ALBEMARLE COUNTY PLANNING
STAFF REPORT SUMMARY

Proposal: SUB202100045 Drillers Lane – Private Street Request	**Staff:** Mariah Gleason, Senior Planner II
Planning Commission Public Hearing: July 6, 2021	**Board of Supervisors Hearing:** Not applicable
Owner: 4F and Foster's Well & Pump Co. Inc.	**Applicant:** Tim Miller, Meridian Planning Group LLC
Acreage: 26.56 acres	**Rezone from:** Not applicable **Special Use Permit for:** Not applicable
TMP: 03100-00-00-021A0, 03100-00-00-021A2, 03100-00-00-021A3 **Location:** Drillers Lane	**By-right use:** LI, Light Industrial – industrial, office, and limited commercial uses (no residential use). A portion of Drillers Lane, near its intersection with Earlysville Road is zoned RA Rural Area - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
Magisterial District: Rio	**Proffers/Conditions:** Proposed **EC:** No
Proposal: Request for private street approval in accordance with 14-232(A) and 14-234 of the Subdivision Ordinance.	**Requested # of Dwelling Units:** None
DA: **RA: X**	**Comp. Plan Designation:** Rural Area 1 – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots)
Character of Property: The subject properties are zoned Light Industry and contain development, such as warehouses and offices, that support by-right Light Industry uses. Businesses on these properties include Foster Well & Pump Co, Albion Cabinets & Stairs Inc, James River Grounds Management, and other businesses in the Earlysville Business Park.	**Use of Surrounding Properties:** Parcels just north of the subject property are also zoned Light Industrial. All other surrounding properties are zoned for Rural Area uses and generally contain residential development.
Factors Favorable: 1. The proposed private street meets the requirements for authorization under Section 14-232(A)(2) and 14-234. 2. Drillers Lane is designed and constructed to public street standards. 3. As VDOT will not be accepting this street into the public street system, authorization as a private street will ensure the road is properly maintained. 4. Engineering and VDOT staff have no objections the authorization of the private street.	**Factors Unfavorable:** None Identified.
Recommendation: Staff recommends approval of the private street request with the following condition: 1) A private street maintenance agreement must be recorded with the final plat.	

STAFF PERSON: Mariah Gleason, Senior Planner II
PLANNING COMMISSION: July 6, 2021
AGENDA TITLE: SUB202100045 Drillers Lane – Private Street Request
APPLICANT: Tim Miller, Meridian Planning Group LLC
PROPERY OWNERS: 4F and Foster's Well & Pump Co. Inc.

APPLICANT'S PROPOSAL:

Drillers Lane is located off State Route 660/Reas Ford Road, approximately 0.4 miles west of the Earlysville Volunteer Fire Company Station (Attachment 1). The road is designed and constructed to meet public street standards, in accordance with Section 14-411 of the Subdivision Ordinance. A copy of the approved road plan for Drillers Lane is provided in Attachment 2.

As stated in their Private Street Request Letter, provided in Attachment 3, the applicant is requesting Drillers Lane be redesignated from a public street to a private street for the following reasons:

> "Drillers Lane was intended to provide public access to the adjacent parcels, TMP 03100-00-00-021B0 and TMP 03100-00-00-021C0, so that it would meet the VDOT requirement of a minimum of three users prior to acceptance into the public road system. It has recently been determined that DEQ will not allow wells to be installed on TMP 03100-00-00-021B0 and TMP 03100-00-00-021C0 so they must remain as vacant parcels. Consequently, the only parcels that will ever use Drillers Lane are TMP 03100-00-00-021A2 and TMP 03100-00-00-021A3 and VDOT will not accept it into the public road system."

**Please note, additional research into this request found that the reference to the Department of Environmental Quality (DEQ) in the statement above is a mistake. The statement should instead reference the United States Environmental Protection Agency (USEPA).*

Letters provided by Cooper Industries LLC regarding deed well water restrictions and VDOT regarding Drillers Lane ineligibility for acceptance into the State Highway System are contained in Attachments 4 and 5, respectively.

