject parcels highlighted).



Primary land uses recommended in this category are commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly packaging. Any residential is recommended as a secondary use and should be located on upper floors of multi-story buildings.

While staff acknowledges the current R6 residential zoning of the property, and that surrounding properties have developed under their by-right residential zoning, the proposal is not consistent with the current Places 29 land use recommendations for primary uses.

The Neighborhood Model: Staff has reviewed the proposal against the Neighborhood Model Principles and has found that it is consistent or mostly consistent with the twelve principles. The detailed Neighborhood Model analysis can be found in Attachment 6.

Affordable Housing

On February 21, 2024, the Board of Supervisors approved the Affordable Rental Housing Incentive Program which provides a monetary incentive to help developers achieve the County's new housing policy goal. Approval of the incentive program fully implemented Housing Albemarle, which recommends 20% of the total units in residential construction projects be provided as affordable

housing. Approval of the incentive program fully implemented the County's housing policy which recommends either 60% AMI for a total of 30 years (rental housing) or 80% AMI for a total of 40 years (owner-occupied housing).

Prior to this approval, the County's housing policy recommended that new residential rezonings provide 15% of the total proposed units as affordable housing at 80% of the Area Median Income (AMI). Because this rezoning application has been under review since before this policy was adopted, Staff is reviewing it under the previous policy of 15% affordable housing. This has been the guidance provided by Dr. Stacy Pethia, Assistant Director of Housing for Albemarle County. Dr. Pethia has also provided a detailed analysis of the proposed affordable units (Attachment 6). Based on the applicable affordable housing policy and the affordable housing evaluation, the project is consistent with the Comprehensive Plan Chapter 8, Strategy #2g and Chapter 9, Strategy #6b.

This rezoning proposal includes a maximum of 54 dwelling units, which would provide 9 affordable units based on the County's policy of 15% of the total number of units. These units could be provided as for-sale or rental units. The exact wording of the affordable housing provisions can be found in Proffer 2.

Relationship between the application and the intent and purposes of the requested zoning district:

R-15 districts are hereby created and may hereafter be established by amendment to the zoning map to provide a plan implementation zone that:

- *Provides for compact, high-density residential development; (Amended 9-9-92)*
- *Permits a variety of housing types; and*
- *Provides incentives for clustering of development and provision of locational, environmental and developmental amenities.*

Staff believes that the proposed development provides for compact residential development, with an opportunity for a mix of housing types is consistent with the R15 District. However, it is not consistent with the primary land use designation in the Places 29 Master Plan of Office/R&D/Flex.

Anticipated impact on public facilities and services:

Streets and Transportation:

The proposed development is located along the east side of Woodburn Road and west side of Berkmar Drive. The applicant provided trip generation estimates in their narrative. The estimated total daily trips for 54 multifamily units is 364 total. The applicant indicates this is 175 additional total trips above the estimate for by-right development of 28 units.

The concept plan proposes to dedicate public right-of-way along the Woodburn frontage of the property to allow for improvements to the road, as well as construction of a 5-ft. sidewalk and 6-ft. planting strip. These improvements would be installed with the development of this site.

Both VDOT and County staff are not concerned with the additional trips generated. However, there are remaining concerns with the lack of interconnectivity. Staff recommends at a minimum that both an entrance and exit from Woodburn Road and Berkmar be provided. The applicant has indicated that neither a vehicular nor pedestrian interconnection to Swede Street in Berkmar Overlook is feasible. The currently proposed proffer that would convert the Woodburn Road entrance from a full entrance to an emergency entrance was meant to address concerns regarding the change in character of Woodburn Road from rural to urban. However, transportation staff and VDOT support a

full entrance from Woodburn Road. Given other recent developments along Woodburn Road there is a need for improvements to the road. Interconnections to the adjacent property to the north should also be explored.

Schools:

Students living in this area would attend Albemarle High, Burley Middle, and Agnor-Hurt Elementary schools. The school division is cognizant that these areas continue to grow with new residential developments. Albemarle County Public Schools has provided its student generation calculator that estimates how many students will be generated at each school level based on dwelling unit types. The table below specifies the yield of students generated at each school level should the subject property be built out as proposed in the application plan with the maximum of 54 units. The estimate is based on 40 multifamily units and 14 townhouse units. Approximately 8.34 students would be generated from the proposal.

Official Calculator

Dwelling Type	Agnor-Hurt ES	Burley MS	Albemarle HS	Total
40 apartments	0.08	0.03	0.06	
14 townhomes	0.6	0.02	.03	
Total	4.04	1.48	2.82	8.34

Source of Calculator: Albemarle County Public Schools

The net increase in the students generated, based on the difference between the potential 28 by-right units and proposed 54 units is 3.58 students.

Agnor-Hurt Elementary is currently under-capacity and is expected to remain so over the next 10 years, even with the students generated by this development. Burley Middle is in a similar situation. Albemarle High School, however, is currently over-capacity and is expected to remain so over the next 10 years. Funding has been provided for a High School Center 2, with an anticipated capacity of 400 seats allocated to students across the County; however, the timeline for its opening is still to be determined. This Center will assist in addressing capacity issues over the long-term, although the exact number is not certain at this time.

