

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	January 3, 2022
Action Required:	Consideration of an application for a Critical Slope Waiver
Presenter:	Brian Haluska, Principal Planner, Neighborhood Development Services
Staff Contacts:	Brian Haluska, Principal Planner, Neighborhood Development Services
Title:	P21-00082 – 1221, 1223 and 1225 Harris Street, request for a Critical Slope Waiver

Background:

C-Ville Business Park, LLC is requesting a waiver from Section 34-1120(b) of the City Code (Critical Slope Ordinance) to allow for construction of a mixed-use development that would include up to 120 residential units.

Existing critical slope areas located on this Property include 0.285 acres or 26% 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 on the consent agenda at their meeting on December 14, 2021.

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.” This request is connected with a proposed building that is adjacent to McIntire Business Park, and is within walking distance of McIntire Park and Shenck’s Branch Greenway.

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. No members of the public spoke at the meeting.

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 unanimously 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 P21-00082, 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
- B. City Staff Report
- C. Application and Supporting Documentation

**RESOLUTION APPROVING THE REQUEST TO WAIVE
THE CRITICAL SLOPE REQUIREMENTS
OF CITY CODE SECTION 34-1120(b) FOR THE DEVELOPMENT TO BE BUILT AT
1221, 1223 AND 1225 HARRIS STREET
(CITY TAX MAP PARCELS 340090B00, 340090C00, AND 34009100)**

WHEREAS C-Ville Business Park, LLC, (the “Landowner”) is the owner of record of the property of certain land identified by City tax map parcels 340090B00, 340090C00, and 34009100 currently addressed as 1221, 1223, and 1225 Harris Street, respectively (together, the “Property”) and the Landowner requested a Waiver of the Critical Slopes requirements of City Code Sec. 34-1120(b)(6)(b) in connection with the construction of a mixed-use development to include 120 residential units located on the Property and referred to as City’s Edge;

WHEREAS existing Critical Slopes constitute 0.29 acres, or 26% of the project site; and

WHEREAS the Planning Commission considered and unanimously approved this application at their December 14, 2021 meeting, subject to the conditions set forth within the staff report prepared for that meeting;

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia, hereby approves a Waiver of the Critical Slopes requirements for the 1221, 1223, and 1225 Harris Street also referred to as City’s Edge to include the following conditions;

- 1) Site Plans (VESCP Plans) should include, at a minimum, 4 stages/phases of Erosion and Sediment (“E&S”) controls. The first phase shall include “Initial/Preliminary Controls”. Outfalls from any proposed 1223 Harris Street Critical Slope traps shall be established with rigorous independent E&S controls, early in the sequence, prior to the establishment of a sediment trap and associated conveyances.
- 2) “Super Silt Fence” (chain linked backing) shall be installed where perimeter silt fence is specified.
- 3) At no time shall concentrated water be directed toward the critical slopes.

CITY OF CHARLOTTESVILLE
DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES
STAFF REPORT



PLANNING COMMISSION REGULAR MEETING
APPLICATION FOR A CRITICAL SLOPE WAIVER
APPLICATION NUMBER: P21-0082
DATE OF MEETING: December 14, 2021

Project Planner: Brian Haluska, AICP
Date of Staff Report: December 1, 2021

Applicant: C-Ville Business Park, LLC
Applicant's Representative(s): Chris Virgilio
Current Property Owner: C-Ville Business Park, LLC

Application Information

Property Street Address: 1221, 1223, and 1225 Harris Street
Tax Map & Parcel/Tax Status: 340090B00, 340090C00 and 34009100 (real estate taxes paid current – Sec. 34-12)
Total Project Area (Limits of Disturbance): 1.12 acres
Total Area of Critical Slopes on Parcels: 0.285 acres | 26.3%
Area of Proposed Critical Slope Disturbance: 0.221 acres | 77.6% of total critical slopes area on parcel
Comprehensive Plan (General Land Use Plan): Neighborhood Mixed Use Node
Current Zoning Classification: IC - Industrial Corridor
Overlay District: None

Applicant's Request (Summary)

