

ATTACHMENT C

STAFF ANALYSIS

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

BOARD OF SUPERVISORS: October 21, 2026

PROJECT: SE-2026-00006

PARCEL ID: 074000000005B8

PROPOSAL

The applicant is requesting a special exception to waive the requirement that structures and improvements must be located within a building site. The applicant requests a special exception from *County Code* §18-4.2.3 to allow 28,070 square feet of critical slopes disturbance for a 5 bedroom single family dwelling, garage, tennis courts, and pool with retaining walls as indicated in the exhibit below. Clearing and rough grading has already occurred without prior approvals. The applicant has provided several exhibits that are provided as Attachment A and are depicted in the figures below.

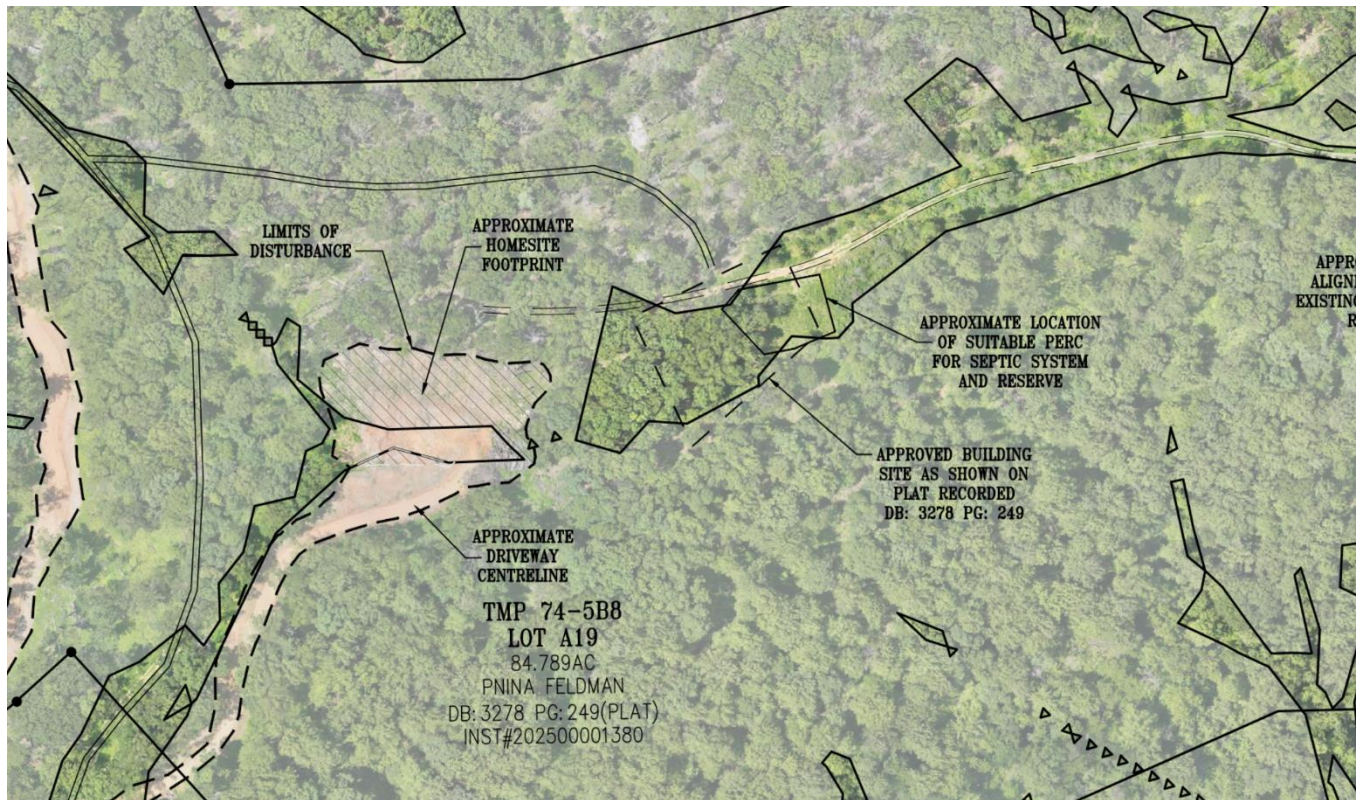


Figure 1: Proposed Homesite, Limits of Disturbance (dashed outline), and Building Site as shown on Approved Plat (Critical Slopes shown in bold outline)



Figure 2: Proposed Improvements and Critical Slopes

Critical slopes are defined in Section 18-3.1 of the *County Code: Critical slopes*. "Critical slopes" means slopes, other than managed or preserved slopes, of 25 percent or greater as determined by reference to either current topographic mapping available from the County or a more accurate field survey certified by a professional surveyor or engineer. Slopes of 25 percent or greater which are lawfully created within a development that was approved by the County shall not be considered critical slopes.

