

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	August 2, 2021
Action Required:	Consideration of an application for a Critical Slope Waiver
Presenter:	Carrie Rainey, City Planner, Neighborhood Development Services
Staff Contacts:	Carrie Rainey, City Planner, Neighborhood Development Services
Title:	Critical Slope Waiver Request at 0 First Street South (CRHA)

Background:

The Charlottesville Redevelopment and Housing Authority (CRHA) requests a waiver from Section 34-1120(b) of the City Code (Critical Slope Ordinance) to allow for the construction of multi-family dwelling units, parking lots, and related improvements at 0 First Street South (Tax Map 26 Parcel 115.001). The subject property has street frontage on First Street South and Hartmans Mill Road.

Existing critical slopes areas located on this Property include 0.895 acres or 29.8% 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 City Code Sec. 34-1120(b)(2).

City Council previously granted CRHA a critical slope waiver on March 4, 2019 for the subject property with the following conditions:

1. Require erosion and sediment control measures that exceed minimum requirements in order to mitigate potential impacts to undisturbed critical slopes areas, per Section 34-1120(b)(1)(a-c), including but not limited to:
 - a. Silt fence with wire reinforcement and six (6) feet stake spacing, and
 - b. Other measures in excess of minimum requirements determined by City Engineering Staff to be necessary to protect Pollocks Branch from sedimentation.
2. The critical slope area outside of approved encroachment boundaries shall be clearly marked in the field, and the approved stormwater management plan and construction plan

shall include a note requiring such limits of disturbed area to remain for the duration of construction and land disturbing activities.

3. Final stabilization of the areas of critical slopes disturbed shall be permanent measures to include replanting of native tree and shrub species to restabilize the critical slopes and potential wildlife habitat.
4. The final site plan shall include construction methods presented by the applicant to phase construction of the buildings, so that the first two buildings adjacent to 1st Street will be the first to be constructed, in order to create a better stabilized site during construction and to facilitate more effective erosion and sediment control measures.
5. Prior to commencing any land disturbance within the development site, Landowner shall install a fixed, immovable barrier to protect root zones of each existing tree, at the drip line, for trees that have been identified within the final site plan as trees to be preserved. This root protection barrier shall remain in place until final completion of all construction.

Subsequent to commencement of construction, CRHA contacted staff, representing that it cannot construct the development in accordance with the previously-approved critical slope waiver. Specifically, CRHA believes that it cannot comply with Condition 4. Within this application CRHA is requesting City Council's approval of a revised Condition 4.

The Planning Commission discussed the critical slope waiver request at the July 13, 2021 meeting. Please see Attachments section below for the full critical slope waiver request application package.

Discussion:

Per Sec. 34-1120(b)(6)(3), City Council (in granting a modification or waiver) may allow the disturbance of a portion of the slope, but may determine that there are some features or areas that cannot be disturbed. These include, but are not limited to: large stand of trees, rock outcroppings and slopes greater than 60%.

The following information is relevant to the evaluation of this request:

- Large stands of trees: **The rear of the Site is wooded**
- Rock outcroppings: **None**
- Slopes greater than 60%: **None**
- Waterway within 200 feet: **Pollocks Branch**
- Location of other areas of the Property, outside critical slopes areas, that fit the definition of a "building site" and could accommodate this proposed development: **The majority of the proposed building footprints and parking areas, and related grading/ land disturbance, are located outside of the critical slopes areas. Based on the**

information available to staff at this time: the proposed development, as shown, could not be conducted without disturbing critical slope areas. However, a development of similar use and residential density could potentially be accommodated outside of critical slope areas with a different site design.