C-Ville Business Park, LLC is requesting a waiver from Section 34-1120(b) of the City Code (Critical Slope Ordinance) to allow for construction of a mixed-use development that would include up to 120 residential units. Improvements specific to areas where critical slopes would be impacted should the waiver be approved are shown on the Critical Slope Exhibit (**Attachment B**) and include portions of all proposed lots in the development

Existing critical slopes areas located on this Property include 0.285 acres or 26.3 percent of the site. The applicable definition of "critical slope" is as follows:

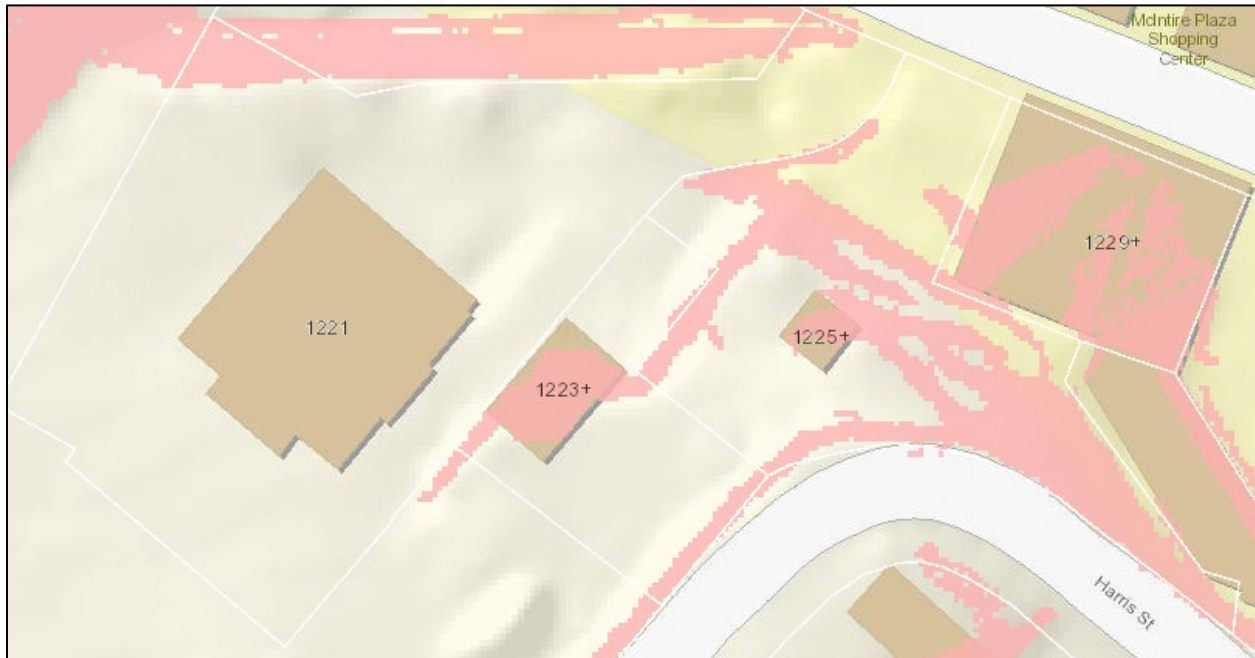
Any slope whose grade is 25% or greater, **and** (a) a portion of the slope has a horizontal run of greater than 20 feet, and its total area is 6,000 SF or greater, **and** (b) a portion of the slope is within 200 feet of a waterway. See City Code Sec. 34-1120(b)(2).

Based on the information presented within the application materials, Staff verifies that the area for which this waiver is sought meets all of the above-referenced components of the definition of “critical slope”.

Vicinity Map



Critical Slopes per the Zoning Ordinance



Standard of Review

Per Sec. 34-1120(6)(d): The planning commission shall make a recommendation to city council in accordance with the criteria set forth in this section, and city council may thereafter grant a modification or waiver upon making a finding that:

- (i) The public benefits of allowing disturbance of a critical slope outweigh the public benefits of the undisturbed slope (public benefits include, but are not limited to, stormwater and erosion control that maintains the stability of the property and/or the quality of adjacent or environmentally sensitive areas; groundwater recharge; reduced stormwater velocity; minimization of impervious surfaces; and stabilization of otherwise unstable slopes); or
- (ii) Due to unusual size, topography, shape, location, or other unusual physical conditions, or existing development of a property, one (1) or more of these critical slopes provisions would effectively prohibit or unreasonably restrict the use, reuse or redevelopment of such property or would result in significant degradation of the site or adjacent properties.