Fire & Rescue:

ACFR has reviewed this rezoning application and has no objections at this time. Code requirements for items such as street and travelway widths, turning radius, and the necessity of secondary emergency fire access routes will be addressed at the site planning and/or subdivision stage, as well as other items such as adequate access and water availability. These elements will have to meet Fire-Rescue requirements before those plans can be approved by the County.

Utilities:

This project is in the Albemarle County Service Authority (ACSA) water and sewer service jurisdictional area. ACSA and RWSA have no objections to this project at this time. A utilities construction plan will be required, subject to ACSA and RWSA approval, prior to the approval of site plans and/or subdivision plans by the County at the site development stage of these properties.

Anticipated impact on environmental, cultural, and historic resources:

There are no cultural or historic resources located on the property. There are no floodplain or water protection ordinance (WPO) buffers on these parcels. Any increase in stormwater runoff above what is currently allowed on the property will be reviewed by County Engineering staff during the site development phase of the project as well. Any stormwater facilities will be designed in accordance with the Virginia Stormwater Management Program (VSMP) regulations administered by the Virginia Department of Environmental Quality (DEQ).

Anticipated impact on nearby and surrounding properties:

The proposed development is similar in character to adjacent and nearby residential development such as Berkmar Overlook and Victorian Heights. No impact to adjacent properties is anticipated. Adequate parking, stormwater, and landscaping regulations will be enforced at the time of site plan review and approval, should the rezoning be approved.

Public need and justification for the change:

The County's growth management policy says that new residential and commercial development should occur in the designated Development Areas, where infrastructure and services are provided, rather than in the Rural Areas. This development is within Neighborhood 1 of the Places29 development area. This proposal will provide a greater density of residential development in the designated development areas, at a density that is within the range recommended by the master plan for Places29.

SUMMARY

Staff has identified the following positive aspects of this request:

1. The request provides affordable units at 15% of the total number of units constructed, consistent with County policy applicable at the time this rezoning was submitted.

Staff has identified the following concerns with this request:

1. The request is not consistent with the Places 29 master plan, which does not recommend residential as a primary use. However, residential would be consistent with the character of most surrounding properties and their current residential zoning.
2. There are no interconnections provided to adjacent properties. This could be addressed by providing a second entrance to the property from Woodburn Road, or to adjacent properties.

RECOMMENDATION

Staff recommends denial of ZMA202300005 Berkmar Flats given the outstanding concern related to interconnections.

PLANNING COMMISSION POTENTIAL MOTIONS

- A. Should the Planning Commission **choose to recommend denial** of this zoning map amendment:

I move to recommend denial of ZMA202300005 Berkmar Flats. *State the reasons for denial.*

- B. Should the Planning Commission **choose to recommend approval** of this zoning map amendment:

I move to recommend approval of ZMA202300005 Berkmar Flats for the reasons stated in the staff report.

ATTACHMENTS

- Attach. 1 – [ZMA2023-05 Berkmar Flats - Location Map](#)
- Attach. 2 – [ZMA2023-05 Berkmar Flats - Zoning Map](#)
- Attach. 3 – [ZMA2023-05 Berkmar Flats - Project Narrative dated March 4, 2024](#)
- Attach. 4 – [ZMA2023-05 Berkmar Flats - Concept Plan dated March 4, 2024](#)
- Attach. 5 – [ZMA2023-05 Berkmar Flats - Proffer Statement dated March 4, 2024](#)
- Attach. 6 – [ZMA2023-05 Berkmar Flats - Staff Analysis of Application's Consistency with Neighborhood Model Principles](#)

