



County of Spotsylvania
Department of Planning
Staff Report

Rezoning # R18-0002 (RO18-0002)
(Berkeley Voting District)

Board of Supervisors
October 23, 2018

Planning Commission Approval
Recommendation:

Staff Recommendation: Staff recommends approval with the proffer statement dated October 4, 2018.

Project: R18-0002 (RO18-0002) Keswick Proffer Amendment

Owner/Applicant: Keswick Land Development Corporation, Keswick Senior Apartments, LLC and Keswick Apartments I, LLC

Request: The applicants request amendments to the proffers approved with rezoning case R10-0005 Keswick which is a development including single family detached, single family attached, multi-family units, and a park. The requested amendments would eliminate the Keswick Architectural Guidelines, change the timing of completion of the park and the number and type of recreational fields to be provided within the park.

Tax Map Parcel(s): 47-25-1, 47-25-2, 47-25-3, 47-25-4, 47-25-5, 47-25-6, 47-25-7, and 47-25-8

Location: The Keswick development is located on the east side of Lake Anna Parkway (Route 208) approximately one-half mile south of the Lake Anna Parkway/Courthouse Bypass (Route 208) and Brock Road (Route 613) intersection. The property also has frontage on the south side of Old Robert E. Lee Drive, which is the location of the Keswick development's access.

Zoning Overlay: None

Future Land Use: Mixed Use

Historic Resources: None identified

Figure 1: Zoning Map



Figure 2: Aerial Map (2017)



I. The Site

The applicant is requesting to amend the proffers approved in 2011 for the Keswick rezoning, case R10-0005. The Keswick development rezoned approximately 158 acres from Agriculture 2 (A-2) to Planned Development Housing District 5 (PDH-5) allowing 240 multi-family units, 90 single family attached units, 84 age-restricted attached units, 150 single family detached units, 100 age-restricted multi-family units, an assisted living facility with 100 residents, as well as a 36 acre public park. The property is located on the east side of Lake Anna Parkway approximately one-half mile south of the Lake Anna Parkway/Courthouse Bypass and Brock Road intersection. The property also has frontage on the south side of Old Robert E. Lee Drive, which is the location of the Keswick development's access. The site is currently under construction including infrastructure, a senior apartment development, and a non-age-restricted apartment development.

II. Project Proposal

The original proffers include a commitment to develop and construct the Keswick development in conformance with the proffered Keswick Architectural Guidelines. The Keswick Architectural Guidelines state the style of architecture will reflect the style of historic Virginia communities and defined what design elements would accomplish this from architectural elements, building materials, to porch styles, garage orientations, fencing and landscaping. The purpose of the architectural guidelines is identified within the document itself, which states, *"The Architectural Guidelines serve as a tool to ensure that the initial vision for Keswick is preserved."*

The Keswick rezoning was approved with a GDP, proffers and the proffered Keswick Architectural Guidelines which provided the County a very clear vision of how Keswick would develop and how it would look. The approved proffers further condition that any changes to the Architectural Guidelines must be approved by the County. The applicant's request is to amend the proffers and eliminate the proffered Keswick Architectural Guidelines. The applicant's request is triggered by immediate revisions needed to the architectural guidelines in order to market the development and to eliminate the necessity of requesting a proffer amendment to receive County approval with each revision going forward.

- **Proffer Statement Summary** – While the applicant's proposed change to the proffer document was initially isolated to the language related to the architectural guidelines, as with any proffer amendment, the entire proffer document must be reviewed by staff and County Attorney's office in order to ensure the proffers are legal, enforceable and can be approved as to form. In response to staff and County Attorney comments, the applicant has made additional changes to the document in order to provide a proffer document which is approved as to form. Changes to the proffer document include typos and clarifications which are identified on the redline proffer statement included in the back up material; however the more substantive changes are identified and summarized below.