Building site requirements are found in *County Code* §18-4:

Sec. 4.2.1 Building site required.

No lot other than a special lot shall have less than one building site, subject to the following:

A. *Composition of building site.* A building site must be composed of a contiguous area of land and may not contain any area of land that is: (i) in critical or preserved slopes; (ii) within the Flood Hazard Overlay District; (iii) within any riparian buffer subject to [Section 4.23](#); or (iv) under water during normal hydrological conditions.

B. *Special exception.* Notwithstanding [section 4.2.5](#), any requirement of section 4.2.1(a) may be waived or modified by special exception under [section 33.5](#) upon the board of supervisors' consideration of whether the parcel has an unusual size, topography, shape, location or other unusual physical condition.

The applicant's critical slope waiver request, dated January 23, 2026, and last revised on September 18, 2026, has been reviewed in accordance *County Code* § 18-4.2.5, which outlines the process and criteria for considering a waiver of *County Code* § 18-4.2.1. The following engineering analysis prepared by Staff addresses the requirements of *County Code* § 18-4.2.5(a).

Description of critical slope areas proposed to be impacted:

The critical slopes analyzed in this memorandum are already impacted and were naturally occurring. A summary of the proposed impacts compared to the overall site is included in the table below.

Areas	Acres or Square Feet (sf)	
Total site area	84.789 Acres	
Area of critical slopes onsite	60.65 Acres (approx.)	71.5% of total site
Total critical slopes disturbed	0.64 Acres (28,070 sf) (approx.)	0.7% of total site 1.1% of total critical slopes

Note: These figures do not include any disturbance necessary to establish access to the homesite, as the driveway construction disturbance is listed as an exempt activity [4.2.6].

The proposed homesite is located at the highest point on the property at approximately 1080 feet above sea level. The cleared area is approximately 38,000 sf, which includes about 28,070 sf of critical slopes and 9,030 sf less than 25%. Because homesite disturbance is not among the exemptions listed in *County Code* § 18-4.2.6, a waiver is required to allow the landowner to build a home on this site. The applicant has indicated that rocky terrain on the property does not allow location of a homesite in the building site approved with approval of the subdivision. The proposed drainfield has been located in a building site. The image below shows the proposed homesite, previously approve building site location, and location of potential drainfield.

CHARACTER OF THE AREA

The subject property is 84.79 acres and is located to the south of Ragged Mountain Drive (Rt. 1860) and east of Taylors Gap Road (Rt. 708), within the vicinity of the intersection of Dick Woods Road (Rt. 637) and Ragged Mountain Road (Rt. 681). The parcel is primarily wooded, with substantial critical slopes, and an approximately 1.6 acre open field area at the end of the cul-de-sac on Ragged Mountain Drive and a 6.68 acre open field area at the southeastern corner of the property mostly free of critical slopes.

As a preservation tract of a Rural Preservation Development (RPD), the property is under a conservation easement co-held by the Albemarle Conservation Easement Authority and the County. The property and surrounding properties are all located in the Rural Area of the Comprehensive Plan and are zoned Rural Areas. Riparian buffers are located at the northeastern corner and southern property boundaries. There are no other riparian buffers or flood plain on the property. The property is located in the Ivy Creek watershed and is within a Water Supply Protection Area. The property is located in a Mountain Protection Area. (See Location Map)

Surrounding properties are composed of preservation tracts under easement associated with Ragged Mountain Farm RPD, residential lots associated with the RPD, and other rural residential developments

BACKGROUND

The parcel is a preservation tract associated with the Ragged Mountain Farm Rural Preservation Development (RPD), identified as Lot A19 on the final plat. The current owners purchased the property on February 12, 2025. A detailed history is provided below:

