

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



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| Agenda Date: | July 20, 2020 |
| Action Required: | Resolution Approval |
| Presenter: | Carrie Rainey, City Planner, Neighborhood Development Services |
| Staff Contacts: | Carrie Rainey, City Planner, Neighborhood Development Services Jerry Allen, Assistant Traffic Engineer, Public Works Jack Dawson, City Engineer, Public Works Amanda Poncy, Bicycle and Pedestrian Coordinator, Public Works |
| Title: | Sidewalk Waiver Request, Vicinity of 1200 Landonia Circle |

Background:

Previously, it was the practice for the Planning Commission to approve sidewalk waiver requests, as referenced within Section 29-182(j) of the subdivision ordinance; however, in 2013 the Virginia Supreme Court decided that only City Council may grant this type of waiver. This is one of many updates that are necessary to the City's various development ordinances. The current practice for sidewalk waiver requests presented by developers pursuant to Section 29-182 is for the approval of the requested waivers to be presented to City Council for review and decision.

Mike Myers of 30 Scale, LLC, on behalf of Landonia, LLC, requests a waiver from the requirement of Section 29-182(j)(2) of the City Code for construction of sidewalks to approved City standards on both sides of every new street. Landonia, LLC has submitted a final site plan for the construction of four (4) single family attached homes and the extension of a public street (Landonia Circle) and related public facilities.

Discussion:

Per Section 29-182(j)(5), the authority granting the waiver shall consider the factors set forth within Section 29-36, which state that due to *the unusual size, topography, shape of the property, location of the property or other unusual conditions (excluding the proprietary interests of the subdivider) the requirement that is proposed to be varied or excepted would result in substantial injustice or hardship and would not forward the purposes of this chapter or serve the public interest.* Per Section 29-182(j)(5), the authority shall also consider:

- (i) whether a surface other than concrete is more appropriate for the subdivision because of the character of the proposed subdivision and the surrounding neighborhood;
- (ii) whether sidewalks on only one (1) side of the street may be appropriate due to environmental constraints such as streams, stream buffers, critical slopes, floodplain, tree cover, or wetlands, or because lots are provided on only one (1) side of the street;
- (iii) whether the sidewalks reasonably can connect into an existing or future pedestrian system in the area;
- (iv) whether the length of the street is so short and the density of the development is so low that it is unlikely that the sidewalk would be used to an extent that it would provide a public benefit;
- (v) whether an alternate pedestrian system including an alternative pavement could provide more appropriate access throughout the subdivision and to adjoining lands, based on a proposed alternative profile submitted by the subdivider;
- (vi) whether the sidewalks would be publicly or privately maintained;
- (vii) whether the waiver promotes the goals of the comprehensive plan, including the applicable neighborhood plan; and (viii) whether waiving the requirement would enable a different principle of the neighborhood plan to be more fully achieved.

The applicant's analysis of these factors is included in the Application Materials, Attachment B.

Staff Analysis

The Engineering Department has provided the following analysis.

City engineering staff examined the subject lots and found no topographic challenges that would lead to any undue cost to the applicant. No undue maintenance burden on future cost to the City was found. Engineering staff did find a minor impact to two proposed tree plantings on the south side of the street. (There is no impact to tree planting on the north side of the street; there are no trees proposed to be planted in the right-of-way in that location.)

The Bicycle and Pedestrian Coordinator has provided the following analysis.

The 250 Bypass between Locust and Free Bridge is considered a Bicycle Arterial in the 2015 Bicycle and Pedestrian Master Plan. Given the high volume of traffic, number of commercial properties and corresponding driveway entrances on 250 there is a need to study parallel routes that could provide an alternate connection. Landonia Circle and the connection to Otter Street is the logical parallel route. While there may not be an immediate public benefit, this roadway could over the longer term serve bicycles and pedestrians wishing to travel between residential neighborhoods surrounding Locust Avenue and the commercial areas near Pantops.

In addition, staff has recently received an inquiry from the owner of the All-American Car Wash to rezone the property at 1315 Long Street, which would include a sidewalk along Landonia Circle from the Long St. to Coleman St. Should this project move forward, the two projects could make progress toward a connected pedestrian route in the nearer term.