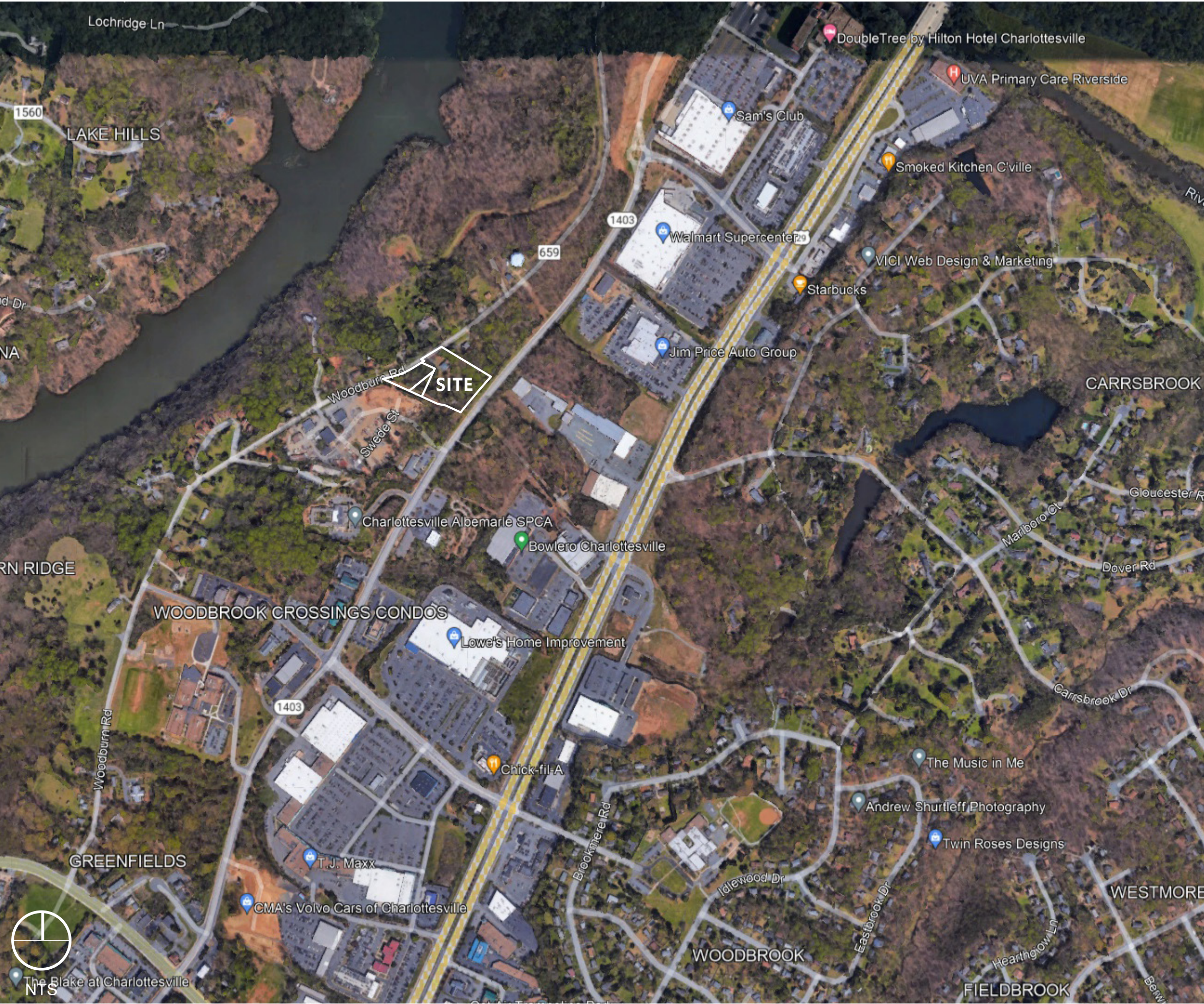


Image provided by Google Maps

ZONING MAP AMENDMENT

CONCEPT PLAN

ZMA2023-00005

BERKMAR FLATS

TMP(s) 45-81, 45-82 & 45-82A

project ID: 19.075

Revised 10 June 2024
Revised 04 March 2024
Revised 16 October 2023
Submitted 15 May 2023

Context Map

Sheet 1 of 7

INDEX OF SHEETS

- 1 - Cover & Context Map
- 2 - Site & ZMA Details
- 3 - Existing Conditions
- 4 - Land Use Plan
- 5 - Conceptual Grading & Utilities
- 6 - Illustrative Exhibit
- 7 - Conceptual Street Sections

SHIMP ENGINEERING, P.C.

BERKMAR FLATS
SITE & ZMA DETAILS
Sheet 2 of 7

OWNER/DEVELOPER

Third Mesa LLC

TMP(S)

45-81, 45-82, 45-82A

ACREAGE

	Area
TMP 45-81	2.646 AC
TMP 45-82	0.778 AC
TMP 45-82A	0.199 AC
	3.623 AC

MAGISTERIAL DISTRICT

Rio

STEEP SLOPES & WATER PROTECTION

Managed slopes are present within project area. A water protection ordinance buffer is not present on the property.

SOURCE OF BOUNDARY & TOPOGRAPHY

Boundary & topographic survey provided by Foresight Survey, P.C., March 13, 2023.

FLOODZONE

According to the FEMA Flood Insurance Rate Map, effective date February 4, 2005 (Community Panel 51003C0280D), this property does not lie within a Zone A 100-year flood plain.

WATER SUPPLY WATERSHED

South Fork Rivanna Watershed (below reservoir, non-water supply watershed)

USE

EXISTING: Single family residential & vacant land
PROPOSED: Multifamily residential

ZONING

EXISTING: R6 Residential
OVERLAY: Airport Impact Area, Steep Slopes - Managed
PROPOSED: R15 Residential

COMPREHENSIVE PLAN DESIGNATION

Office/R&D/Flex/Light Industrial

PARKING

Parking requirements to comply with section 4.12.6 of the Albemarle County Zoning Ordinance, unless parking alternatives per section 4.12 are pursued during site plan and are approved by the Zoning Administrator. On-street parking shall count towards the minimum parking requirement.

WATER AND SANITARY SERVICES

The property is served by public water and sanitary services.