COMPREHENSIVE PLAN:

The Comprehensive Plan designates these properties as Rural Area 1.

RELEVANT PLANNING AND ZONING HISTORY:

- SUB201700197 Road Plan for Drillers Lane
  - A road plan was approved in May 2019 to facilitate the construction of Drillers Lane to public street standards for future dedication into the public street system.
- Subdivision Plat (Deed Book 5166 Page 651)
  - A subdivision plat was also approved in May 2019 that created TMP 31-21A2 and TMP 31-21A3 from parent parcel TMP 31-21A.
- SUB202100045 Drillers Lane
  - This final plat application is under review, pending revisions by the applicant and authorization of the private street by the Commission. The plat proposes the redesignation of Drillers Lane as a private street, with associated road areas being combined with adjacent parcels through right-of-way vacations. The plat also proposes amendments to stormwater facilities.

REASON FOR PLANNING COMMISSION REVIEW:

Planning Commission approval is needed to authorize private streets in the rural areas, under Section 14-232(A) of the Subdivision Ordinance.

The proposed private street, Drillers Lane, was originally intended to be a private street. However, as VDOT will not be accepting the street into the State Highway System, per their comments provided in Attachment 5, the applicant is requesting that Drillers Lane instead be designated as a private street. The proposed final plat that is currently under review, SUB202100045 Drillers Lane, demonstrates the proposed redesignation of Drillers Lane as a private street, which includes combining the land area associated with Drillers Lane with adjacent industrial parcels (Attachment 6).

There is one request to be considered by the Planning Commission with this application:

1. Section 14-232 and 14-234 - Authorization of one Private Street in the Rural Area

Ordinance language is presented in *bold italics* followed by staff comment.

1. AUTHORIZATION OF PRIVATE STREETS

Private streets in the rural areas may be authorized by the Planning Commission under 14-232 if any one of the provisions or circumstances of Section 14-232(A) applies.

ANALYSIS OF SECTION 14-232(A)

1. To alleviate significant degradation to the environment. One or more private streets may be authorized if: (i) the property is within either the rural areas (RA) or village residential (VR) zoning districts; (ii) the private streets will alleviate a clearly demonstrable likelihood of significant degradation to the environment of the property or any land adjacent thereto resulting from the construction of a public street in the same alignment; (iii) no alternative public street alignment is available which would alleviate significant degradation of the environment; (iv) no more lots are proposed on the private streets than could be created on a public street due to right-of-way dedication; and (v) the proposed private streets demonstrably promote sensitivity toward the natural characteristics of the land and encourages the subdivision of land in a manner that is consistent and harmonious with surrounding development. The term "significant degradation" means either:

- ***a) The total volume of grading for construction of a public street would be thirty (30) percent or more than that of a private street in the same alignment, based upon profiles, typical sections, earthwork computations, and other information deemed necessary by the county engineer, submitted by the subdivider and reviewed by the county engineer; or***
- ***b) Environmental impacts including, but not limited to, erosion and sedimentation, stormwater runoff, surface water pollution, loss of tree cover and/or the loss of indigenous vegetation resulting from a public street, which would be substantially greater than that of a private street in the same alignment, based upon evidence submitted by the subdivider and reviewed by the county engineer and other qualified staff.***

The proposed private street does not meet this requirement for authorization. Drillers Lane has already been evaluated, approved, and constructed to public street standards. There is no potential environmental degradation the applicant or owner is seeking to avoid by redesignating this street from public to private.

2. The lots will be used for non-residential or non-agricultural purposes.

Lots currently served by Drillers Lane – TMP 31-21A2 and TMP 31-21A3 – are zoned Light Industry and contain development that is supportive of by-right Light Industrial uses. These lots meet this requirement for private street authorization.

Other lots that were originally intended to be served by Drillers Lane – TMP 31-21B and TMP 31-21C – are both zoned for Rural Areas uses and are currently undeveloped. The applicant has provided information to indicate that these lots will likely remain undeveloped due to deed restrictions regarding new water well installations.