The Assistant Traffic Engineer has provided the following analysis. The applicant's argument is *italicized* and the analysis is in standard font.

1. *Z.O. 29-36, due to the unusual location and topography of the property, the sidewalk requirement would result in a substantial hardship and would not serve the public interest at this time.*

The installation of a sidewalk at this location will not result in “substantial hardship” and it would serve the public. Pedestrians should not be made to use the roadway as a means of travel. The city is already allowing the developer to make Landonia Circle a through road by connecting to Long St, instead of designing what would otherwise have been a street with an appropriate turn-around for emergency vehicles. This improves pedestrian accessibility in the area if the applicant is required to comply with the Code requirement for sidewalk installation in connection with its proposed development. The only hardship that would be incurred, is the funding for the sidewalk, which is required [2008 SADM, Section 205, par B (1 & 2)] and (2019 SADM, Section 4.10) and developers are aware that these costs must be addressed for street improvements related to developments.

2. *Landonia Circle is characterized by up to a 14 percent road grade, which exceeds the current maximum of 10 percent.*

Sidewalks should generally conform to the vertical alignment of the adjacent roadway [2008 SADM, Section 209, par A (1)]. The 2019 SADM, Section 4.10.3 references the PROWAG. “...the running grade of the pedestrian access route may be as steep as the running grade of the roadway.” (PROWAG, X02.1.5.1). The area in which the developer is requesting a sidewalk waiver does not exceed 5 percent slope. The only location that does exceed the 5 percent slope, and up to 14 percent slope, is a future connection from Long St to the project site. Existing topography relative to a future connection to a sidewalk should not be considered as part of this application.

3. *The provision of a sidewalk across from 1200 Landonia Circle, in addition to not serving any public interest, will serve as both a nuisance and a hardship on an elderly City resident.*

The requirement to construct sidewalks on both sides of a new road is to provide accessibility to pedestrians, namely elderly and disabled. The installation of a sidewalk at this location will serve the public, especially when a connection is made to it from Long St. We can all agree that construction is oftentimes a necessary “nuisance” that we put up with for the betterment of our community. While the sidewalk construction may temporarily seem a nuisance, its construction will serve the community for many years to come. The hardship that the elderly City resident may experience is not specified within the waiver request. The developer spoke to the daughter of the elderly resident and stated that her father would “likely be impacted” by the construction of a sidewalk. People in neighborhoods are typically “impacted” by construction within the area. Longer term, residents would be impacted more, as would the local businesses, if the sidewalk waiver is approved.

4. *Analysis of item (iv) listed under 29-182 (j)(5), which states: (iv) whether the length of the street is so short and the density of the development so low that it is unlikely that the sidewalk would be used to an extent that it would provide a public benefit. Landonia Circle is approximately 1000 feet long and there are 9 residents that have driveways on*

the maintained portion of Landonia Circle. There is no existing sidewalk on this portion of Landonia Circle. The provision of an adjacent sidewalk at the site would not serve a public benefit since there are no existing sidewalk connections within 250 feet to the south and 525 feet to the north.

Landonia Circle is the distance of over two city blocks (City Code, Section 15-202). The benefit of installing a sidewalk on both sides of the project frontage with connection to Long Street and the existing neighborhood sidewalks, would be greater safety for pedestrian's accessibility to businesses, religious services, recreation facilities, and neighboring homes. Sidewalk would also alleviate the need for residents to walk in the roadway to access the above-mentioned areas. Furthermore, there are 219 residences or businesses within a 1000 foot radius of the project site.

As previously noted, per Section 29-182(j)(5), the authority granting the waiver shall consider the factors set forth within Section 29-36, which state that due to *the unusual size, topography, shape of the property, location of the property or other unusual conditions (excluding the proprietary interests of the subdivider) the requirement that is proposed to be varied or excepted would result in substantial injustice or hardship and would not forward the purposes of this chapter or serve the public interest.* The Engineering and Traffic Departments have confirmed that no hardships due to the physical site exist.

Per Section 29-182(j)(5), the authority shall also consider:

(i) Whether a surface other than concrete is more appropriate for the subdivision because of the character of the proposed subdivision and the surrounding neighborhood:

No alternative material is proposed.