TMP(s) 45-81, 45-82 & 45-82A

Revised 10 June 2024

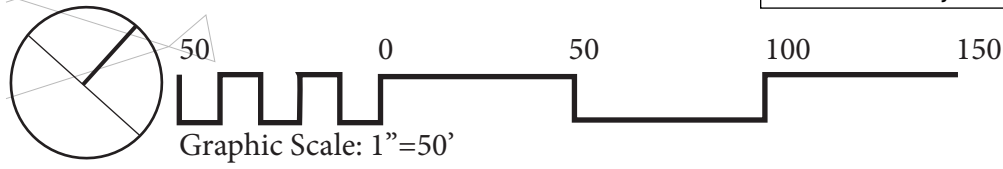
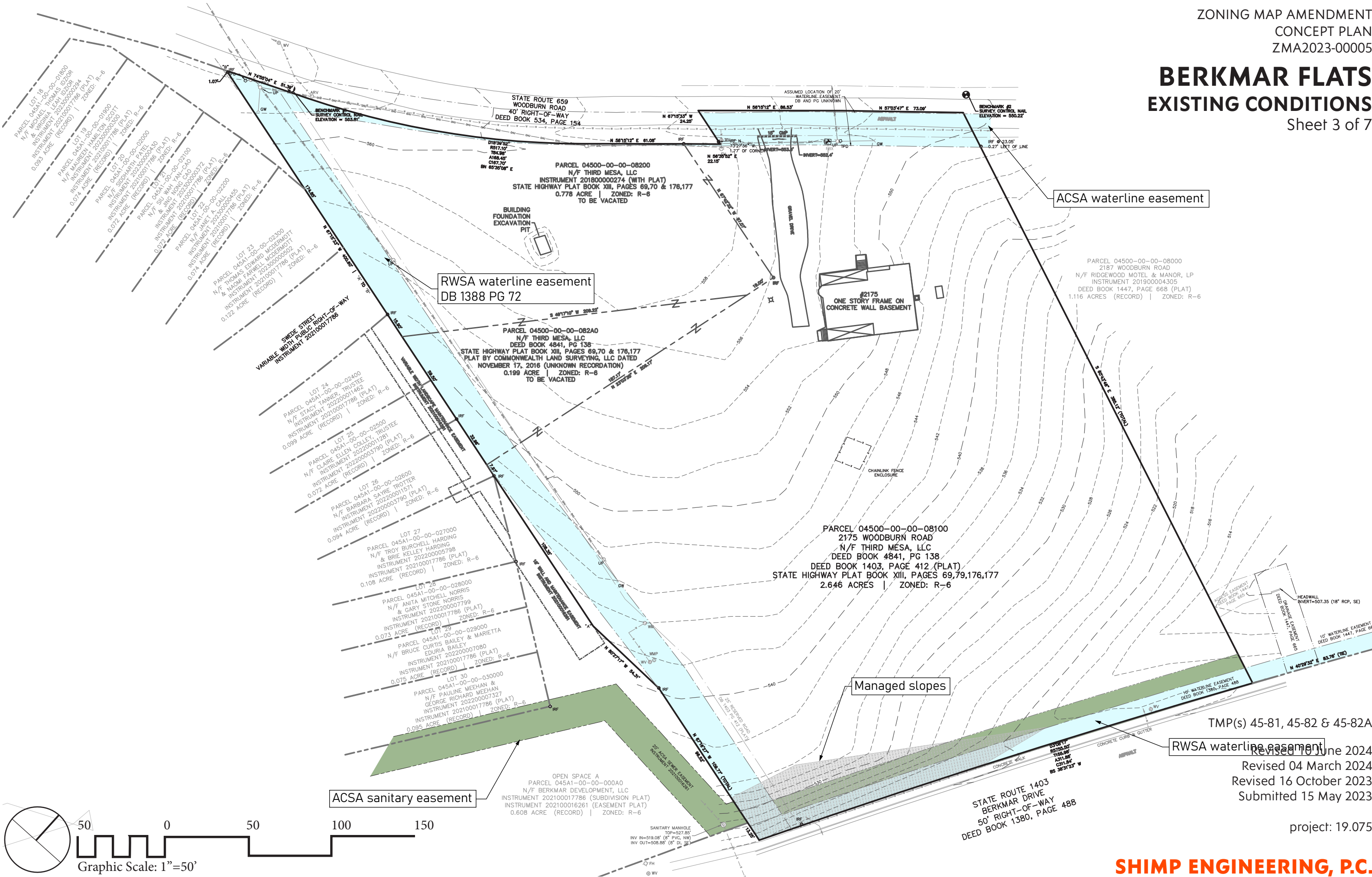
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Submitted 15 May 2023

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BERKMAR FLATS
EXISTING CONDITIONS
Sheet 3 of 7