Among the matters discussed by the Planning Commission at their July 13, 2021 meeting were the following:

- The applicant's proposed revision to Condition 4 provided July 13, 2021 via email: *Permanent stabilization of all contributing drainage areas to the sediment trap shall be achieved before the trap is removed. Pervious areas shall be stabilized with sod. Where permanent stabilization is not feasible (around buildings 1 and 2 during vertical construction), temporary stabilization shall be achieved. Temporary stabilization shall include three levels of filtration (sod, silt fence and inlet protection). Standard silt fence (synthetic filter fabric with wooden stakes 6 feet on center) will be installed at the back of the new curb at the high side of the parking lot. Sod will be installed on entire area around buildings 1 and 2 to include a minimum of 2 feet of sod abutting the silt fence with the exception of +/- 10 feet around the perimeters of buildings 1 and 2, which will be mulch. Storm inlet protection that meets DEQ or E&S handbook requirements will be installed at all stormwater drop inlets on the low side of the parking lot. General contractor will maintain stabilization while vertical construction is ongoing. Permanent conversion will consist of installation of concrete sidewalks and stairs, replacement of sod, installation of mulch beds, and plantings as designed.* Mr. Dawson, City Engineer, provided concerns with the language as proposed.
- Potential alternative revisions to Condition 4 to alleviate Mr. Dawson's concerns with the applicant's proposed revisions. The Commission discussed edits to the condition to provide general guidance while designating Mr. Dawson's department (Public Works Engineering) final approval of detailed erosion and sediment control sequencing.
- Errors with site surveying and recent site disturbance beyond the approved limits of disturbance as identified by Public Works Engineering.
- How desired modifications to the building construction process would impact the erosion and sediment control process. The applicant's representative described the use of permanent measures installed as temporary measures and reinstalled as permanent measures upon building completion.
- The authority of Condition 1 to allow Mr. Dawson to require additional erosion and sediment control measures as needed.

Alignment with Council Strategic Plan:

The project supports Goal 1 (An Inclusive City of Self-sufficient Residents) of City Council's Strategic Plan through objective 1.3, increase affordable housing options.

Community Engagement:

Property owners within 500-feet of the subject property were notified of the Planning Commission’s July 13, 2021 meeting, wherein the critical slopes waiver request would be discussed and a recommendation made, per Section 34-1220(b)(6)(b). The following comments were provided during Matters by the Public:

- A representative for the Public Housing Association of Residents (PHAR). He stated PHAR supports the critical slope waiver request. He also noted the current supply chain issues necessitate the modified critical slope waiver.

Budgetary Impact:

No direct budgetary impact is anticipated as a direct result of approving the critical slope waiver for the applicant’s parcel.

Planning Commission Recommendation:

The Planning Commission took the following action:

Mr. Solla-Yates moved to recommend removal of Condition 4 from the critical slope waiver.

Mr. Stolzenberg seconded the motion. The Commission voted 6-0 to recommend removal of Condition 4, with the following conditions remaining:

1. Require erosion and sediment control measures that exceed minimum requirements in order to mitigate potential impacts to undisturbed critical slopes areas, per Section 34-1120(b)(1)(a-c), including but not limited to:
 - a. Silt fence with wire reinforcement and six (6) feet stake spacing, and
 - b. Other measures in excess of minimum requirements determined by City Engineering Staff to be necessary to protect Pollocks Branch from sedimentation.
2. The critical slope area outside of approved encroachment boundaries shall be clearly marked in the field, and the approved stormwater management plan and construction plan shall include a note requiring such limits of disturbed area to remain for the duration of construction and land disturbing activities.
3. Final stabilization of the areas of critical slopes disturbed shall be permanent measures to include replanting of native tree and shrub species to restabilize the critical slopes and potential wildlife habitat.
5. Prior to commencing any land disturbance within the development site, Landowner shall install a fixed, immovable barrier to protect root zones of each existing tree, at the drip line, for trees that have been identified within the final site plan as trees to be preserved.

This root protection barrier shall remain in place until final completion of all construction.