(ii) Whether sidewalks on only one (1) side of the street may be appropriate due to environmental constraints such as streams, stream buffers, critical slopes, floodplain, tree cover, or wetlands, or because lots are provided on only one (1) side of the street:

There are no environmental constraints preventing the installation of sidewalk on both sides of the street. The applicant is constructing houses on only one side of the street, but the lots on the opposite side are already developed.

(iii) Whether the sidewalks reasonably can connect into an existing or future pedestrian system in the area:

The Bicycle and Pedestrian Coordinator has noted above the need to investigate parallel routes to Long Street (250 Bypass) for pedestrians. Landonia Circle may serve as a parallel route and connect northern residential areas to the commercial areas on Long Street (250 Bypass).

(iv) Whether the length of the street is so short and the density of the development is so low that it is unlikely that the sidewalk would be used to an extent that it would provide

a public benefit:

While the section of Landonia Circle required to be improved and accepted as public right-of-way through this development project is approximately 120 feet, the entire Landonia Circle public right-of-way has some level of physical improvement and connects the Locust Grove neighborhood with Long Street (250 Bypass).

(v) Whether an alternate pedestrian system including an alternative pavement could provide more appropriate access throughout the subdivision and to adjoining lands, based on a proposed alternative profile submitted by the subdivider:

No alternative profile is proposed.

(vi) Whether the sidewalks would be publicly or privately maintained:

Section 29-182(j)(2) states sidewalks shall be constructed to approved city standards on both sides of every new street, and the dedicated right-of-way for a public street shall be sufficient to permit installation of the sidewalk within the right-of-way on both sides of such street. Therefore, sidewalks would be constructed in the public right-of-way and, after approved and accepted by the City, the sidewalk improvements would be maintained by the City.

(vii) Whether the waiver promotes the goals of the comprehensive plan, including the applicable neighborhood plan; and (viii) whether waiving the requirement would enable a different principle of the neighborhood plan to be more fully achieved:

The 2013 Comprehensive Plan Transportation Goal 1.3 states: *Provide design features on roadways, such as street trees within buffers, street furniture and sidewalk widths that improve the safety and comfort level of all users and contribute to the City's environmental goals.*

The 2013 Comprehensive Plan Transportation Goal 1.5 states: *Continue to include bicycle and pedestrian accommodations in conjunction with the planning and design of all major road projects, all new development and road paving projects.*

The 2013 Comprehensive Transportation Goal 2.1 states: *Provide convenient and safe bicycle and pedestrian connections between new and existing residential developments, employment areas and other activity centers to promote the option of walking and biking.*

The 2015 Bicycle and Pedestrian Master Plan identifies Landonia Circle as a lower demand corridor for bicycle and pedestrian facilities in the Demand Analysis map.

Alignment with Council Strategic Plan:

Sidewalk construction contributes to Goal 3 of the Strategic Plan, A Beautiful and Sustainable

Natural and Built Environment, and objective 3.2, to provide reliable and high quality infrastructure, and objective 3.3, to provide a variety of transportation and mobility options.

Community Engagement:

Property owners within 500-feet of the subject properties were notified of the public site plan conference held on May 15, 2019 for the associated final site plan. Five (5) members of the public attended the meeting. Discussions focused on the deteriorated pavement and potential improvement within the unaccepted Landonia Circle public right-of-way, traffic impacts, and the proposed architectural style of the houses.

Budgetary Impact:

If City Council grants a sidewalk waiver to an applicant in connection with the proposed development of a new subdivision/ city street, then if the City later wishes to establish a sidewalk adjacent to the developed street, the City will be required to pay for and complete that construction in accordance with its approved CIP. If City Council does not grant this waiver, and a new sidewalk is established on both sides of the new city street, then the City's long-term maintenance costs will be slightly higher than if no sidewalk is constructed.

Recommendation:

The Engineering and Traffic Engineering Departments have confirmed there are no hardships per Section 29-36 preventing the installation of new sidewalks. The Traffic Engineering Department has provided analysis that supports installation of the sidewalks.

Alternatives:

City Council has several alternatives:

- (1) by motion, take action to deny the sidewalk waiver;
- (2) by motion, take action to approve the attached Resolution granting the requested sidewalk waiver;
- (3) by motion, defer action on the sidewalk waiver.