TMP(s) 45-81, 45-82 & 45-82A

RWSA waterline easement

Managed slopes

ACSA waterline easement

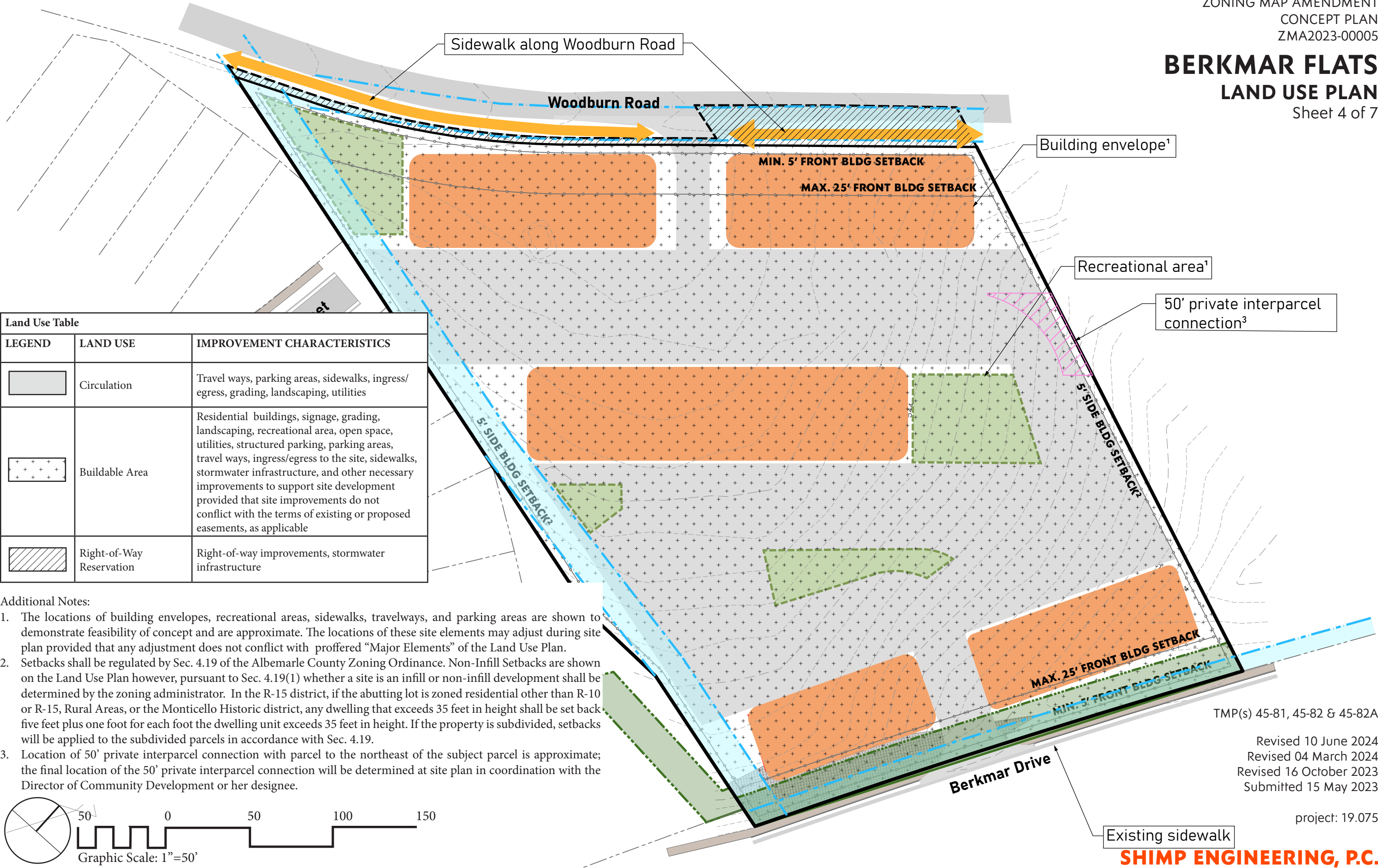
RWSA waterline easement
DB 1388 PG 72

ACSA sanitary easement

Revised 10 June 2024
Revised 04 March 2024
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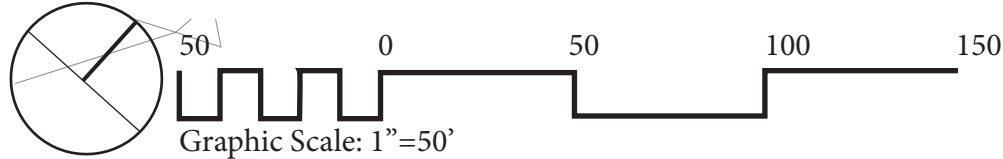
project: 19.075

BERKMAR FLATS
LAND USE PLAN
Sheet 4 of 7



Land Use Table		
LEGEND	LAND USE	IMPROVEMENT CHARACTERISTICS
	Circulation	Travel ways, parking areas, sidewalks, ingress/egress, grading, landscaping, utilities
	Buildable Area	Residential buildings, signage, grading, landscaping, recreational area, open space, utilities, structured parking, parking areas, travel ways, ingress/egress to the site, sidewalks, stormwater infrastructure, and other necessary improvements to support site development provided that site improvements do not conflict with the terms of existing or proposed easements, as applicable
	Right-of-Way Reservation	Right-of-way improvements, stormwater infrastructure

- Additional Notes:
1. The locations of building envelopes, recreational areas, sidewalks, travelways, and parking areas are shown to demonstrate feasibility of concept and are approximate. The locations of these site elements may adjust during site plan provided that any adjustment does not conflict with proffered “Major Elements” of the Land Use Plan.
 2. Setbacks shall be regulated by Sec. 4.19 of the Albemarle County Zoning Ordinance. Non-Infill Setbacks are shown on the Land Use Plan however, pursuant to Sec. 4.19(1) whether a site is an infill or non-infill development shall be determined by the zoning administrator. In the R-15 district, if the abutting lot is zoned residential other than R-10 or R-15, Rural Areas, or the Monticello Historic district, any dwelling that exceeds 35 feet in height shall be set back five feet plus one foot for each foot the dwelling unit exceeds 35 feet in height. If the property is subdivided, setbacks will be applied to the subdivided parcels in accordance with Sec. 4.19.
 3. Location of 50’ private interparcel connection with parcel to the northeast of the subject parcel is approximate; the final location of the 50’ private interparcel connection will be determined at site plan in coordination with the Director of Community Development or her designee.