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|-----------|--|
| 1/21/2005 | A preliminary plat was submitted (SUB200500019) for Ragged Mountain Farm proposing a Rural Preservation Development under the RA Rural Areas zoning district. This request was to create two adjacent preservation developments, with a total of 20 lots each, including 18 lots and two preservation tracts each. |
| 5/11/2005 | In association with SUB200500019, the Zoning Administrator authorized several preservation tracts (Lots A19 and B20) in the RPD, rather than the usual one, as permitted under <i>County Code</i> § 18-10.3.3.3(f). A number of conditions were specified with that approval, including those requiring structures and improvements to be located in building sites, a tree conservation plan, and other conditions to minimize disturbance for driveways. (Attachment D) |
| 5/24/2005 | The Planning Commission reviewed and took action to approve the preliminary plat (SUB200500019). The analysis for the request included identification of Mountain Resource Areas for Ragged Mountain beginning at the 800' contour and discussion of the importance of preserving critical slopes, mountainous portions of the site, and the ridgeline. Building sites and access were identified on the preliminary plat. (Attachment E) |
| 8/22/06 | <p>The final plat (SUB200600057) for the subdivision was recorded (DB 3278 and PG 270). (Attachment E) Building sites and access were shown on the final plat, including a note requiring <i>"All lots shall access internal roads only except for Lot A20 which shall access State Rt 708 [Taylors Gap Road] and Lot B19 which shall access St. Rt. 681" [Ragged Mountain Road]</i>.</p> <p>Clearing and construction of single-family dwellings on the residential lots began subsequently, with completion of the first house in 2007.</p> <p>No building permits have been approved for the subject preservation tract parcel.</p> |
| 8/8/24 | A request to modify the requirements of the Subdivision Ordinance and point of access requirements for the preservation tracts under <i>County Code</i> § 14-404 (SUB202400034) was reviewed and approved by the Agent. Two of the preservation tracts (lots A19 and B20) were expected |

to take access from the internal subdivision roads of Ragged Mountain Farm. Alternative access was B20 (Tax Map 74 Parcel 5D9) proposed to provide access to that lot from Taylors Gap Road instead of internal streets, via a new, shared access easement over lot A19 (Tax Map 74 Parcel 5B8). A spur driveway from the new access easement would provide access to the building site on lot A19. The intent of that request was to reduce overall disturbance of resources and follow existing logging roads. This request was reviewed by the Albemarle County Conservation Easement Authority (ACEA) at its 5/9/24 and 7/11/24 meetings. This request did not propose any changes to building sites. Required applications, such as a subdivision application to establish the access easement for the new driveway, and required engineering plans have not been submitted to-date.

- 9/4/2024 The [Board of Supervisors](#) adopted a resolution to approve the proposed access associated with SUB202400034. (Attachment F)
- 11/19/24 A letter of zoning determination (LOD202400011) was requested and issued regarding location of building sites on the subject parcel. The letter confirmed that an alternative building site could be used, rather than the building site shown on the plat approved with the Ragged Mountain Farm RPD. The letter also confirmed that the dwelling and various improvements associated with the dwelling must stay out of the critical slopes identified when the building permit application is submitted and during the construction of the improvements. (Attachment G)
- 5/14/25 A concern was received (ECPLT-2025-00018) that chainsaw and heavy equipment activity had been occurring for an estimated two months, with clearing for a large building site and driveway per the complainant.
- 6/2/25 A second complaint was received associated with the subject preservation tract. (ECPLT-2025-00022)
- 6/10/25 Upon investigation, a Stop Work Order was issued. The activity observed included land clearing and excavation and was deemed a non-silvicultural operation.
- 9/12/2025 Representatives of the owner scheduled a preapplication meeting (PREAPP-2025-00087) to discuss applications necessary for compliance.
- 11/17/2025 A second preapplication meeting was held (PREAPP-2025-00115).
- 1/15/26 A request to modify the requirements of the Subdivision Ordinance and point of access requirements for the preservation tracts under *County Code* § 14-404 (SUB-2026-00013) was submitted to review the newly proposed driveway location, which was already disturbed. The new driveway was adjusted from the location approved with SUB202400034 to better follow the terrain according to the applicant. The building site location must be established first, prior to action on this application. If the building site is found to be acceptable, then access is exempt from the

critical slopes regulations to the extent necessary to access building sites.

- 1/23/26 A request (SE-2026-00006) to waive the requirements for a building site to allow critical slopes disturbance was submitted. Action by the Board of Supervisors on the critical slopes waiver is necessary to allow the owner's proposed home construction and expanded building site.
- 4/8/26 A notice of violation was issued by ACEA finding the clearing for a homesite and relocated driveway is not consistent with the location approved under the easement.

Any decision by the Board on the pending Special Exception would not override the approved subdivision plat or the conditions established in the 2005 determination. The subdivision approval and its conditions of the Zoning Administrator approval of the RPD tracts remain in full force unless they are formally amended, if necessary, by the ordinance. If approved, necessary review and applications under the Zoning Ordinance, Subdivision Ordinance, Water Protection Ordinance, and conservation easement will be needed. That could include further ACEA review, and additional actions by the BOS.