Attachments:

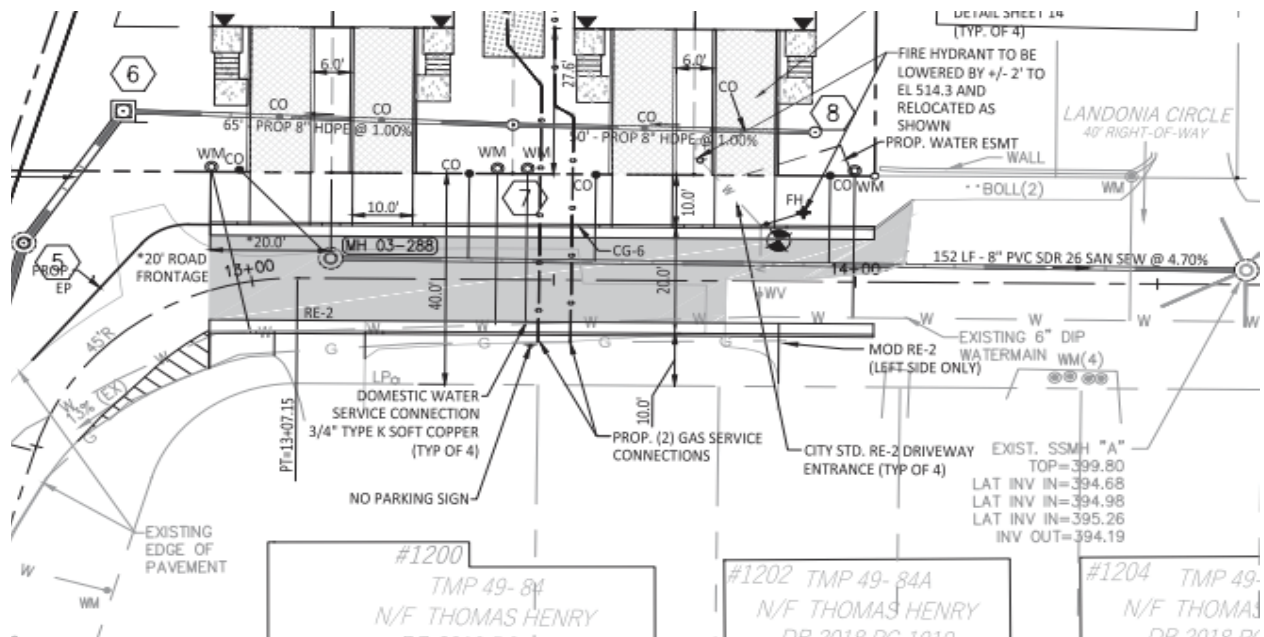
- A. Provided Resolution
- B. The full package of Application Materials, received February 11, 2020
- C. Sheet 4 of the proposed Final Site Plan, dated February 10, 2020

RESOLUTION
Sidewalk Waiver Request at 1200 Landonia Circle

WHEREAS, Landonia, LLC (“Applicant/Developer”), through its agent 30 Scale, LLC (Mike Myers) has submitted an application seeking a waiver of the requirement of City Code Section 29-182(j)(2) for construction of sidewalks to approved City standards on both sides of every new street. This application is submitted in connection with the Applicant/ Developer’s proposed development of a vacant lot identified within the City’s Real Estate tax records (2020) as Parcel Identification No. 490073000, which fronts on the north edge of the public right-of-way for Landonia Circle. The proposed development is located across from property described as 1200 and 1202 Landonia Circle, as shown in the diagram set forth below within this Resolution; and

WHEREAS, City staff has submitted to City Council a staff report providing information and staff’s recommendations regarding the sidewalk waiver request, and City Council has reviewed the application and the staff report and has considered the factors set forth within the City’s Subdivision Ordinance, Sections 29-36 and 29-182(j)(5);

NOW THEREFORE BE IT RESOLVED by the Council for the City of Charlottesville, Virginia that the sidewalk waiver request presented to this Council by the Applicant/Developer is hereby approved along the frontage of the City lot currently identified as Real Estate Parcel Identification Number 490073000, on both sides of Landonia Circle, for the general or approximate length depicted below.