TMP(s) 45-81, 45-82 & 45-82A

Revised 10 June 2024
Revised 04 March 2024
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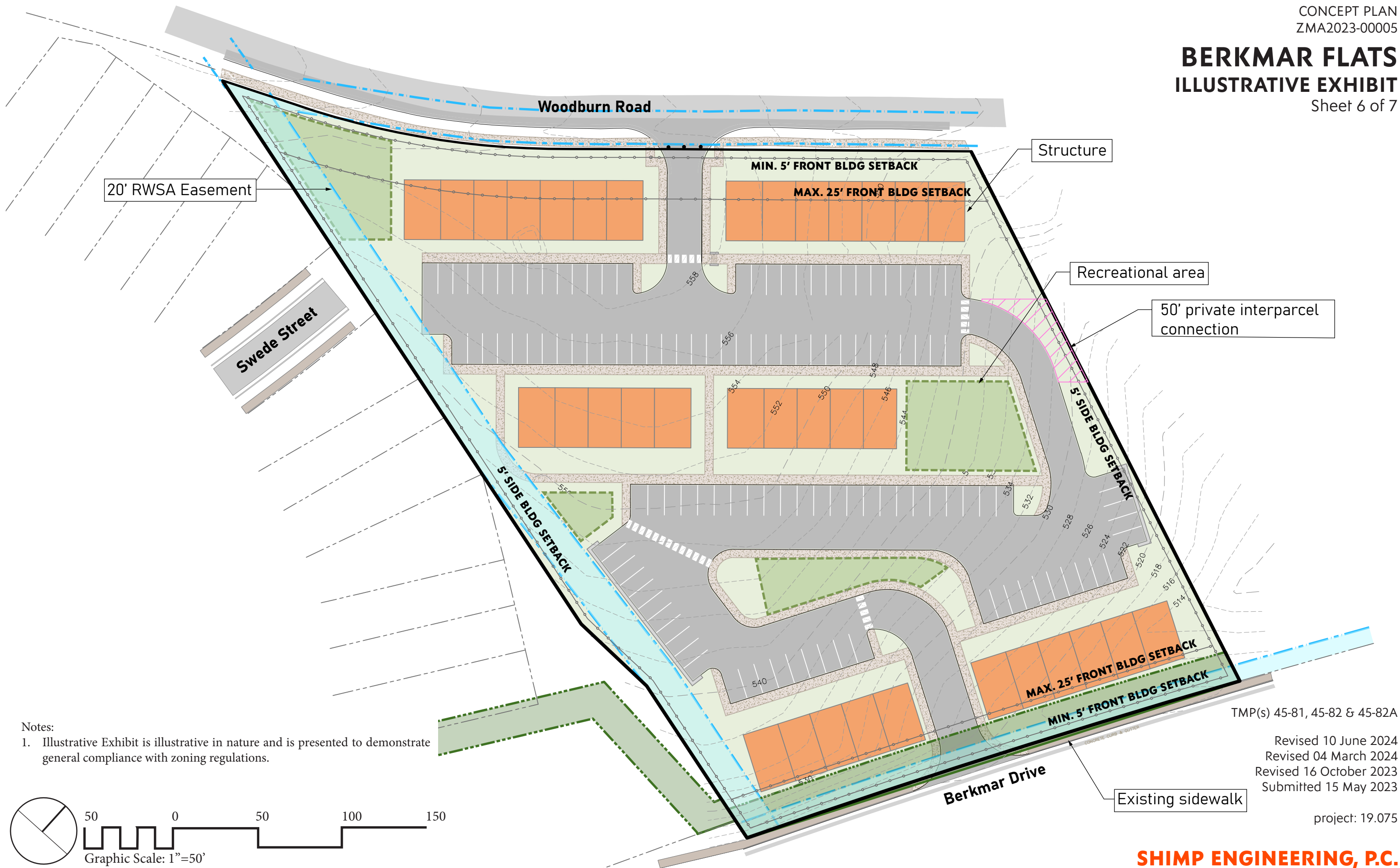
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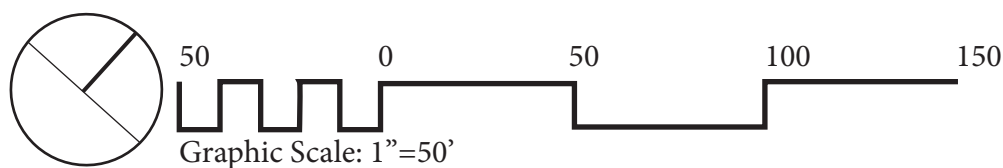
BERKMAR FLATS

ILLUSTRATIVE EXHIBIT

Sheet 6 of 7



Notes:
1. Illustrative Exhibit is illustrative in nature and is presented to demonstrate general compliance with zoning regulations.



