

## ATTACHMENT B

### STAFF ANALYSIS

**STAFF PERSON:** Rebecca Ragsdale, Planning Manager,  
Frank Pohl, PE, County Engineer

**BOARD OF SUPERVISORS:** June 18, 2025

**PROJECT:** SE-2025-00015 Miller School

**PARCEL ID:** 07200-00-00-03200

### SE-2025-00015 Miller School– Critical Slopes Special Exception

#### PROPOSAL

The applicant is requesting a special exception to allow the disturbance of approximately 0.38 acres (16,450 square feet) of critical slopes (slopes greater than 25%) in association with the expansion of a private school. The applicant's request and proposed plans are provided in Attachment A.

#### CHARACTER OF THE AREA

The subject property is approximately 1,047 acres with a historic private school campus established in 1878. The property is zoned Rural Areas and located in the Rural Area of the Comprehensive Plan. The majority of the parcel is undeveloped and under conservation easement. A special use permit (SP202200032) was approved in 2023 to allow expansion of the private school. An initial site plan (SDP-2025-00019) is under review.

#### ANALYSIS OF SPECIAL EXCEPTION REQUEST

County Code § 18-4.2.5(a) allows for the disturbance of critical slopes only if the findings in subsection (a)(3) are made. The procedure and criteria for evaluation of the special exception are contained in County Code § 18-4.2.5(a). The following is staff's analysis (indented) in response to each ordinance requirement (*in italics*):

*1. Request. A developer or subdivider requesting a modification or waiver shall file a written request in accordance with [section 32.3.5](#) of this chapter and identify and state how the request would satisfy one or more of the findings set forth in subsection 4.2.5(a)(3) . If the request pertains to a modification or waiver of the prohibition of disturbing slopes of 25 percent or greater (hereinafter, "critical slopes"), the request also shall state the reason for the modification or waiver, explaining how the modification or waiver, if granted, would address the rapid and/or large-scale movement of soil and rock, excessive stormwater run-off,*

The applicant's request (Attachment A) contains all explanations required by [County Code § 18-4.2.5\(a\)\(1\)](#).

*2. Consideration of recommendation; determination by county engineer. In reviewing a request for a modification or waiver, the Board of Supervisors shall consider the recommendation of the agent as to whether any of the findings set forth in subsection 4.2.5(a)(3) can be made by the commission. If the request pertains to a modification or waiver of the prohibition of disturbing critical slopes, the Board of Supervisors shall consider the determination by the county engineer as to whether the developer or subdivider will address*

*each of the public health, safety and welfare factors so that the disturbance of the critical slopes will not pose a threat to the public drinking water supplies and flood plain areas, and that soil erosion, sedimentation, water pollution and septic disposal issues will be mitigated to the satisfaction of the county engineer. The county engineer shall evaluate the potential for soil erosion, sedimentation and water pollution that might result from the disturbance of slopes of 25 percent or greater in accordance with the current provisions of the Virginia Department of Transportation Drainage Manual, the Commonwealth of Virginia Erosion and Sediment Control Handbook and Virginia State Water Control Board best management practices, and where applicable, [Chapter 17](#), Water Protection, of the Code.*

The property is not in a public water supply watershed. The slopes to be disturbed are not in a floodplain or stream buffer. A site plan and grading plan would be required. These plans must comply with State and local regulations. The County Engineer has stated that the required plans must address the provisions of all State and local erosion and sediment control regulations. The slopes do not contain any unusual or unique characteristics that would prevent compliance with the regulations or that would result in excessive erosion, sedimentation, or water pollution, according to the County Engineer.

*3. Findings. The Board of Supervisors may grant a modification or waiver under this subsection (a) if it finds that the modification or waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, or to adjacent properties; would not be contrary to sound engineering practices; and at least one of the following:*

The site plan review process would verify and require that the proposed grading minimizes soil erosion and stormwater runoff. With the approval of a site plan, sound engineering practices would be satisfied, and the public health, safety, and welfare would be protected. The areas of slope to be disturbed would not impact any adjacent properties. The disturbance of the critical slopes would not pose a threat to public drinking water supplies or floodplain areas, according to the County Engineer. Therefore, the proposed special exception would not be detrimental to the public health, safety, or welfare, or to the orderly development of the area.

This project would require VESMP (erosion and stormwater management) permitting and bonding. County inspections and bonding would ensure that siltation is controlled during construction. Post construction, the areas would be stabilized and stormwater management systems would be installed and required to be maintained. This project is not located within a reservoir watershed and no stream buffer is adjacent to the slopes to be disturbed.

*a. Strict application of the requirements of [section 4.2](#) would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare;*

Planning Staff and the County Engineer have reviewed the purposes of “this chapter” (the Zoning Ordinance) contained in Albemarle County Code § 18-1.4. Application of the regulations limiting disturbance of critical slopes does not conflict with the purposes stated in the ordinance and would not cause harm to public health, safety, or welfare. The application meets this criterion for granting a modification or waiver.

*b. Alternatives proposed by the developer or subdivider would satisfy the intent and purposes of [section 4.2](#) to at least an equivalent degree;*

The project would meet all requirements of State and local regulations for the disturbance of soils. These provisions would satisfy the intent and purpose of the ordinance to at least an equivalent degree, according to the County Engineer. The application meets this criterion for granting a modification or waiver.

*c. Due to the property's unusual size, topography, shape, location or other unusual conditions, excluding the proprietary interest of the developer or subdivider, prohibiting the disturbance of critical slopes would effectively prohibit or unreasonably restrict the use of the property or would result in significant degradation of the property or adjacent properties; or*

A strict application of the regulations would not prevent the use of the property. However, the proposed waiver would allow improvements to be located within or adjacent to areas previously disturbed. It would prevent greater disturbance of other undisturbed areas of the site under easement or not consistent with the historic resources on the property. The application does not meet this criterion for granting a modification or waiver.

*d. Granting the modification or waiver would serve a public purpose of greater import than would be served by strict application of the regulations sought to be modified or waived.*

The applicant has stated that the waiver is for minor disturbance of small areas of critical slopes primarily to allow the more than 50-year-old sewer and water supply system to be improved. Upgrades to existing facilities are preferred over relocation of utilities that would cause greater disturbance. The County Engineer concurs with this analysis. The application meets this criterion for granting a modification or waiver.

The property is not in a water supply watershed. The slopes to be disturbed are not in a floodplain or stream buffer. As previously stated, a site plan and grading plan would be required. These plans must comply with State and local regulations. The County Engineer has stated that the required plans must address the provisions of all State and local erosion and sediment control regulations. The slopes do not contain any unusual or unique characteristics that would prevent compliance with the regulations or that would result in excessive erosion, sedimentation, or water pollution.

**RECOMMENDATION:**

Staff finds that the applicant's proposed disturbance of critical slopes meets several of the criteria, allowing the Board to grant a modification or waiver. Based on the analysis of the request, staff recommends approval of the request to disturb critical slopes in general accord with the applicant's plan submitted with Attachment A.