WAIVER REQUEST FORM

RECEIVED

Please Return To: City of Charlottesville
Department of Neighborhood Development Services
PO Box 911, City Hall
Charlottesville, Virginia 22902
Telephone (434) 970-3182

FEB 11 2020

NEIGHBORHOOD DEVELOPMENT SERVICES
Fax (434) 970-3359

For a Critical Slopes Waiver Request, please include one of the following application fees: \$75 for single-family or two-family projects; \$500 for all other project types. **additional application form required*
For all other Waiver Requests, please include one of the following application fees: \$50 for single-family or two-family projects; \$250 for all other project types.

| | | | |
|--------------------------|--|----------------|--------------------|
| Project Name/Description | <u>LANDONIA CIRCLE - LOTS 1-4</u> | Parcel Number | <u>TMP 49-73</u> |
| Address/Location | <u>LANDONIA CIRCLE 250 FEET NORTH OF INTERSECTION WITH ROUTE 250</u> | | |
| Owner Name | <u>LANDONIA LLC</u> | Applicant Name | <u>RICH CARTER</u> |

Applicant Address: 315 WINDING RIVER LANE, SUITE 201, CHARLOTTESVILLE, VA 22911
Phone (H) _____ (W) 434-973-8088 (F) _____
Email: rich@southlandhomesinc.com

Waiver Requested (review Zoning Ordinance for items required with waiver submissions):

- | | |
|---|--|
| <input checked="" type="checkbox"/> Sidewalk | _____ Drainage/Storm Water Management |
| <input type="checkbox"/> *Contact Staff for Supplemental Requirements | _____ Off-street Parking |
| _____ Site Plan Review | _____ Lighting |
| _____ Landscape | _____ Signs |
| _____ Setbacks | _____ Critical Slopes <i>*additional application form required</i> |
| _____ Communication Facilities | _____ Other |
| _____ Stream Buffer Mitigation Plan | |

Description of Waiver Requested: Requesting waiver of construction of sidewalk on both sides of Landonia Circle

Reason for Waiver Request: see attached letter of justification

Applicant Signature 

Date 2/11/20

Property Owner Signature (if not applicant) _____

Date _____

For Office Use Only:

Date Received: _____

Review Required: Administrative _____ Planning Commission _____ City Council _____

Approved: _____ Denied: _____
Director of NDS

Comments: _____

30 Scale, LLC
871 Justin Drive, Palmyra, VA 22963
Ph. 434.242.2866
mike@30scale.com



February 10, 2020

Carrie Rainey, RLA
Neighborhood Planner
City of Charlottesville
Neighborhood Development Services
City Hall
Charlottesville, VA 22902

**RE: Landonia Circle – Lots 1-4 – Sidewalk Waiver Request
TMP 49-73
City of Charlottesville, Virginia**

Dear Carrie,

This letter and accompanying fee shall serve to request a waiver to construct sidewalks on both sides of the street for the referenced development. In accordance with Z.O. 29-36, due to the unusual location and topography of the property, the sidewalk requirement would result in a substantial hardship and would not serve the public interest at this time. Also, in analyzing the request, we will also present discussion of item (iv) listed under 29-182(j)5, specifically related to a new sidewalk not serving a public benefit.

By way of background information, the developer is proposing to construct four single-family attached homes on 0.37 acres of land. The property is located on the north side of Landonia Circle, a 40'-wide City right-of-way that was platted as "Riverdale Addition – Section One" in 1947. Landonia Circle is approximately 1,000 feet long and connects with Route 250 in 2 locations. The City only maintains an approximate 215 portion of Landonia Circle located east of the subject property and terminating at the intersection with Coleman Street as shown on Figure 1.

Currently, there is no sidewalk on Landonia Circle. The closest existing sidewalk is located approximately 250 feet to the south on Route 250. Also, Landonia Circle is characterized by up to a 14% road grade, which exceeds the current maximum of 10% (See Figure 1). The provision of a sidewalk along the site frontage does not serve the public interest due to its isolation from any other existing sidewalk and road grades of up to 14% are generally not considered as safe pedestrian routes, especially in icy conditions.

During the post-submission conference for this project held on May 15th, we discovered from the daughter of the owner of 1200 Landonia Circle (directly across the street), that her father is elderly and would likely be impacted poorly by any construction near his property. She requested that our team take great care in our construction program so as not to negatively impact her father, who resides in the house at 1200 Landonia Circle full-time. The provision of a sidewalk across 1200 Landonia, in addition to not serving any public interest, will serve as both a nuisance and a hardship on an elderly City resident.