If the recommendation is for City Council to grant the requested waiver, the Planning Commission may also make recommendations as to the following: In granting a modification or waiver, city council 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:

- (i) Large stands of trees;

- (ii) Rock outcroppings;
- (iii) Slopes greater than 60%.

City council shall consider the potential negative impacts of the disturbance and regrading of critical slopes, and of resulting new slopes and/or retaining walls. City council may impose conditions as it deems necessary to protect the public health, safety or welfare and to insure that development will be consistent with the purpose and intent of these critical slopes provisions. Conditions shall clearly specify the negative impacts that they will mitigate. Conditions may include, but are not limited to:

- (i) Compliance with the "Low Impact Development Standards" found in the City Standards and Design Manual.
- (ii) A limitation on retaining wall height, length, or use;
- (iii) Replacement of trees removed at up to three-to-one ratio;
- (iv) Habitat redevelopment;
- (v) An increase in storm water detention of up to 10% greater than that required by city development standards;
- (vi) Detailed site engineering plans to achieve increased slope stability, ground water recharge, and/or decrease in stormwater surface flow velocity;
- (vii) Limitation of the period of construction disturbance to a specific number of consecutive days;
- (viii) Requirement that reseeded occur in less days than otherwise required by City Code.

Project Review and Analysis

Each applicant for a critical slopes waiver is required to articulate a justification for the waiver, and to address how the land disturbance, as proposed, will satisfy the purpose and intent of the Critical Slopes Regulations, as found within City Code Sec. 34-1120(b)(1). The applicant has provided information in the attached critical slopes waiver narrative (**Attachment A**) for Application Finding #1 and #2.

Staff Analysis 34-1120(b)(d)(i) Application Finding #1:

Staff does not recommend a waiver on the basis of Finding 1 for this application.

Staff Analysis 34-1120(b)(d)(ii) Application Finding #2 :

Engineering Department:

The City Engineering Department's comments on this application can be found in Attachment C.

“Due to unusual size, topography, shape, location, or other unusual physical conditions, or existing development of a property, one (1) or more of these critical slopes provisions would effectively prohibit or unreasonably restrict the use, reuse or redevelopment of such property or would result in significant degradation of the site or adjacent properties.”

Based on the submitted materials and the applicant’s justifications, engineering cannot recommend approval under either Finding #1 or Finding #2. The plan is not yet approvable, though still under development. City Engineering provides the following recommended conditions which have been selected for based on the design and review history of this project. Most are already incorporated into the design. If the Planning Commission decides to approve the project, the following should be considered for applicable conditions:”

City Engineering recommends the following conditions:

- 1) Site Plans (VESCP Plans) should include, at a minimum, 4 stages/phases of ESC controls. The first phase shall include “Initial/Preliminary Controls”. Outfalls from any proposed traps shall be established with rigorous independent ESC controls, early in the sequence, prior to the establishment of a sediment trap and associated conveyances.
- 2) “Super Silt Fence” (chain linked backing) shall be installed where perimeter silt fence is specified.
- 3) At no time shall concentrated water be directed toward the critical slopes.

Planning Department: The specific physical characteristics of the site meet the standards required in Finding #2. City Council previously granted the applicant a Special Use Permit for a project proposed to be located on the site that would disturb all of the parcels at 1223 and 1225 Harris Street. A strict application of the critical slope requirements would make it unlikely the applicant would be able to implement the plan previously reviewed by the Planning Commission and Council.

The site layout of the currently proposed development is consistent with the materials presented by the applicant when the parcels were granted an SUP by City Council.

Staff Recommendation

Staff recommends the Planning Commission recommend to City Council to grant the critical slope waiver on the basis that “due to unusual physical conditions, one (1) or more of these critical slopes provisions would effectively prohibit or unreasonably restrict the use of such property.”