1. Ownership/Dates/Tax Map and Plan Reference – The first and second page of the proffer document is updated to reflect new ownership, new tax map numbers as the

property has been subdivided and portions sold since approval of the rezoning. The additional owners include the developer entities for the senior and non-age-restricted apartment developments.

2. Proffer I.B. Land Uses – The maximum number of units section is updated to clarify the type of housing unit referenced for each land bay. The revision does not increase or change anything related to the number of units originally approved, it simply provides more clarity and specifically identifies the unit type as either single family attached or single family detached.

3. Park Facilities – The approved proffers stated the public park would include three soccer fields and goals, and that Phase I would be completed before the issuance of the 260th building permit and Phase II would be completed before the issuance of the 400th building permit. Under the approved proffers, Phase I includes an entrance to the park, a paved parking lot, public bathrooms, a maintenance building and one soccer field. The proposed revision replaces the soccer field with two little league baseball diamonds which was identified as the greater need by the Parks and Recreation Department. Additionally, the proposed revision states Phase I is to be completed prior to the issuance of the 330th residential occupancy permit which extends the completion timeline for Phase I. The proposed revision also states Phase II is to be completed prior to the issuance of the 433rd residential occupancy permit, which is beyond the full build out of the development as only a total of 334 occupancy permits will be issued for Keswick (building and occupancy permits are issued per building for apartment buildings, not per unit). The approved timeline for Phase I completion was intended to deliver this portion of the park earlier in the Keswick development's build out. The proposed amendment to deliver Phase I prior to the issuance of the 330th residential occupancy permit will not require a completed Phase I until complete build out of the Keswick development. The applicant is also requesting an amendment the proffer language related to the timing of completion of a multi-purpose trail along the south side of Robert E. Lee Drive which currently requires completion prior to the issuance of the 320th building permit. The amendment requires completion of the trail prior to the issuance of the 320th occupancy permit and staff has no concerns with the proposed revision.

4. Irrigation System Details – The approved proffers state that the irrigation facilities for the park would be provided by the storm water management ponds; however, this is no longer permitted by County Code. Therefore, in order for the document to be approved as to form this section is deleted. The park irrigation facilities will be served by public water and the applicant will install the main water line which will allow for the connection by the County.

5. Section V Keswick Community Design Guide – The current proffer language commits the development in conformance with the Keswick Architectural Guidelines and further conditions that any amendments to the Architectural Guidelines must be approved by the County. The applicant's proposed revision is to completely eliminate this section from the proffer document. The result is that there will be no County

required architectural guidelines for the Keswick development. The development's restrictive covenants include the same architectural guidelines which can be amended by the development in conformance with the restrictive covenants; however the County does not enforce restrictive covenants.

III. Staff Analysis

All proposed revisions which are typographical corrections and clarifications and the park facilities revision which address the current needs of the County are supported by staff. However, staff has concerns related to the elimination of the proffered commitment to the Keswick Architectural Guidelines and the revision related to the timing of delivery of Phase I of the park. The Keswick rezoning was presented to the public and the County and approved with a defined commitment to how the development would look once constructed. The deletion of the proffer as proposed eliminates the requirement for the design of the community to be constructed as originally approved. While the Keswick development has restrictive covenants, which currently include the establishment of an Architectural Review Board and the Architectural Guidelines, should the proffer be eliminated, there is nothing to prohibit the Keswick developer from changing the guidelines or eliminating them completely. The applicant has identified immediate changes needed to the Keswick Architectural Guidelines and staff has no concerns with those items. Staff understands the need to adjust with market conditions and that perhaps there are tweaks needed to the design guidelines in order for the Keswick development to stay current with market demands and new products/materials. With that in mind, staff recommends the applicant revise the guidelines now as part of the proffer amendment and keep the commitment to the guidelines in place.