As part of our request to waive the sidewalk construction on both sides of the street, we offer analysis of item (iv) listed under 29-182(j)(5), which states:

- (iv) whether the length of the street is so short and the density of the development so low that it is unlikely that the sidewalk would be used to an extent that it would provide a public benefit.

Landonia Circle is approximately 1,000 feet long, but the current length that is maintained by the City is 215 feet and extends from the east side of the property to the intersection with Coleman Street as shown on the map provided herein. There are 9 residences that have driveways on the maintained portion of Landonia Circle. There is no existing sidewalk on this portion of Landonia. The provision of a sidewalk adjacent to the



site would not serve a public benefit since there are no existing sidewalk connections within 250 feet to the south and 525 feet to the north. Refer to Figure 1 below.

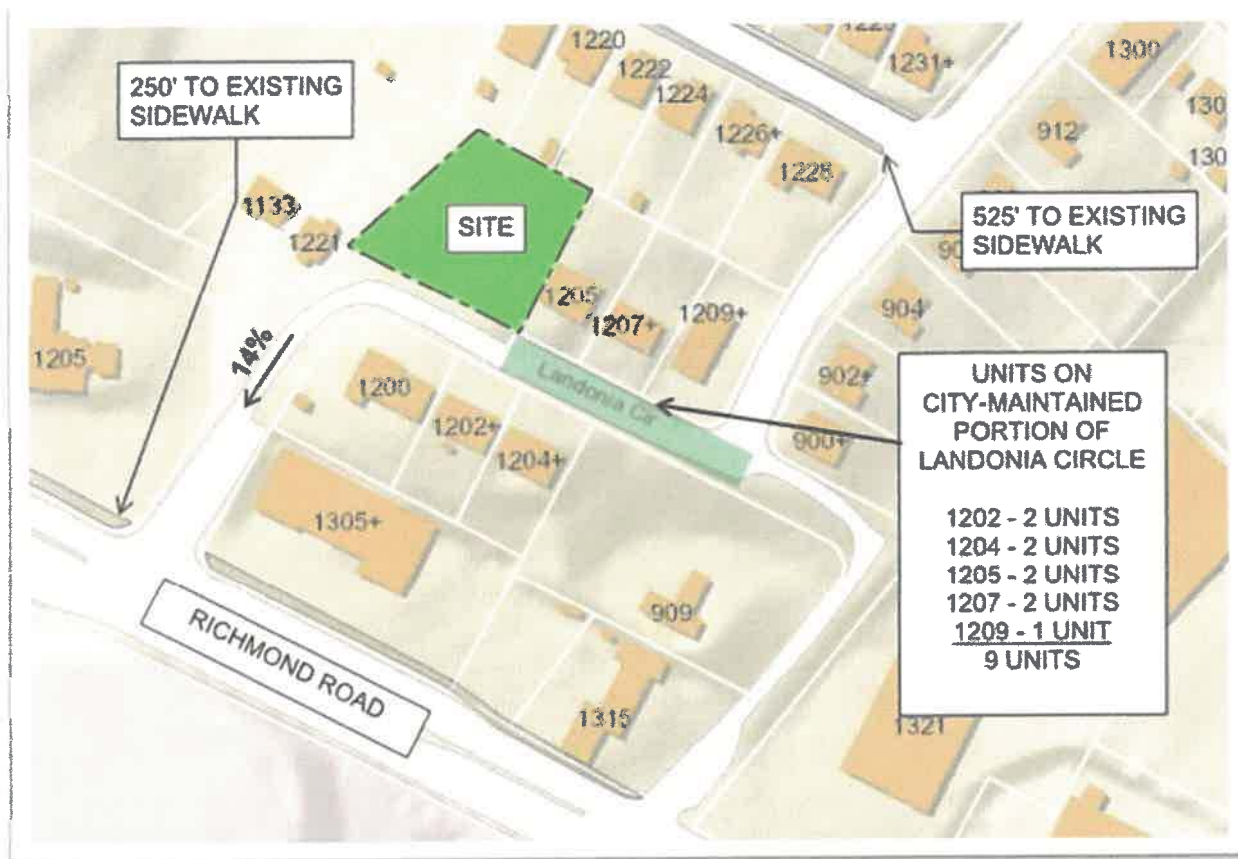


Figure 1 - Map of Existing Conditions

