



ALBEMARLE COUNTY PLANNING
STAFF REPORT SUMMARY

Project Name: SP201600001 Kapp Driveway	Staff: Scott Clark, Senior Planner
Planning Commission Public Hearing: August 23, 2016	Board of Supervisors Hearing: TBA
Owner(s): Kapp, Constance E M	Applicant(s): Kapp, Constance E M
Acreage: 207.36 acres	Special Use Permit for: Grading activities in the Flood Hazard overlay zoning district under Section 30.3.11
TMP: Tax Map 98 Parcel 4C Location: Sutherland Road (Route 697), approximately 1.5 miles west of its intersection with Monacan Trail Road (US 29)	By-right use: Agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
Magisterial District: Samuel Miller	Proffers/Conditions: Yes
School District: Red Hill Elementary – Walton Middle – Monticello High School	
Requested # of Dwelling Units/Lots: none	DA - RA - X
Proposal: Grading in the floodplain for two culvert stream crossings for road access	Comp. Plan Designation: Rural Areas
Character of Property: The property is a 207-acre rural parcel, partly wooded and partly open, on the northwest side of Chalk Mountain.	Use of Surrounding Properties: Surrounding properties include significant areas of forest and farmland, as well as some residences and a winery.
Factors Favorable: 1. The proposed floodplain fill would not impact adjacent properties. 2. Impacts to the stream buffer would be offset by mitigation plantings.	Factors Unfavorable: 1. Additional access to land for residential development is contrary to Comprehensive Plan goals for reducing Rural Area development. Proposed conditions of approval would limit the extent of residential development that could be accessed by the proposed crossings.
Recommendation: Staff recommends approval with conditions.	

STAFF CONTACT:
PLANNING COMMISSION:
BOARD OF SUPERVISORS:
PROJECT:

Scott Clark, Senior Planner
August 23, 2016
TBD
SP201600001 Kapp Driveway

PETITION:

MAGISTERIAL DISTRICT: Samuel Miller

TAX MAP/PARCEL: 098000000004C0

LOCATION: Sutherland Road (Route 697), approximately 1.5 miles west of its intersection with Monacan Trail Road (US 29)

PROPOSAL: Grading in the floodplain for two culvert stream crossings for road access

PETITION: Grading activities in the Flood Hazard overlay zoning district under Section 30.3.11 of zoning ordinance; No dwellings proposed.

ZONING: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); FH Flood Hazard – Overlay to provide safety and protection from flooding

COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots)

CHARACTER OF THE AREA:

The surroundings mainly consist of large rural parcels, largely forested, with some open grazing land.

PLANNING AND ZONING HISTORY:

No history of rezonings or special use permits.

Parcel 98-4C (207.36 acres) has three development rights and the potential for up to nine 21-acre lots, for a total theoretical development potential of twelve lots. Six or more of those lots could be built without road access over the floodplain, in the approximately 72-acre area between Sutherland Road and the floodplain. See Attachment A for a location map, and Attachment B for a map of the property.

DETAILS OF THE PROPOSAL:

The proposal is to permit floodplain fill and the construction of culverts for two floodplain crossings of the South Branch of the North Fork Hardware River. See Attachment C for a conceptual plan showing the location of the proposed crossings within the 207-acre property. (Attachment D is a detail of the conceptual plan showing the crossing sites.)

One crossing, marked “Proposed Tributary Crossing Location” (see Attachments C and D), would provide access from the public portion of Sutherland Road, across parcel 98-4C, to the three existing dwellings on the adjacent parcel 98-14 (485 acres). Both parcels are under the same ownership. This crossing would be located approximately 1,600 feet from the property boundary along Sutherland Road. The fill for this crossing would occupy approximately 9,400 square feet. This access would provide an alternative to the existing access to parcel 98-14, which is on a private portion of Sutherland Road that crosses the floodplain over a small pipe culvert. The owners have also stated that the proposed alternative access would allow them to avoid traffic conflicts with an existing winery on the private portion of Sutherland Road.

