

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	May 3, 2021
Action Required:	Consideration of an application for a Critical Slope Waiver
Presenter:	Carrie Rainey, Senior Planner, Neighborhood Development Services
Staff Contacts:	Carrie Rainey, Senior Planner, Neighborhood Development Services
Title:	<b>P21-0013 – 915 6<sup>th</sup> Street SE, request for a Critical Slope Waiver</b>

**Background:**

Justin Shimp of Shimp Engineering, acting as agent for Barry Schmidt of Rayonix, LLC, owners of Tax Map 27 Parcel 36 (“Subject Property”) has requested a Critical Slope Waiver for the Subject Property to permit construction of a development with 21 multi-family residential units in a three (3) story building and associated improvements. The Subject Property is currently zoned Downtown Extended Corridor (DE) Mixed Use Corridor District.

Existing critical slope areas located on this Property include 0.25 acres or 32.5% percent of the project site. The applicable definition of “critical slope” is as follows:

Any slope whose grade is 25% or greater, and (a) a portion of the slope has a horizontal run of greater than 20 feet, and its total area is 6,000 SF or greater, and (b) a portion of the slope is within 200 feet of a waterway. See Section 34-1120(b)(2).

**Discussion:**

The Planning Commission considered this application at their meeting on April 13, 2021. The discussion centered on:

- The differences in this application and the previous Critical Slope Waiver application denied by City Council in 2019. The current application proposes disturbance to 0.08 acres of the on-site critical slopes (32.5%) while the previous application proposed disturbance to 0.21 acres of the on-site critical slopes (84%). The previous application included a second building adjacent to frontage on 2<sup>nd</sup> Street SE, the majority of which includes critical slopes.
- Vehicular access to the subject property and required off-street parking. The Planning Commission discussed whether requiring the applicant to utilize allowable parking reductions of Section 34-985(b) would reduce impacts to the critical slopes. The Planning Commission discussed potential modifications to the proposed parking lot including removing the sidewalk connecting the parking lot to the building, removing the most northwestern parking space, removing buffers between the subject property and adjacent low density residential areas, and securing an agreement to utilize parking on the adjacent IX property (201-239 Elliott Avenue) to meet the off-street parking requirements. The Planning Commission discussed the potential to utilize the adjacent alley connecting 6<sup>th</sup>

Street SE to Rayon Street to provide vehicular access to the site or to minimize the required buffer of Section 34-579. Staff clarified the buffer must be contained within the subject property.

- The applicant's description of the western slope as the natural slope and the northern slope is a man-made slope. The Planning Commission asked staff for clarification on whether modifications to the northern slope (as requested) would impact the western slope. Staff clarified modifications to the northern slope would not impact the western slope, however drainage from the project area could impact both slopes. The conditions proposed by staff serve to provide additional protect for both slopes.
- The current application's lack of clarity regarding construction sequencing and erosion and sediment control measures. The Planning Commission discussed the conditions proposed by staff to minimize impacts of construction to the critical slopes.
- The potential to save mature trees within the limits of disturbance. The applicant discussed the difficulty in maintaining mature tree health when nearby land is disturbed by construction. The conditions proposed by staff require replanting of trees removed from the critical slope area at a ratio of three (3) to one (1) with locally native trees to provide habitat rehabilitation.

The staff report and supporting documentation presented to the Planning Commission can be found starting at page 47 at the following link:

<https://civicclerk.blob.core.windows.net/stream/CHARLOTTESVILLEVA/b45632d2-be8b-48ea-b93f-643028af41e7.pdf?sv=2015-12-11&sr=b&sig=KaJTyqsz8PLhuAU63TkGTae5L3Q%2BvyPNqCRuwefpEt8%3D&st=2021-04-15T11%3A31%3A54Z&se=2022-04-15T11%3A36%3A54Z&sp=r&rsc=cache&rsct=application%2Fpdf>

#### **Alignment with City Council's Vision and Strategic Plan:**

The City Council Vision of *Quality Housing Opportunities for All* states that "Our neighborhoods retain a core historic fabric while offering housing that is affordable and attainable for people of all income levels, racial backgrounds, life stages, and abilities. Our neighborhoods feature a variety of housing types, including higher density, pedestrian and transit-oriented housing at employment and cultural centers. We have revitalized public housing neighborhoods that include a mixture of income and housing types with enhanced community amenities. Our housing stock is connected with recreation facilities, parks, trails, and services." The applicant proposes new residential units in close proximity to the Downtown Mall, downtown amenities, and Tonsler Park.

#### **Community Engagement:**

In line with Section 34-1120(b)(6)(b), property owners and occupants within 500-feet of the subject property, as well as neighborhood association leaders, were notified of the Planning Commission's meeting. One (1) member of the public spoke on the application. The community member asked for clarification on the proposed on-site parking, which is proposed to be a surface parking lot (and not a parking garage). The community member asked for clarification that the existing single family home would be removed and a multi-family residential building would be constructed. The community member noted concern with the proposed parking's location on a hill and the difficulty of parking cars on a hill.