In summary, due to the location of the site in and around steep terrain and the concern raised by the family of the adjacent neighbor at 1200 Landonia Circle, we would respectfully request a waiver of the construction of sidewalk on both sides of the street. Furthermore, since there are such a small number of residences (9) on this short section of street, construction of the sidewalk in this location does not serve the public interest and we believe the added work adjacent to the neighboring property would present a substantial hardship on a City resident.

We thank you for taking the time to review this request. Please feel free to call me any time if you have any questions or would like additional information.

Sincerely,

Michael Myers, P.E., CFM

Cc: Mr. Rich Carter
attachments



OWNER:
LANDONIA LLC
3134 BEAUMONT FARM ROAD
CHARLOTTEVILLE, VA 22911

ENGINEER:
30 SCALE, LLC
871 JUSTIN DRIVE
PALMYRA, VA 22963
P: 434.242.2866
E: mke@30scale.com
WEB: www.30scale.com

FINAL SITE PLAN
LANDONIA CIRCLE - LOTS 1-4
TMP 49-73
CITY OF CHARLOTTEVILLE, VIRGINIA



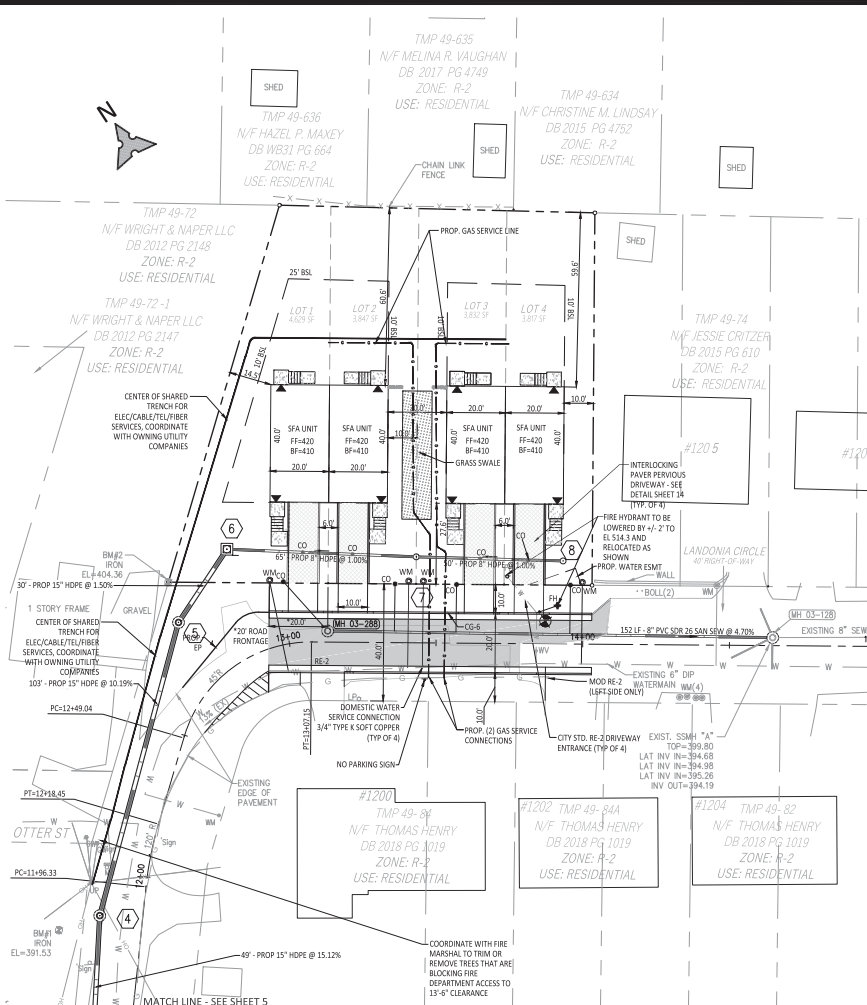
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SITE PLAN