Alternatives:

City Council has several alternatives:

- (1) by motion, take action to approve the attached resolution for the critical slope waiver with conditions (as recommended by the Planning Commission);
- (2) by motion, take action to approve the critical slope waiver without conditions;
- (3) by motion, take action to deny the critical slope waiver; or
- (4) by motion, defer action consideration of the critical slope waiver.

Attachments:

- A. Proposed Resolution
- B. The staff report and supporting documentation presented to the Planning Commission can be found starting at page 107 at the following link:
<https://civicclerk.blob.core.windows.net/stream/CHARLOTTESVILLEVA/f02d85b6-ab91-4688-b652-72a7cf277d56.pdf?sv=2015-12-11&sr=b&sig=cUe%2BL4q6YPwy4%2B2i3Qlc6jJHcsXk2veTctiPHd8Sf%2Fs%3D&st=2021-07-14T14%3A10%3A35Z&se=2022-07-14T14%3A15%3A35Z&sp=r&rsc=no-cache&rsct=application%2Fpdf>

RESOLUTION
AMENDING AND RE-ENACTING A CRITICAL SLOPE WAIVER GRANTED
MARCH 4, 2019 TO ALLOW REDEVELOPMENT OF PROPERTY LOCATED AT “0”
FIRST STREET SOUTH BY THE CHARLOTTESVILLE REDEVELOPMENT AND
HOUSING AUTHORITY

WHEREAS, by Resolution adopted on March 4, 2019, City Council granted a conditional waiver of the requirements of Charlottesville City Code Sec. 34-1120(b), to facilitate construction of three multi-family dwellings, parking lots, and related improvements (the “Project”) on property owned by the Charlottesville Redevelopment and Housing Authority (“CRHA”), designated on City Tax Map 26 as Parcel 115.001, having an address of “0” First Street South (the "Subject Property"); and

WHEREAS, following the commencement of construction of the Project, and after disturbance of critical slopes areas, CRHA requested an amendment of the previously-granted waiver, stating that the Project developer cannot comply with a condition that required phased construction of the three buildings within the Project in order to create a better stabilized site during construction and to facilitate more effective erosion and sediment control measures; and

WHEREAS, on July 13, 2021 the Planning Commission considered CRHA’s request to amend the conditions of the previously-granted waiver, and recommended approval of CRHA’s request; and

WHEREAS, upon consideration of the information and materials provided by CRHA, the information provided within the City Staff Report, and the recommendation of the Planning Commission, the City Council reiterates its original finding and determination, pursuant to City Code Sec. 34-1 120(b)(6)(3), that the benefits of allowing disturbance of the critical slopes to facilitate development of the Project outweigh the public benefits of requiring the critical slopes areas to remain undisturbed and, the critical slopes areas within the Subject Property have now already been disturbed; now, therefore,

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia that the critical slope waiver previously granted on March 4, 2019 is amended, to delete the condition requiring phased construction of the three buildings within the Project, and said waiver is hereby re-enacted, subject to the following conditions:

1. The Office of the City Engineer may require the Project to implement erosion and sediment control measures that exceed minimum requirements, in order to mitigate potential impacts to critical slopes areas, per Section 34-1120(b)(1)(a-c), including but not limited to:
 - a. Silt fence with wire reinforcement and six (6) feet stake spacing, and
 - b. Other measures in excess of minimum requirements determined by the Office of the City Engineer to be necessary to protect Pollocks Branch from sedimentation.

2. Critical slope areas outside of approved encroachment boundaries shall be clearly marked in the field, and the approved stormwater management plan and construction plan shall include a note requiring such limits of disturbed area to remain for the duration of construction and land disturbing activities.
3. Final stabilization of critical slope areas disturbed shall be permanent measures, to include replanting of native tree and shrub species to restabilize the critical slopes and potential wildlife habitat.
4. Prior to commencing any land disturbance within the development site, Landowner shall install a fixed, immovable barrier to protect root zones of each existing tree, at the drip line, for trees that have been identified within the final site plan as trees to be preserved. This root protection barrier shall remain in place until final completion of all construction.