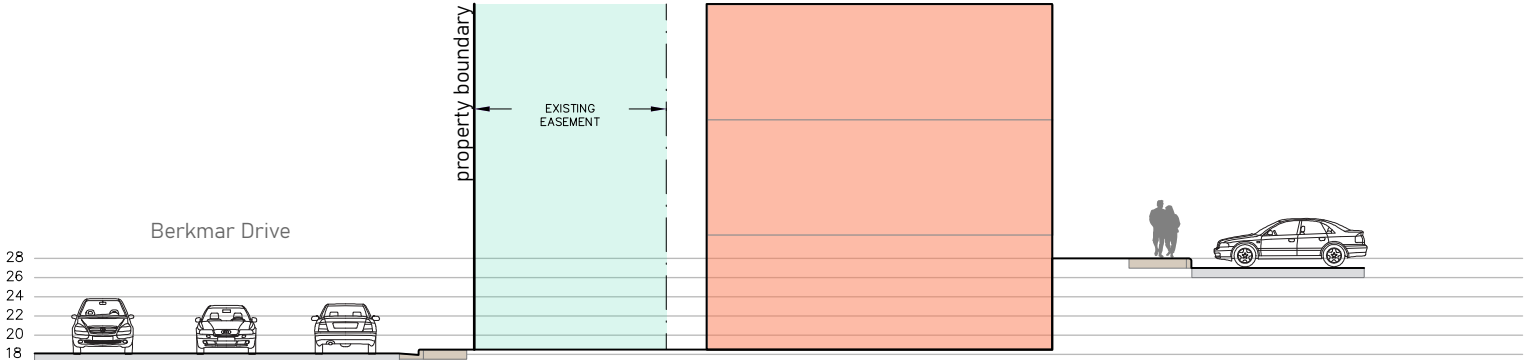
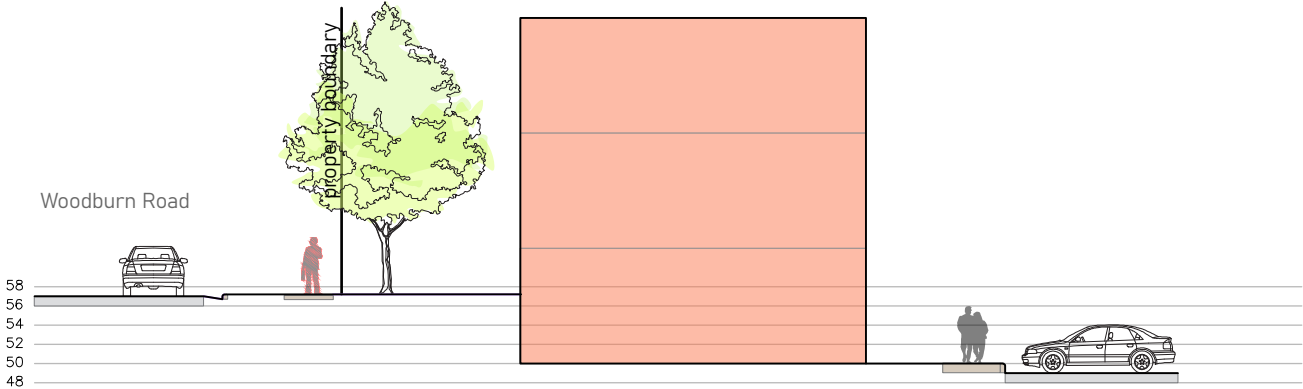
TMP(s) 45-81, 45-82 & 45-82A

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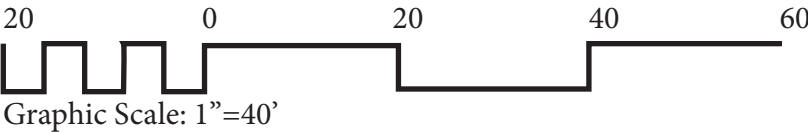
BERKMAR FLATS
CONCEPTUAL STREET SECTIONS
Sheet 7 of 7



TMP(s) 45-81, 45-82 & 45-82A

Revised 10 June 2024
Revised 04 March 2024
Revised 16 October 2023
Submitted 15 May 2023

project: 19.075



Original Proffers X
Amendment

DRAFT PROFFER STATEMENT

ZMA Number and Name: 2023-00005 Berkmar Flats

Parcel ID Numbers: 04500-00-00-08100, 04500-00-00-08200,
04500-00-00-082A0

Owner(s): Third Mesa LLC

Date of Proffer Signature: XX, 2023

2.646 acres of tax parcel 04500-00-00-08100 to be rezoned from R-6 Residential to R-15 Residential

0.778 acres of tax parcel 04500-00-00-08200 to be rezoned from R-6 Residential to R-15 Residential

0.199 acres of tax parcel 04500-00-00-082A0 to be rezoned from R-6 Residential to R-15 Residential

Third Mesa LLC is the owner (the “Owner”) of Tax Parcels 04500-00-00-08100, 04500-00-00-08200, and 04500-00-00-082A0 (the “Property”) which together are the subject of rezoning application ZMA No. 2023-00005, a project known as “Berkmar Flats” (the “Project”).

Pursuant to Section 33 of the Albemarle County Zoning Ordinance (Chapter 18 of the Albemarle County Code), the Owner hereby voluntarily proffers the conditions listed below, which shall be applied to the development of the Property if it is rezoned to the requested zoning district, R-15 Residential. These conditions are proffered as a part of the requested rezoning and the Owner specifically deems the following proffers reasonable and appropriate, as conclusively evidenced by the signature below. The signatory below signing on behalf of the Owner covenants and warrants that he is an authorized signatory of the Owner for this Proffer Statement.