sheet #

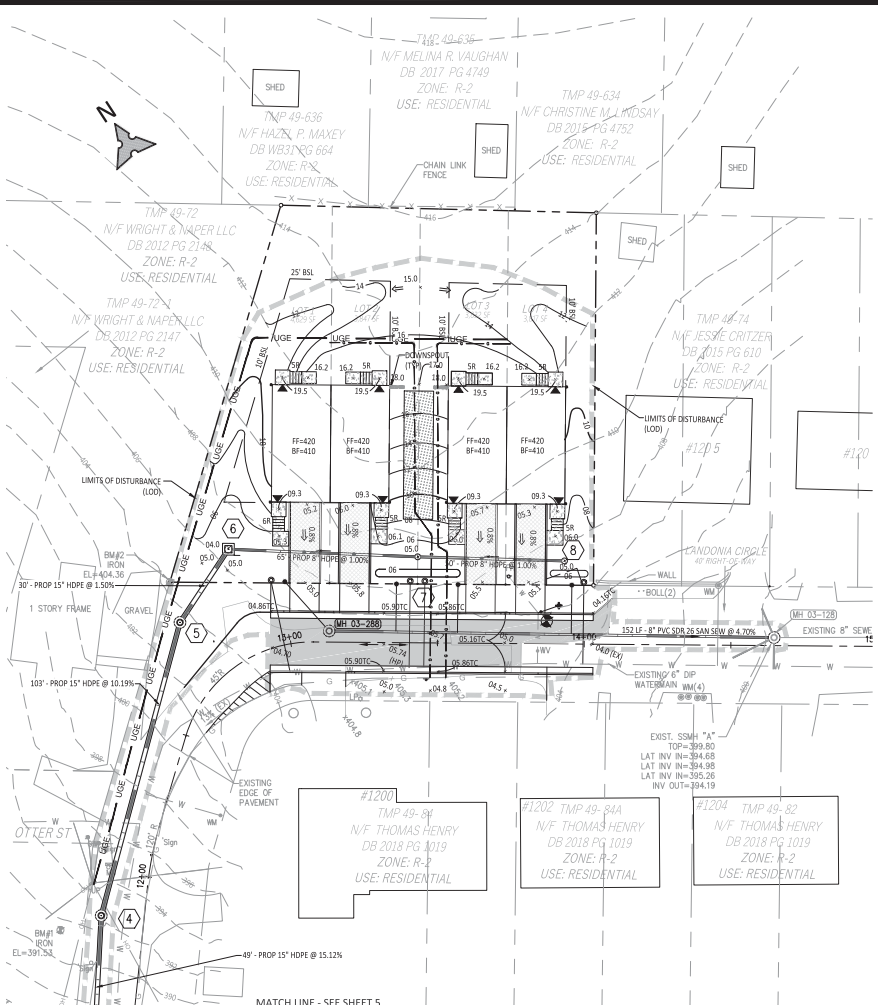
4 OF 17

scale:
1"=20'

date:
4/24/19



LAYOUT AND UTILITY PLAN



GRADING PLAN

WATER AND SEWER SITE PLAN NOTES

1. IF REQUIRED, ALL WATER LINE SHUT DOWNS MUST BE COORDINATED WITH AND PERFORMED BY THE CITY, AND THE DEVELOPER MUST HAND OUT NOTICES TO AFFECTED CUSTOMERS AT LEAST 48 HOURS IN ADVANCE.
2. ANY SEWER CLEAOUTS THAT ARE INSTALLED IN OR WITHIN ONE FOOT OF A DRIVEWAY SHALL BE PROVIDED TRAFFIC-BEARING CLEAN-OUT COVERS.
3. ANTICIPATED AVERAGE DAILY SEWER FLOW = 1080 GPD (270 GPD/UNIT) AT ULTIMATE BUILD-OUT OF 4 UNITS AND THEREFORE A FLOW ACCEPTANCE LETTER IS NOT REQUIRED SINCE < 40,000 GPD.

| REVISIONS | | |
|-----------|---------------|-----------|
| # | DESCRIPTION | DATE |
| 1 | CITY COMMENTS | 9/27/2019 |
| 2 | CITY COMMENTS | 2/7/2020 |



DATE PLOTTED: 02/10/2020 10:00:00 AM