Staff finds that this requirement for authorization is currently being met. Should the two Rural Area parcels be developed in the future for residential or agricultural purposes, the design standards to which Drillers Lane is approved and constructed would allow for the road to be reevaluated for inclusion into the State Highway System, if desired.

3. General welfare. One or more private streets may be authorized if the general welfare, as opposed to the proprietary interest of the subdivider, would be better served by the construction of one or more private streets than by the construction of public streets.

VDOT has confirmed that Drillers Lane is ineligible for acceptance into the State Highway System. In which case, authorization of this private street proposal will work to establish and ensure perpetual maintenance and care of the road facility.

ANALYSIS OF SECTION 14-234

Per Section 14-234(C), the Commission may authorize one or more private streets in a subdivision if it finds that one or more of the circumstances described in section 14-232 exists and it determines that: (ordinance language presented in ***bold italics*** followed by staff comment):

1. The private street will be adequate to carry the traffic volume which may be reasonably expected to be generated by the subdivision;

The amount of traffic expected on this proposed private street is minimal, with a projected volume of 22 trips per day. Analysis of the private street request by Engineering staff, provided in Attachment 8, found that the design of Drillers Lane is not only adequate in supporting the projected traffic volume, but that the road would be still adequate if the expected traffic volume were to increase tenfold (i.e. 220 trips per day).

2. The comprehensive plan does not provide for a public street in the approximate location of the proposed private street;

The Comprehensive Plan does not propose or plan for a public street in this approximate location.

3. The fee of the private street will be owned by the owner of each lot abutting the right-of-way thereof or by an association composed of the owners of all lots in the subdivision, subject in either case to any easement for the benefit of all lots served by the street;

Section 14-317 of the Subdivision Ordinance requires all required improvements shown on a final plat to have an associated instrument assuring their perpetual maintenance. The applicant

has provided a draft maintenance instrument for the private street. The agreement identifies the owners of TMP 31-21A2 and TMP 31-21A3 as the parties responsible for maintaining the proposed private street (see Attachment 7). This document will be subject to review and approval by the County Attorney's Office prior to final plat approval. Staff will require the applicant to record the agreement along with the final plat, pending Commission approval of the private street request.

4. Except where required by the commission to serve a specific public purpose, the private street will not serve through traffic nor intersect the state highway system in more than one location; and

The approved road plan for Drillers Lane confirms that the proposed private street will not serve through traffic and will only intersect the state highway system in one location. No new connections with the state highway system are proposed as part of the authorization request.

5. If applicable, the private street has been approved in accordance with section 30.3, flood hazard overlay district, of the zoning ordinance and other applicable law.

The subject property does not lie in the flood hazard overlay district, therefore this criterion is not applicable.

SUMMARY:

Staff finds the following factors favorable to this request:

1. The proposed private street meets the requirements for authorization under Section 14-232(A)(2) and 14-234.
2. Drillers Lane is designed and constructed to public street standards.
3. As VDOT will not be accepting this street into the public street system, authorization as a private street will ensure the road is properly maintained.
4. Engineering and VDOT staff have no objections the authorization of the private street.

Staff did not identify any unfavorable factors to this application.

RECOMMENDATION:

This proposal meets the requirements of the ordinance; therefore, Staff recommends approval of the private street request with the following condition:

a. A private street maintenance agreement must be recorded with the final plat.

ATTACHMENTS

Attach. 1: SUB2021-45: Vicinity Map
Attach. 2: SUB2021-45: SUB201700197 Road Plan for Drillers Lane (approved)
Attach. 3: SUB2021-45: Applicant's Private Street Request
Attach. 4: SUB2021-45: Letter from Cooper Industries LLC (regarding well water restrictions)
Attach. 5: SUB2021-45: Virginia Department of Transportation, VDOT, Comments
Attach. 6: SUB2021-45: SUB202100045 Drillers Lane – Final Plat (under review)
Attach. 7: SUB2021-45: Draft Maintenance Agreement for Drillers Lane (under review)
Attach. 8: SUB2021-45: Albemarle County Engineering Division Comments