Recommended Conditions

- 1) Site Plans (VESCP Plans) should include, at a minimum, 4 stages/phases of ESC controls. The first phase shall include “Initial/Preliminary Controls”. Outfalls from any proposed

traps shall be established with rigorous independent ESC controls, early in the sequence, prior to the establishment of a sediment trap and associated conveyances.

- 2) "Super Silt Fence" (chain linked backing) shall be installed where perimeter silt fence is specified.
- 3) At no time shall concentrated water be directed toward the critical slopes.

Suggested Motions

1. "I move to recommend approval of the critical slope waiver for Tax Map and Parcel 340090B00, 340090C00 and 34009100, as requested, with the conditions listed in the staff report, based on a finding that [*reference at least one*]:
 - The public benefits of allowing the disturbance outweigh the benefits afforded by the existing undisturbed critical slope, per Section 34-1120(b)(6)(d)(i) [Not Recommended]
 - 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) [Recommended]
2. "I move to recommend denial of the steep slope waiver for Tax Map and Parcel 340090B00, 340090C00 and 34009100.

Attachments

- A. Application and Narrative
- B. Critical Slope Exhibit
- C. City Engineering Comments on the Proposed Application



WAIVER REQUEST FORM

Please Return To: City of Charlottesville
Department of Neighborhood Development Services
PO Box 911, City Hall
Charlottesville, Virginia 22902
Telephone (434) 970-3182 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 1223 Harris St. Parcel Number 340090C00 & 340090100
Address/Location 1223 Harris ST, Charlottesville, VA 22903
Owner Name C-Ville Business Park LLC Applicant Name C-Ville Business Park LLC

Applicant Address: 224 14TH STREET, CHARLOTTESVILLE, VA 22903
Phone (H) 434-989-0372 (W) 434-971-8860 (F) _____
Email: C.VIRGILIO@WOODARDPROPERTIES.COM

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

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

Description of Waiver Requested: A Critical Slopes Waiver is requested to disturb approximately 0.22 acres of critical slopes on parcels 340090C00 and 340090100, located at 1223 Harris St.

Reason for Waiver Request: Slope disturbance is being requested to support the proposed development of 120 housing units and commercial space associated with SP 21-00001.

Applicant Signature [Signature] Date 6/4/2021
Property Owner Signature (if not applicant) [Signature] Date 6/4/2021

For Office Use Only: Date Received: _____
Review Required: Administrative _____ Planning Commission _____ City Council _____
Approved: _____ Denied: _____
Director of NDS
Comments: _____

City of Charlottesville
CRITICAL SLOPES WAIVER REQUEST SUPPLEMENT

Please review city zoning ordinance section 34-1120(b) "Critical Slopes" and submit a completed Waiver Application Form, Critical Slopes Waiver Request Supplement and a Critical Slope Exhibit*.

Applicant: C-Ville Business Park LLC

Property Owner: C-Ville Business Park LLC

Project Description: What are you proposing to do on this site?

Improvements to the parcels to provide 120 multi-family housing units, 3,000 SF of commercial space as well as supporting road and utility infrastructure.

Existing Conditions:

This existing parcels include commercial space, and residential duplex.

Total Site Area:

1.084 Parcel area. 1.05 Acres disturbed area.

Zoning (if applying for rezoning-please note existing and intended change):

IC (Industrial Corridor); SP21-00001

Percentage of Area that is made up of critical slopes - meets criteria set forth in Sec. 34-1120(b)(2) *Definition of critical slope*: greater than or equal to 25% slopes and a) a portion of the slope has a horizontal run of greater than twenty (20) feet and its area is six thousand (6,000) square feet or greater; and b) a portion of the slope is within two hundred (200) feet of any waterway:

Total Critical Slope Area:

The site area is 1.084 acres. There are 0.285 acres of critical slopes located on site, or 26.3% of the site area.

Critical Slope Area Disturbed:

0.22 acres of the total critical slope area identified above will be disturbed, or 77.6 % of the total critical slope area. Proposed critical slope area to be disturbed is 20.3% of the site area.