The second crossing, marked “Proposed Second Crossing Location” on the plan (see Attachments C and D), would provide access to a currently undeveloped portion (approximately 120 acres) of parcel 98-4C that currently has no connection to a public road. (This portion of the property is bounded by Chalk Mountain Road on the top of the ridge, but that road is private and any access from it would cross critical slopes.) This crossing would be located approximately 1,850 feet from the property boundary along Sutherland Road. The fill for this crossing would occupy approximately 16,500 square feet.

COMMUNITY MEETING:

Due to the remote location for the proposed stream crossings and the large parcel size, a community meeting was not viewed as essential for this project review.

ANALYSIS OF THE SPECIAL USE PERMIT REQUEST

Section 33.8 of the Zoning Ordinance states that the Planning Commission and Board of Supervisors shall reasonably consider the following factors when reviewing and acting upon an application for a special use permit:

No substantial detriment. The proposed special use will not be a substantial detriment to adjacent lots.

All special use permits for fill in the floodplain are reviewed to ascertain whether or not flood levels would be increased on adjacent lots. Engineering staff review of this application indicates that any flood-level changes would remain within this property.

Character of district unchanged. The character of the district will not be changed by the proposed special use.

The 25,900 square feet (0.6 acres) of floodplain fill proposed with this special use permit would not significantly change the character of the surrounding RA zoning district. However, if limitations were not imposed on the size of the road access built on that fill, residential development could alter the character of this portion of the district. Therefore staff has recommended conditions limiting the scale of the crossings, so that only limited additional development would be possible.

Harmony. The proposed special use will be in harmony with the purpose and intent of this chapter,

While the use is not directly supportive of any particular aspect of the purposes of the zoning ordinance, its lack of impacts on nearby properties and the required mitigation of stream-buffer impacts mean that it is not contrary any of those purposes.

...with the uses permitted by right in the district

By-right uses in the RA zoning district include agriculture, forestry, and residential development. Floodplain fill, when carried out in a location that does not impact adjacent properties, does not conflict with those by-right uses.

...with the regulations provided in section 5 as applicable,

There are no supplemental regulations in section 5 applicable to this use.

...and with the public health, safety and general welfare.

The principal safety concern with floodplain-fill permits is increased flood levels that might impact adjacent properties. County Engineering staff review of this proposal indicates that any flood-level increases caused by the placement of fill and culverts in the floodplain would occur only on this property, and would not impact adjacent properties.

The Fire/Rescue department has recommended that the crossings be built to support a minimum of 46,000 pounds, to ensure that emergency equipment can safely cross. Recommended condition 4 below would make this a requirement of the special use permit.

Fire/Rescue has also recommended that the crossings have a minimum 10-foot travelway for emergency vehicle access. Section 4.6.6 of the Zoning Ordinance also requires a minimum 10-foot travelway for access. Recommended condition 2 below would make that 10-foot minimum a requirement for the proposed crossings.

(Condition 2 also sets a 12-foot maximum width; the reasons for this are discussed below under “Consistency with the Comprehensive Plan.”

The proposed crossings would be located in the stream buffer established by the Water Protection Ordinance. It is not yet known whether the level of disturbance for each crossing would occasion the need for an erosion and sediment control plan or permit. To ensure that stream-buffer and erosion impacts are addressed, staff has recommended conditions requiring approval of an erosion and sediment control plan, and of a mitigation plan, for disturbance of the stream buffer. The mitigation plan would establish areas to be replanted with approved vegetation to make up for the vegetation removed during construction of the crossings. Typically, the mitigation plantings cover two times the area of buffer disturbance. The details of this specific mitigation plan would be determined after the special use permit approval, but before construction.

Consistency with the Comprehensive Plan. The use will be consistent with the Comprehensive Plan.

Providing access to otherwise-inaccessible land for residential development is contrary to Comprehensive Plan goals for limiting Rural Area development. In order to limit the amount of residential development that could be accessed by the proposed crossings, staff has recommended two conditions of approval:

- Condition 2 would limit the width of the travelway on each crossing to a size (maximum width of 12 feet) that would permit no more than two lots on the side of each crossing beyond the floodplain, based on the requirements of section 14-412 of the Subdivision Ordinance. The goal is to keep the travelway width to less than 14 feet, as a 14-foot road could permit three or more lots under section 14-412(A)(2) of the subdivision ordinance.