1. **CONCEPT PLAN:** The property shall be developed in general accord with the “Land Use Plan” Sheet 4 of 7 of the Zoning Map Amendment Concept Plan prepared by Shimp Engineering, dated May 15, 2023 and last revised _____ XX, 2024 and shall reflect the following Major Elements as shown and noted on the Land Use Plan:
 - a. The location of the building envelopes fronting on Woodburn Road and Berkmar Drive with internal vehicular travel ways and parking areas relegated behind the building envelopes.

- b. The central location of a recreational area which shall be a minimum of 3,000 square feet in area.
- c. The sidewalk along Woodburn Road, constructed to VDOT standards; and the Right-of-Way Reservation, the final location of which will be one foot off of the back of the Woodburn Road sidewalk, or a similar dimension as determined by VDOT.

2. **AFFORDABLE HOUSING:** 15% of the total residential dwelling units within the project shall be Affordable Dwelling Units (the “15% Affordable Housing Requirement”). The 15% Affordable Housing Requirement may be met through a variety of housing types, including but not limited to, for-sale units or rental units.

- a. **For-Sale Affordable Dwelling Units:** All purchasers of the affordable units shall be approved by the Albemarle County Community Development Department or its designee (“Community Development”). A for-sale Affordable Dwelling Unit shall mean any unit affordable to households with income less than eighty percent (80%) of the area median income (as determined by the U.S. Department of Housing and Urban Development (HUD) from time to time) such that housing costs consisting of principal, interest, real estate taxes and homeowners insurance (PITI) do not exceed thirty percent (30%) of the gross household income. The Applicant or its successor shall provide the County or its designee a period of ninety (90) days to identify and prequalify an eligible purchaser for the for-sale Affordable Dwelling Units. The ninety (90) day period shall commence upon written notice from the Applicant, or its successor, that the unit(s) will be available for sale. This notice shall not be given more than sixty (60) days prior to receipt of the Certificate of Occupancy for the applicable for-sale Affordable Dwelling Unit; the County or its designee may then have thirty (30) days within which to provide a qualified purchaser for such for sale Affordable Dwelling Unit. If the County or its designee does not provide a qualified purchaser during the ninety (90) day period, the Applicant or its successor shall have the right to sell the unit(s) without any restriction on sales price or income of the purchaser(s). This shall apply only to the first sale of each of the for-sale Affordable Dwelling Units.

- b. **For-Rent Affordable Dwelling Units:**

- i. **RENTAL RATES:** The gross rent (meaning the unit rent plus tenant-paid utilities) for each rental housing unit which shall qualify as an Affordable Housing Unit (“For-Rent Affordable Dwelling Unit”) shall not exceed HUD’s affordability standard of thirty percent (30%) of the income of a household making eighty percent (80%) of the area median income (as determined by HUD from time to time). The requirement that the rents for such For-Rent Affordable Dwelling Units may not exceed the maximum rents established in this Section shall apply for a period of ten (10) years following the date the certificate of occupancy is issued by the County for each For-Rent Affordable

Dwelling Unit, or until the units are sold as For-Sale Affordable Dwelling Units.

- ii. **CONVEYANCE OF INTEREST:** All deeds conveying any interest in the For-Rent Affordable Dwelling Units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this Section. In addition, all contracts pertaining to a conveyance of any For-Rent Affordable Dwelling Unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this Section. At least thirty (30) days prior to the conveyance of any interest in any For-Rent Affordable Dwelling Unit during the Affordable Term, the then-current Owner shall notify the County in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this Section have been satisfied.
- iii. **REPORTING RENTAL RATES:** During the Affordable Term, within thirty (30) days of each rental or lease term for each For-Rent Affordable Dwelling Unit, the Applicant or its successor shall provide to the Housing Office a copy of the rental or lease agreement for each such unit rented that shows the rental rate for such unit and the term of the rental or lease agreement. In addition, during the Affordable Term, the Applicant or its successor shall provide to the County, if requested, any reports, copies of rental or lease agreements, or other data pertaining to rental rates as the County may reasonably require.
- c. **Tracking:** Each subdivision plat and site plan for land within the Property shall designate lots or units, as applicable, that will satisfy the 15% Affordable Housing Requirement. Such subdivision plat(s) or site plan(s) shall not be required to identify the method by which the 15% Affordable Housing Requirement will be satisfied. The aggregate number of such lots or units designated for affordable units within each subdivision plat or site plan shall constitute a minimum of fifteen percent (15%) of the lots or units in such subdivision plat or site plan, unless such subdivision plat or site plan does not contain any residential uses. The Applicant, at the Applicant's option, may accelerate the provision of affordable units ahead of the 15% Affordable Housing Requirement and shall be entitled to receive credit on future subdivision plat(s) or site plan(s) for any such units provided beyond the 15% Affordable Housing Requirement.

(Signature Pages Immediately Follow)

WITNESS the following signatures:

OWNER:

Owner of Tax Parcels 04500-00-00-08100, 04500-00-00-08200, 04500-00-00-082A0:

THIRD MESA LLC

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to wit:

The foregoing instrument was acknowledged before me this ____ day of _____ 2023
by Third Mesa LLC.

My Commission expires: _____

Notary Public