***Critical Slope Exhibit:** Survey indicating location and area of critical slopes and what portions of critical slopes are proposed to be disturbed. Survey should be prepared, sealed, signed and dated by a professional engineer or land surveyor licensed to practice within the Commonwealth of Virginia.

This application should be used to explain how the proposed project meets some or all of the requirements as described in Section 34-1120(6) "Modification or waiver." The applicant is expected to address finding #1 and/or finding #2 and justify the finding by utilizing the "critical slope provisions" as a guide. Completing this application will help staff make their recommendation to the Planning Commission and City Council.

City Council may grant a modification or waiver, upon making one or more of the following findings:

Finding #1: The public benefits of allowing disturbance of critical slope outweigh the public benefits of the undisturbed slope(public benefits include, but are not limited to, stormwater and erosion control that maintains the stability of the property and/or the quality of adjacent or environmentally sensitive areas; groundwater recharge; reduced stormwater velocity; minimization of impervious surfaces; and stabilization of otherwise unstable slopes)

This project provides thoughtful design to minimize negative impacts from critical slopes disturbance, while providing the necessary infrastructure to support up to 120 housing units. Erosion and sediment control measures are being implemented per state regulations to promote slope stabilization post construction and to reduce sediment laden runoff from leaving the site during construction. Erosion to remaining slopes will be avoided by capturing and piping runoff from the entirety of the roof area and nearly all of the other impervious areas underground directly to the existing 6' box culvert

Finding #2. Due to unusual size, topography, shape, location, or other unusual physical conditions, or existing development of a property, one (1) or more of these critical slopes provisions would effectively prohibit or unreasonably restrict the use, reuse or redevelopment of such property or would result in significant degradation of the site or adjacent properties.

The subject parcel is situated on a steep grade. The access points on either end of the site are separated by 40' vertically. The proposed slope disturbance is necessary in order to provide much needed housing consistent with approved SP 21-00001.

Please address how Finding #1 and/or Finding #2 will be met utilizing the "critical slope provisions" noted below.

1. Erosion affecting the structural integrity of those features.
Erosion and sediment control measures will be employed as necessary to protect undisturbed areas during construction. Down hill structural practices, silt fence, sediment traps and inlet protection will capture sediment.

2. Stormwater and erosion-related impacts on adjacent properties.

Stormwater and erosion-related impacts are limited by the detention of site runoff within sediment basin during construction. Diversion dikes will be implemented to ensure runoff on-site is directed to the proposed basin during construction. Additional E&SC measures will be employed to ensure adjacent properties are not impacted by stormwater runoff during construction. Storm water is captured in the post condition and piped underground to the adjacent 6' box culvert. Stormwater calculations will be provided, demonstrating compliance with all erosion and flood protection requirements.

3. Stormwater and erosion-related impacts to environmentally sensitive areas such as streams and wetlands.

Wetland disturbance and Stream disturbance is not proposed with this project. All applicable E&SC and Stormwater management regulations will be demonstrated.

4. Increased stormwater velocity due to loss of vegetation.

Stormwater is being captured and routed in underground pipes to mitigate against potential issues from increased stormwater velocity.

5. Decreased groundwater recharge due to changes in site hydrology.

Due to the site geometry and scale of the building as well as close proximity to adjacent buildings, groundwater recharge is not being promoted.

6. Loss of natural or topographic features that contribute substantially to the natural beauty and visual quality of the community such as loss of tree canopy, forested areas and wildlife habitat.


This site is completely cleared in the existing state and has a substantial amount of impervious cover. Loss of forest and wildlife is not a significant issue on this site. Also note, a significant amount of steep slopes appear to have been man made as a result of construction of Harris St.

Please list all attachments that should be viewed as support to the above explanations.


Critical Slopes Exhibit

Please sign the following statement.

I certify that, to the best of my knowledge, the information I have provided above is based on sound engineering and surveying data and that this site has been carefully inspected and reviewed for the purposes of completing this application accurately. I certify that as the property owner/applicant I have not given false information that may affect the decisions made regarding this development.