ANALYSIS OF SPECIAL EXCEPTION REQUEST

The applicant's request is to allow critical slopes disturbance for a 5-bedroom single family dwelling, garage, tennis courts, and pool with retaining walls illustrated on exhibits provided. (Attachment A) *County Code* § 18-4.2.5(a) allows for a waiver as indicated below. Staff has included the applicable criteria and code sections, followed by staff comment. Analysis is provided by both the Agent and Engineering staff.

Sec. 4.2.5 Modification or waiver.

Any requirement of section 4.2.1, 4.2.2, 4.2.3 or 4.2.4 may be modified or waived by special exception of the Board of Supervisors as provided in section 33.5 and herein:

- a. *Modification or waiver generally.* The Board of Supervisors may modify or waive any requirement as provided in subsection (b), as follows:
 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, siltation of natural and man-made bodies of water, loss of aesthetic resources, and, in the event of septic system failure, a greater travel distance of septic effluent (collectively referred to as the "public health, safety, and welfare factors") that might otherwise result from the disturbance of critical slopes.

Staff comment: The applicant filed a written request and provided various exhibits showing existing clearing/grading and proposed improvements. The proposal includes enlarging a building site of approximately 20,000 square feet that is already cleared, with disturbance of 28,070 square feet of critical slopes for a 5-bedroom single-family

dwelling, garage, tennis courts, and pool with retaining walls.

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 *County Code*.

Staff Comment: Engineering staff offers the following analysis of the factors to be considered under *County Code* § 18-4.2.5(A)(2). The factors required to be analyzed with this request are: rapid and/or large-scale movement of soil and rock, excessive stormwater run-off, siltation of natural and man-made bodies of water, loss of aesthetic resources, and, in the event of septic system failure, a greater travel distance of septic effluent (collectively referred to as the "public health, safety, and welfare factors") that might otherwise result from the disturbance of critical slopes.

"rapid and/or large-scale movement of soil and rock":

The USGS soil classification for this homesite is Hayesville loam, 15 to 25 percent slopes, very stony (38D). The soils are well drained and have a high runoff class.

During a site visit on 9/24/2026, it was confirmed that the homesite had been cleared and graded. No perimeter erosion control measures were in place; however, the site was partially stabilized and exposed soils showed minimal evidence of erosion. Soil movement beyond the disturbed homesite was not observed.

The hilltop soils are shallow, with bedrock exposed in several locations where grading has occurred. Large rocks, approximately 3-4 ft in diameter, were present around the site perimeter as a result of leveling activities, but they did not appear to pose any hazard of large-scale movement.

To construct the proposed home, additional grading would be necessary. The site would either need to be filled around the perimeter or cut toward the center to create a level building pad, unless the home is designed to step with the existing terrain. The applicant's grading plan indicates a combination of cut and fill but also proposes grading on slopes beyond that area already cleared. Staff does not recommend approving any additional disturbance beyond what

has already occurred.

Regardless of the method used to prepare the homesite, the property owner would be required to submit an erosion control (EC) plan to obtain a building permit, ensuring compliance with all state EC standards. In the County Engineer's opinion, with properly installed and maintained erosion control measures, rapid or large scale movement of soil and rock is unlikely.

“excessive stormwater runoff”:

Stormwater runoff from the site will increase, as is typical for single-family residential development due to the addition of impervious and compacted surfaces. However, in the County Engineer's assessment, the incremental increase in runoff would be minimal provided that discharge from the homesite is maintained as non-concentrated sheet flow across stabilized areas.

“siltation”:

Please refer to “movement of soil and rock” section.

“loss of aesthetic resource”:

Please refer to Planning review.

“septic effluent”:

The County Engineer defers to the Virginia Department of Health (VDH) for determining site suitability for onsite septic disposal systems within the county. As part of the waiver request, the applicant submitted an Onsite Sewage Disposal Feasibility Memo prepared by Mr. Aaron M. Sherwood, an Authorized Onsite Soil Evaluator. The memo indicates that an area near the proposed homesite is suitable for a conventional five-bedroom drainfield that would comply with VDH Sewage Handling and Disposal Regulations.

Section 4.2.5(A)(2):

The County Engineer shall determine *“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.”*

“public drinking water supplies”:

The homesite is greater than 900-ft from the nearest stream. Additionally, the site does not drain into a waterway that is a public drinking water supply for Albemarle County.

“flood plain areas”:

No portion of the parcel is located inside the Flood Hazard Overlay District (FHOD), also known as the 100-yr floodplain, according to current FEMA Maps.