Two (2) community members provided comments to the Planning Commission and City Council via email. Noted concerns include the impact to neighborhood traffic and parking patterns, the

existing pedestrian network, affordability, proposed residential density, and potential alley use by residents of the proposed development.

**Budgetary Impact:**

No direct budgetary impact is anticipated as a direct result of this Critical Slope Waiver.

**Recommendation:**

Staff recommends the application be approved with conditions. The Planning Commission voted 5-0 to recommend the application be approved with conditions as proposed by staff.

**Alternatives:**

City Council has several alternatives:

- (1) by motion, approve the requested Critical Slope Waiver as recommended by the Planning Commission with the following suggested motion;

“I move the adoption of the Resolution included in our agenda materials, granting this Critical Slope Waiver within P21-0013, based on a finding that due to unusual physical conditions, or the existing development of the property, compliance with the City’s critical slopes regulations would prohibit or unreasonably restrict the use or development of the property, per Section 34-1120(b)(6)(d)(ii).”

- (2) by motion, request changes to the attached resolution, and then approve the Critical Slope Waiver;
- (3) by motion, take action to deny the Critical Slope Waiver;

Or

- (4) by motion, defer action on the Critical Slope Waiver.

**Attachment:**

- A. Proposed Resolution

**RESOLUTION APPROVING A REQUEST FOR  
WAIVER OF CRITICAL SLOPES PROVISIONS  
PURSUANT TO CITY CODE SECTION 34-1120(B)(6)  
FOR 915 6<sup>th</sup> STREET, S.E.**

**WHEREAS**, Rayonix, LLC is the owner (“Landowner”) of certain property having an address of 915 6<sup>th</sup> Street, S.E., further identified within City real estate records by Real Estate Parcel Identification No. 270036000 (the "Property"), and Landowner seeks a waiver of the critical slopes requirements of City Code Sec. 34-1120(b)(6) to allow for construction of a multi-family residential development containing one building with 21 one- and two-bedroom multi-family residential units and a surface parking lot on the Property (the “Project”); and

**WHEREAS**, the Planning Commission considered this request at their regular meeting on April 13, 2021, and recommended approval of the request for a waiver of the critical slopes requirements, pursuant to City Code Sec. 34-1120(b)(6); and

**WHEREAS**, upon consideration of the information and materials provided by the Landowner, and the recommendation of the Planning Commission, the City Council finds and determines pursuant to City Code Sec. 34-1120(b)(6)(d)(ii) that due to unusual physical conditions, or the existing development of the property, compliance with the City’s critical slopes regulations would prohibit or unreasonably restrict the use or development of the property; now, therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLOTTEVILLE** that the request by Rayonix, LLC for a waiver of the critical slopes requirements for the above-described Project, is hereby granted, conditioned upon the following:

1. The following erosion and sediment control measures shall be required, in excess of standard minimum requirements, in order to mitigate potential impacts to the undisturbed critical slope areas, tributary stream, and adjacent properties during land disturbance activities, per Section 34- 1120(b)(1)(a)-(c):
  - a. super silt fence (i.e., silt fence with chain-link backing) shall be installed wherever the erosion and sediment control plan specifies perimeter silt fencing;
  - b. at no time shall concentrated water be directed toward any area(s) of critical slope(s);
  - c. erosion and sediment control shall be provided in a minimum of four (4) stages. The first stage shall consist of initial/ preliminary controls and outfall construction. The second stage shall include establishment of a sediment trap and conveyances. The sequence shall dictate that no disturbance of any critical slope(s) area(s) (beyond what is necessary for establishment of perimeter

controls and conveyances) shall occur until after the sediment trap has been established and is functioning properly;

- d. Any and all land disturbing activity, in either sequence or space, planned or unforeseen, including, without limitation, activity necessary to establish the sediment trap, conveyances to the established sediment trap, or perimeter controls, shall be immediately stabilized with sod (for pervious areas, utilities within impervious areas should have other “same day stabilization” measures provided);
2. Trees removed from areas of critical slope(s) shall be replaced within those areas, at a three-to-one ratio (“Habitat Replacement Trees”). The Habitat Replacement Trees shall be locally native tree species appropriate for the site conditions. No tree(s) planted in any area(s) that contain buildings, parking lots, sidewalks, or other built improvements shall be counted as any Habitat Replacement Tree(s). The specific number and species of Habitat Replacement Trees will be determined by the applicant and the City based on available space and site conditions, and the size, location and species of all Habitat Replacement Trees shall be specified within the landscaping plan required by Sections §§34-861 et seq. of the Charlottesville City Code, as amended.