 6/4/2021

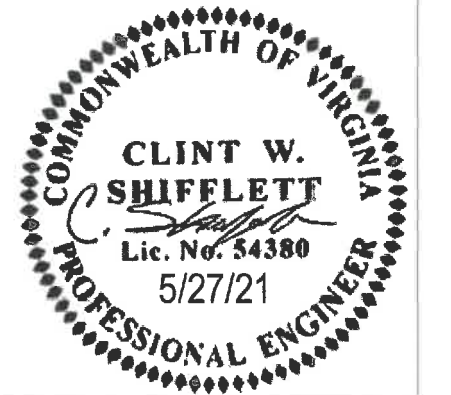
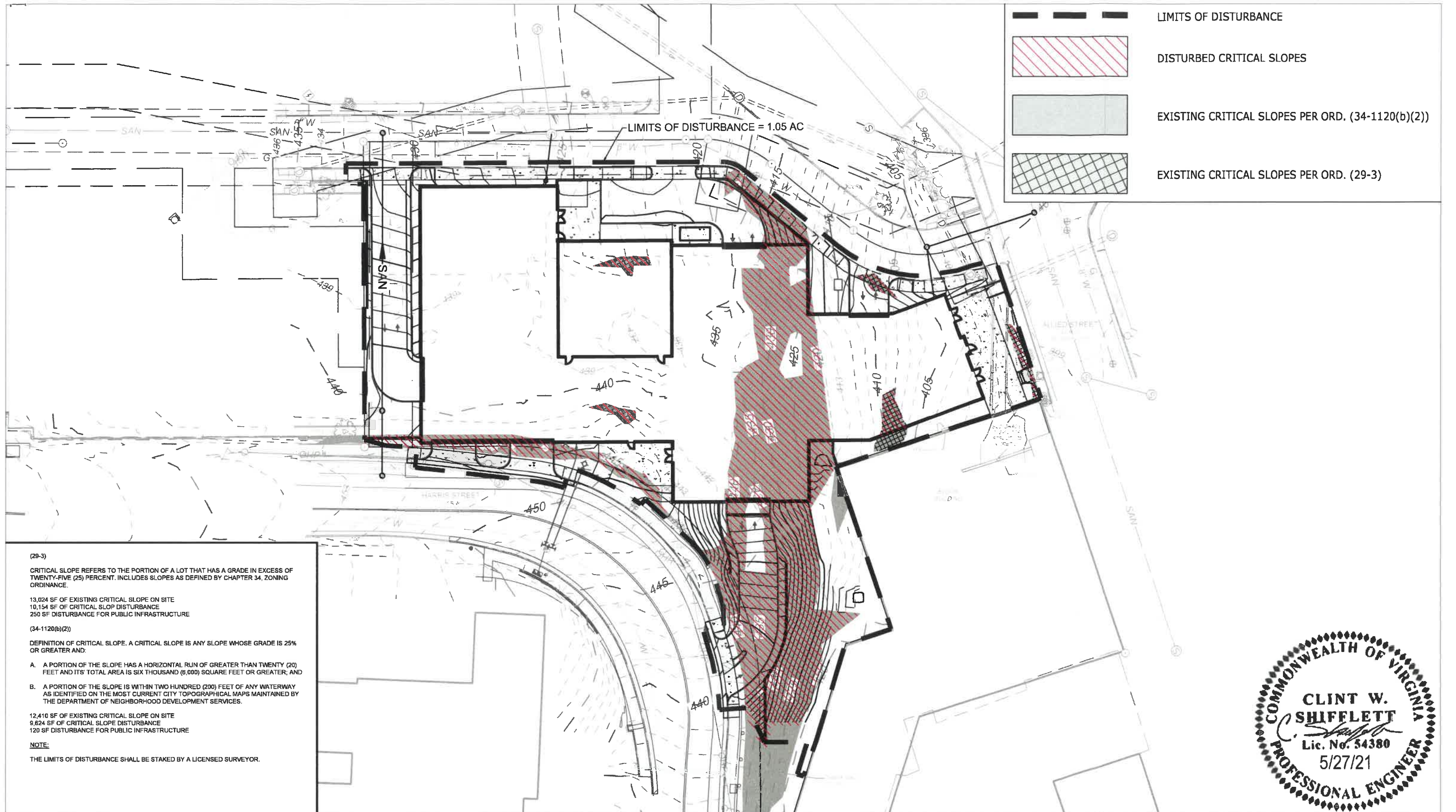
Property Owner