“soil erosion, sedimentation, water pollution and septic disposal issues will be mitigated”:

As noted above, if this special exception is approved, the applicant would be required to submit, and obtain approval of, a Water Protection Ordinance application (also referred to as an Erosion and Stormwater Management application). Engineering staff will verify that the submittal complies with the current requirements of the Commonwealth of Virginia Erosion and Stormwater Management Handbook and Chapter 17, Water Protection Ordinance, of the *County Code*, including the installation of appropriate erosion control measures and the dispersion of concentrated stormwater discharges into non-concentrated sheet flow.

The potential for soil erosion, sedimentation, and water quality impacts resulting from disturbing critical slopes is low at the proposed site, as the existing unprotected disturbance has not resulted in off-site erosion or sediment deposition. In contrast to the original sloped building site – where runoff would be discharged along a shorter flow path – the hilltop location distributes runoff more uniformly around the site perimeter. This increases the effective sheet-flow length and decreases the potential for flow concentration. Therefore, from an engineering and hydrologic perspective, the proposed homesite would be expected to result in less erosion.

Total soil loss from a site is dependent not only by existing and proposed grades but also by the total disturbed area, the amount of time the area is disturbed, and the type of soils at the site. The County Engineer believes it is important to consider that soil loss from the site has not occurred even though the site was cleared and graded and left dormant for almost a year. Considering these factors, the site appears to be below county averages for sediment discharges, even when compared to sites that do not require waivers for critical slope disturbance.

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:

Staff comment: Staff believes that this request is not consistent with the orderly development of the area and should be denied on this basis alone. The purpose and intent of the Rural Preservation Development of *County Code* § 18-10.3.3.2 is to

preserve identified Rural Area resources. The plat and location of building sites, including development outside critical slopes, was a factor of staff and Planning Commission and analysis when approving the RPD.

- 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;

Staff comment: Strict application of the requirements of *County Code* § 18-4.2 would require the building site to be located out of critical slopes. The purpose of the regulation is to guard the public, health, safety and welfare, requiring structures to be built in building sites. Adherence to the regulations forwards this purpose.

- 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 provisions in this section through section 4.2.5 implement the comprehensive plan by protecting and conserving steep hillsides together with public drinking water supplies and flood plain areas because of the increased potential for soil erosion, sedimentation, water pollution and sewage disposal problems associated with the disturbance of critical slopes. The disturbance of critical slopes may result in: rapid and/or large-scale movement of soil and rock; excessive stormwater run-off; siltation of natural and man-made bodies of water; loss of aesthetic resource; and in the event of onsite sewage system failure, a greater travel distance of septic effluent, all of which constitute potential dangers to the public health, safety and/or welfare. The regulations in sections 4.2.1, 4.2.2, 4.2.3 and 4.2.4 are intended to direct building and onsite sewage system locations to terrain more suitable to development and to discourage development on critical slopes, and to supplement other regulations regarding the protection of public water supplies and encroachment of development into flood plains.

Staff comment: The purpose of the building site regulations includes conserving steep hillsides and preventing loss of aesthetic resources. As noted, the proposed critical slopes disturbance is located within the Mountain Protection Area and in a Water Supply Protection Area.

Alternatives proposed by the developer do not satisfy the purpose of the regulations to an equivalent degree. However, the proposed house site is located adjacent to where a building site has already been approved. The proposed dwelling would not be out of character with nearby rural residential development. No erosion issues have been identified by the County Engineer based on clearing and rough-grading to-date. However, an erosion and sediment control plan showing final site work necessary to construct all site improvements has not yet been submitted.

- 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

Staff comment: The parcel is 84.79 acres in size and includes significant portions of critical slopes and rocky terrain. However, there are several building sites located outside critical slopes. Prohibiting the disturbance of critical slopes would not unreasonably restrict use of the property. The site contains several alternative building sites that could be utilized for a 3-bedroom single family dwelling. The ordinance does not require a septic system for 5 bedrooms. The applicant has provided a soils evaluation memo, but has not provided an approved sewage disposal permit from the

Virginia Department of Health. The applicant has not provided evaluations of alternative building sites. The applicant may use any viable building site, and is not limited to the location approved with the subdivision plat. The proposed disturbance is not necessary for reasonable use of the property.

- 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.

Staff comment: This requirement is not met. A greater public purpose is not served by allowing the structure and improvements to be located on critical slopes.

- 4. *Conditions.* In granting a modification or waiver, the Board of Supervisors may impose conditions deemed necessary to protect the public health, safety or welfare and to insure that the development will be consistent with the intent and purposes of section 4.2.

Overall, this request is not consistent with the purpose and intent of the building site regulations and is not consistent with conditions of approval of the Rural Preservation Development and intent of the preservation tracts.

RECOMMENDATION:

Staff recommends the Board adopt the attached Resolution to deny the request.