

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	December 19, 2022
Action Required:	Resolution Approval
Presenter:	Carrie Rainey, Urban Designer/City Planner
Staff Contacts:	Carrie Rainey, Urban Designer/City Planner Jack Dawson, City Engineer
Title:	Considering a Sidewalk Waiver Request for the Mount View PUD (Planned Unit Development) (1 reading; tabled from December 5)

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.

Kelsey Schlein of Shimp Engineering, P.C., on behalf of Mount View Baptist Church, Mount View Properties, LLC, and Route 250 Houses, LLC (collectively the "Owners"), 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. The waiver request seeks to waive the sidewalk requirement for the eastern side of a portion of the River Vista Avenue right-of-way, which the applicant proposes to improve to support a new multifamily development. The Owners have also submitted an application pursuant to Section 34-490 seeking a zoning map amendment to change the zoning district classifications of 908 St. Clair Avenue, 1133 Otter Street, 1221 Landonia Circle, and 1201 Landonia Circle (Tax Map Parcels 490065000, 490072100, 490072000, and 490073000). The application proposes to change the zoning classification of the Subject Property from "R-2" (Two-Family Residential) to "PUD" (Planned Unit Development) subject to proffered development conditions.

Update: City Council deferred action on the sidewalk waiver at their December 5, 2022 meeting.

Discussion

Per Section 29-182(j)(5), the authority granting the waiver shall consider not only the factors set forth within Section 29-182(j)(5) but also Section 29-36. The applicant's analysis of these factors is included in the Application Materials, attached.

Public Works Engineering has provided the following analysis: The proposed right-of-way (ROW) is

40-ft. From the Standards and Design Manual (SADM), minimum “Local” standards include: 2x 5-ft sidewalks, 2x10-ft lanes, 2 X 0.5-ft curbs, and 2 x 1-ft buffer. This totals a total required cross section of 33-ft. This would still provide for 7-ft for retaining walls if required. There seems to be no reason that this is not feasible. The applicant’s reference to the further complications regarding providing a road in accordance with street standards does not seem relevant as the road as shown on this plan exceeds street standards even with just one sidewalk. (12% slope shown exceeds 10% required by SADM). The road should meet all design standards, including sidewalk requirements.

As previously noted, 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. **Public Works Engineering has confirmed that no hardships due to the physical site exist.**

Per Section 29-182(j)(5), the authority shall also consider the following factors: Whether a surface other than concrete is more appropriate for the subdivision because of the character of the proposed subdivision and the surrounding neighborhood. **Alternative surfaces are not under consideration in this application.**

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 limiting sidewalk installation on both sides of the street.**

Whether the sidewalks reasonably can connect into an existing or future pedestrian system in the area. **While the existing sidewalk network on River Vista Avenue is incomplete, sidewalks installed on the area of the River Vista to be improved through the application would connect to both existing segments and future additions. The associated Planned Unit Development (PUD) rezoning application does not propose sidewalk on site to connect with the eastern portion of River Vista Avenue, where this sidewalk waiver is requested.**

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 applicant does not propose sidewalk connections on-site to the eastern side of River Vista Avenue, the applicant proposes to add up to 72 residential units as a part of the associated Planned Unit Development (PUD) rezoning application. Therefore, staff believes there is a public benefit to providing public sidewalk on both sides of River Vista Avenue.**

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 proposed alternative is under consideration.**

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.

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 requested waiver will not promote the goals and objectives of the 2021 Comprehensive Plan, such as: Chapter 6 (Transportation): Strategy 2.2 Through development processes, implement and incentivize improved facilities and amenities for non-motorized travelers, including those needed to support multimodal travel by residents, workers, and visitors.**

Alignment with City Council's Vision and Strategic Plan

Sidewalk construction contributes to City Council's Vision Statement, *A Connected Community*, as well as Goal 3 of City Council's 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 applicant-held community meeting per Section 34-41(c)(2) on March 9, 2022, and the joint public hearing with Planning Commission and City Council on September 13, 2022. Discussions at both meetings and written comments received by staff regarding the project note concerns with increasing vehicular traffic, walkability of the community, and gaps in the existing sidewalk network.

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

Public Works Engineering has confirmed there are no hardships per Section 29-36 preventing the installation of new sidewalk on the eastern side of River Vista Avenue. While the applicant has chosen to not provide a private sidewalk connection within the site to the eastern side of River Vista Avenue, staff believes the public pedestrian network should be installed as required by the standards of Chapter 29 in support of the 2021 Comprehensive Plan. Staff recommends the waiver is denied.

Should City Council decide to grant the waiver request, the following is ***suggested for a motion: "I move the RESOLUTION approving a sidewalk waiver request for the Mount View PUD, for property located at 908 Saint Clair Avenue, 113 Otter Street, 1221 Landonia Circle, and 1201 Landonia Circle"***

Alternatives

City Council may :

- (1) by motion, take action to deny the sidewalk waiver;
- (2) by motion, defer action on the sidewalk waiver.

Attachments

1. Res Sidewalk Waiver Mount View PUD
2. Mount View PUD Sidewalk Waiver Application