COUNTY OF ALBEMARLE

EXECUTIVE SUMMARY

AGENDA TITLE:
SUB2012-00038 Westlake Hills – Zoning Ordinance Waiver
 	
SUBJECT/PROPOSAL/REQUEST:
Approval of the following sections of the Zoning Ordinance:
    1. Section 4.2 Critical Slopes
 	
STAFF CONTACT(S):
Mr. Benish, Ms. Ray, and Mr. Koslow
 	
LEGAL REVIEW: No
	AGENDA DATE: November 7, 2012
	
	ACTION: **INFORMATION:**
	
	CONSENT AGENDA:
	  ACTION: X **INFORMATION:**
	
	ATTACHMENTS: No
	
	REVIEWED BY:

BACKGROUND:
Westlake Hills is located South of Route 240 and the CSX railroad, and west of the Western Ridge subdivision in Crozet. The subdivision proposal is to create 131 lots on three parcels totaling 140.186 acres, at a density of 0.93 dwelling units per acre. The standard level development in R1 zoning is 1 unit per acre, and up to 1.45 units per acre bonus level. No bonus density is requested. The proposal is a by-right R-1 layout using cluster development standards, and thus provides approximately 58 acres (41% of the site) in open space, including areas for expansion of the greenway system. <u>Staff is recommending approval of this waiver request</u>.

DISCUSSION:
The proposed development will require the disturbance of critical slopes. The applicant has submitted a request and justification for the waiver, and this request has been reviewed for both the Engineering and Planning aspects of the critical slopes regulations. Sections 4.2.1 and 4.2.3.b of the Zoning Ordinance restrict building sites and earth-disturbing activity on critical slopes, while Section 4.2.5(a) allows the Planning Commission to waive or modify this restriction. However, due to a recent State Supreme Court decision, the waiver must now be approved by the Board of Supervisors as a Special Exception under Chapter 18 Section 31.8.

The critical slopes in the area of this request appear to be natural. <u>Staff is recommending approval of this waiver request.</u> This recommendation for approval is based on staff's assessment which finds that the critical slopes being disturbed have substantially met the requirements listed in Section 4.2.5(a):

Review of the request by Engineering staff:
Description of critical slope area and proposed disturbance:
This is a proposed single unit subdivision and includes several small (less than 200 syd) critical slope areas. The applicant is proposing to include subdivision roads and utilities to serve 131 development units with proposed slopes up to 3:1.

Areas	Acres	
Total site	140.186 acres approximately	
Critical slopes	12.21	9% of site
Critical slopes disturbed	1.40	11% of critical slopes

Exemptions to critical slopes waivers for driveways, roads and utilities without reasonable alternative locations:
82% of proposed critical slope disturbances are exempt (including all proposed critical slopes disturbances in conflict with area proposed to be Eastern Park in Crozet Master Plan).

Compliance with Zoning Ordinance 18-4.2:
"movement of soil and rock"
    Proper slope construction, control of drainage, and vegetative stabilization should prevent any movement of soil. Much of that will depend on activities of individual builders.

"excessive stormwater runoff"
   Stormwater runoff will be increased in this area, as steeper man-made slopes typically result from leveling associated with building construction.

"siltation"
   Inspection and bonding by the County will help to ensure siltation control during construction. Proper stabilization and maintenance can help long term stability. However, the lots proposed existing or proposed critical slopes make future critical slope disturbances likely if not properly planned.

"loss of aesthetic resource"
   The proposed development is consistent with the Crozet Master Plan.

"septic effluent"
   This neighborhood is serviced by public sewer.

Based on the review above, engineering recommends conditional approval of this critical slope impacts waiver request. Specific challenges to the project as proposed include serving lots with driveways with 16% maximum slope which include existing or proposed critical slopes. An overlot grading plan is recommended for all lots with existing or proposed critical slope disturbances.

Review of the request by Planning staff:
The commission may modify or waive any requirement of section 4.2 in a particular case upon finding that:
   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;*
   B. *Alternatives proposed by the developer or subdivider would satisfy the intent and purposes of section 4.2 to at least an equivalent degree;*
   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*
   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.*

Based on the review above, there are no concerns that would cause staff to object to the approval of the critical slope disturbance request.

31.8 SPECIAL EXCEPTIONS
The board of supervisors reserves unto itself the authority to consider and act upon special exceptions as follows:
a. *Matters requiring a special exception. Notwithstanding any other section of this chapter:*
   1. *Any request for a waiver, modification, variation or substitution permitted by this chapter shall be considered and acted upon by the board.*
   2. *Any requirement for a decision by the planning commission required by this chapter shall be considered and acted upon by the board. For the purposes of this section, a decision by the planning commission does not include the consideration and action by the commission on a preliminary or final site plan under section 32 of this chapter or any action provided in section 32 enabled under Virginia Code § 15.2-2242(1).*
b. *Consideration and action. In acting upon a special exception, the board shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter, provided that the board shall not be required to make specific findings in support of its decision.*
c. *Conditions. In approving a special exception, the board may impose reasonable conditions to address any possible impacts of the special exception.*
d. *Time for action. A request for a special exception shall be acted on by the board within ninety (90) days after the date of the request, or concurrently with a zoning map amendment, special use permit, or site plan appeal, whichever is longer.*
e. *Request. Each request for a special exception shall be made as provided under the applicable section of this chapter.*

RECOMMENDATION:
Staff recommends approval of this critical slope waiver request with the following condition:
   • The applicant must provide an overlot grading plan prior to Final Plat approval.