The proposed amendment to the delivery of Phase I prior to the issuance of the 330th residential occupancy permit equates to the ultimate build out of the Keswick development which at best will be approximately 5 - 8 years. Under the current proffered timeline, delivery of Phase I would be required prior to issuance of the 260th building permit and Phase II would be required prior to the issuance of the 400th building permit. Currently a portion of the multi-family buildings are under construction with each building requiring one building permit. Currently plans indicate that the multi-family component and the clubhouse for the Keswick development will require a total of 11 separate building permits. Therefore, under the approved proffered timeline delivery of Phase I would be triggered early in the development of Keswick but delivery of Phase II will never hit the trigger because there will not be 400 building permits (or occupancy permits) issued for the Keswick development. A site plan for the park has been submitted and currently under review with the County. While the County is currently not meeting all level of service standards for Parks and Recreation facilities in the County, the facilities provided in Phase I do not include any of the deficiencies; therefore there is not an identified immediate need for delivery. If the County is inclined to provide an extended timeline for delivery of Phase I, staff would recommend delivery no later than 50% of completion of the buildings within the development which would be approximately at the 168th residential occupancy permit.

IV. Findings

In Favor:

- The proposed revisions to the park facilities address the current needs of the County as identified by the Parks and Recreation Department.
- The amended proffer statement provides greater clarity and specificity.

Against:

- Deletion of the proffered Keswick Architectural Guidelines eliminates the requirement to construct the Keswick community as presented and as approved with the original rezoning.
- The proposed extended timeline for delivery of Phase I of the park will delay completion until complete build out of the Keswick development.

V. Conclusions & Recommendations

While staff acknowledges the need for flexibility with respect to architectural guidelines in order to stay current and adjust with market conditions, staff is not supportive of eliminating the commitment to the Keswick Architectural Guidelines. The Keswick rezoning was approved by the County with a commitment by the developer that the community would be constructed as presented in the Keswick Architectural Guidelines. Deletion of the proffer eliminates certainty as to the architectural design, appearance and quality of Keswick upon development or that the Keswick Architectural Guidelines will be maintained by the developer. With respect to the amended completion timeline for Phase I of the park, staff is supportive of an amended timeline but with an earlier delivery than full build out of the development as proposed. Staff recommends denial of the proffer amendment as proposed but recommends approval with the following two points 1) a revision to the Keswick Architectural Guidelines to include the changes identified by the applicant but maintaining the commitment to the guidelines. 2) an alternative completion timeline for Phase I of the park to be prior to the issuance of the 168th residential occupancy permit.

Planning Commission Update:

The Planning Commission held a public hearing on September 5, 2018 and one citizen spoke in opposition to the elimination of the architectural guidelines. On a motion by Ms. Maddox, seconded by Mr. Bullock, the Planning Commission voted 6-1 to recommend approval of the proffer amendment as proposed. Following the Planning Commission meeting, the applicants submitted revised proffers dated September 10, 2018 addressing staff's concerns related to the delayed delivery of Phase I and Phase II of the park. The revised language states, Phase I and Phase II of the park shall be provided prior to the issuance of the 260th residential occupancy permit, which provides a complete park at approximately 77% build out. Staff is supportive of

the revised language related to the completion of the park and all other proposed amendments to the proffers except for the elimination of the Keswick Architectural Guidelines. Staff continues to recommend the applicants maintain the commitment to develop Keswick in conformance with the Architectural Guidelines and amend the guideline document with this proffer amendment in order to update the with meet market demands.

Board of Supervisors September 25, 2018 Meeting Update:

The Board of Supervisors held a public hearing on the proffer amendment for Keswick on September 25, 2018 and continued the vote until October 9th. The applicant requested a continuance of the vote until the October 23rd meeting in order to make additional amendments to the proffer statement in response to the concerns raised about removal of the architectural guidelines. The applicant has provided a new proffer statement dated October 4, 2018 which includes revised architectural guideline language which commit to maintaining architectural guidelines for the Keswick development including specific standards. With the revisions, staff recommends approval of the proffer amendment request.