 6/4/2021

Applicant

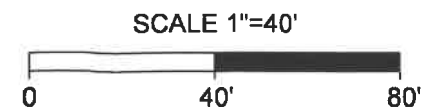
Please do not write below this line. For office use only.
Planner's Comments/Recommendations:

Engineer's Comments/Recommendations:



CRITICAL SLOPES EXHIBIT - ZONING & SUBDIVISION ORDINANCE

1223 HARRIS ST. - MAY 27, 2021



Brian,

In regards to providing an evaluation of the waiver in accordance with Sec. 34-1120 (6) (c):

“The director shall provide the planning commission with an evaluation of the proposed modification or waiver that considers the potential for soil erosion, sedimentation and water pollution in accordance with current provisions of the Commonwealth of Virginia Erosion and Sediment Control Handbook and the Virginia State Water Control Board best management practices, and, where applicable, the provisions of Chapter 10 of the City Code. The director may also consider other negative impacts of disturbance as defined in these critical slope provisions.”

This project triggers the City of Charlottesville threshold for requiring both VESCH, and VSMP plans. Since this requires a full review for compliance from the City, and ultimate approval in order to receive a Land Disturbing Permit, the City will have control over assuring the project conforms to VESCH, VA SWM BMP, as well as Chapter 10 of the City Code. The project has received 3 review from the City PWE staff after having initial submittal rejected for review for not meeting minimal State Code standards for review. Each iteration has gotten progressively closer to meeting basic VSMP/VESC standards. An evaluation of negative impacts specifically provided in the critical slope provisions, while also taking into account the latest plan submittal follows:

a. Erosion affecting the structural integrity of those features./ b. Stormwater and erosion-related impacts on adjacent properties.

The applicant references ESC measures being implemented. These plans are under development. For such a small site, it is very complicated but the last review generated comments primarily about clarifying the sequence for constructability (clarity for contractor) as well as comments about the “SSF” being applied at the perimeter and limits of flow length to silt fence. This ESC scheme has progressed significantly and is near approvable.

c. Stormwater and erosion-related impacts to environmentally sensitive areas such as streams and wetlands. There is a “conveyance” adjacent the site. It is not considered a natural channel.

d. Increased stormwater velocity due to loss of vegetation. Discharges downstream of the site should remain at similar amounts due to VSMP compliance parameters. Since most outfalls are being “reused”, velocity will remain similar.

e. Decreased groundwater recharge due to changes in site hydrology. There is no mitigation proposed for groundwater recharge. Existing slopes and impervious limit recharge opportunities in both existing and proposed conditions.

f. Loss of natural or topographic features that contribute substantially to the natural beauty and visual quality of the community such as loss of tree canopy, forested areas and wildlife habitat. There was not mitigation addressed for loss of natural features. There are extremely limited natural features regarding canopy or habitat in existing conditions.

In regards to providing a recommendation of the waiver, in accordance with Sec. 34-1120 (6) (d):

“No modification or waiver granted shall be detrimental to the public health, safety or welfare, detrimental to the orderly development of the area or adjacent properties, or contrary to sound engineering practices.”

Based on the submitted materials and the applicant’s justifications, engineering cannot recommend approval under either Finding #1 or Finding #2. The plan is not yet approvable, though still under development. City Engineering provides the following recommended conditions which have been selected for based on the design and review history of this project. Most are already incorporated into the design. If the Planning Commission decides to approve the project, the following should be considered for applicable conditions:

- 1) Site Plans (VESCP Plans) should include, at a minimum, 4 stages/phases of ESC controls. The first phase shall include “Initial/Preliminary Controls”. Outfalls from any proposed traps shall be established with rigorous independent ESC controls, early in the sequence, prior to the establishment of a sediment trap and associated conveyances.
- 2) “Super Silt Fence” (chain linked backing) shall be installed where perimeter silt fence is specified.
- 3) At no time shall concentrated water be directed toward the critical slopes.