The “Proposed Tributary Crossing Location” (see Attachment C) would provide access to the three existing dwellings on the adjacent 485-acre parcel 98-14. Limiting the travelway on this crossing to less than 14 feet would mean that parcel 98-14 could not be divided into more than two lots without an amendment to the special use permit that allowed a wider travelway over the crossing.

- Condition 3 would further restrict the “Proposed Second Crossing Location” on the plan (see Attachment C) to providing access to no more than one dwelling. The portion of parcel 98-4C to be accessed by this proposed crossing is currently undeveloped.

ADJACENCY TO AGRICULTURAL-FORESTAL DISTRICT

This property is not in an Agricultural-Forestal District, but is adjacent to parcel 98-14, which is included in the Chalk Mountain district. Parcel 98-14 is under the same ownership as the parcel where the proposed crossings are located.

Section 3-202(D) of the County Code states that “the county shall consider the existence of a district and the purposes of this chapter and Chapter 43 of Title 15.2 of the Virginia Code in its comprehensive plan, ordinances, land use planning decisions, administrative decisions and procedures affecting parcels of land adjacent to the district.” Traditionally, the Community Development Department has addressed this requirement by presenting land-use proposals on land adjacent to Districts to the Agricultural-Forestal Districts Advisory Committee for their comment. The Committee’s role is to make recommendations or findings on any impacts of a proposed land use on the adjacent District.

At their meeting on July 18, 2016, the Committee voted 5:1, with one abstention, to support approval of this floodplain-fill proposal.

SUMMARY:

Staff has identified the following factors favorable to this proposal:

1. The proposed floodplain fill would not impact adjacent properties.
2. Impacts to the stream buffer would be offset by mitigation plantings.

Staff has identified the following factors unfavorable to this proposal:

1. Additional access to land for residential development is contrary to Comprehensive Plan goals for reducing Rural Area development. Proposed conditions of approval would limit the extent of residential development that could be accessed by the proposed crossings.

RECOMMENDED ACTION:

Based on the findings contained in this staff report, staff recommends approval of SP201600001 Kapp Driveway with the following conditions.

Please note that the exact wording of some of these proposed conditions may change based on input from the County Attorney's Office. Staff will present any changes to the proposed conditions at the public hearing.

1. The stream crossing locations shall be in general accord with the locations shown on sheet 3 of 4 of the plan titled "Kapp Driveway SP," prepared by Shimp Engineering P.C., and dated 5/25/16.
2. The travelway on each stream crossing shall be at least ten feet in width but shall not exceed twelve feet in width.
3. No more than one dwelling shall be accessed via the crossing labelled as "Proposed Second Crossing Location" on sheet 3 of 4 of the plan titled "Kapp Driveway SP," prepared by Shimp Engineering P.C., and dated 5/25/16.
4. Prior to construction of either stream crossing, the applicant shall provide signed and sealed documentation from a licensed engineer establishing that each stream crossing is designed to support a minimum weight of 64,000 pounds for fire-apparatus access.
5. The applicant shall obtain a Program Authority approval for an erosion and sediment control plan, and obtain a land disturbance permit according to the Water Protection Ordinance requirements, prior to the start of construction of either stream crossing, regardless of whether the project exceeds the minimum disturbance limits.
6. The applicant shall obtain a Program Authority approval of a mitigation plan prior to the start of construction of either stream crossing, and provide mitigation according to Water Protection Ordinance requirements.
7. The applicant shall obtain approval from FEMA for changes to the floodplain, and update the FEMA maps. This shall include FEMA's conditional approval prior to the start of construction of either stream crossing.
8. The applicant shall obtain all necessary federal and state agency approvals prior to the start of construction of either stream crossing (including but not limited to the Army Corps of Engineers and the Department of Environmental Quality).

Motions:

- A. Should the Planning Commission choose to recommend approval of this special use permit:

I move to recommend approval of SP 2016-00001 Kapp Driveway with the conditions outlined in the staff report.

- B. Should the Planning Commission choose to recommend denial of this special use permit:

I move to recommend denial of SP 2016-00001 Kapp Driveway. (Planning Commission needs to give a reason for denial)

ATTACHMENTS

Attachment A – [Area Map](#)
Attachment B – [Site Map](#)
Attachment C – [Conceptual Plan](#)
Attachment D – [Detail of Conceptual Plan](#)