

CITY OF CHARLOTTESVILLE
DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES
STAFF REPORT



**APPLICATION FOR A WAIVER:
STEEP SLOPES**

PLANNING COMMISSION REGULAR MEETING
DATE OF PLANNING COMMISSION MEETING: JANUARY 8, 2008

Project Planner: Nick Rogers
Date of Staff Report: January 2, 2008

Applicant: Keith Woodard and M. Douglas Lowe
Applicant's Representative: David Collins, P.E., L.S.
Current Property Owner: William G. Barkley, George H. Barkley, Elizabeth B. Dowling

Application Information

Property Street Address: 1143 and 1147 Rose Hill Drive
Tax Map/Parcel #: Tax Map 37, Parcels 80.2, 80.3, 80.6, and 80.4
Total Square Footage/Acreage Site: 29621 square feet (0.68 acres)
Comprehensive Plan (Land Use Plan) Designation: Mixed Use
Current Zoning Classification: B-1 Commercial
Tax Status: The City Treasurer's office indicates that taxes are current on this property.

Applicant's Request

Mr. Collins is requesting a waiver of the City's critical slope ordinance [§34-1120(b)(5)] for the above noted property. The applicant's goal is to raze the existing structures on Rose Hill Drive and construct a three-story office building with structured parking. The critical slopes exist along the western edge of the property lines, bordering four single family detached houses in an R-1 zone. These slopes are man-made and were most likely created during the construction of the existing office buildings.

This waiver has been received in conjunction with a preliminary site plan application, which is currently undergoing staff review.

Standard of Review

Section 34-1120(b)(5) states that, “the planning commission may grant a modification or waiver, upon making one or more of the following findings:

- 1) That a strict application of requirements would not forward the purposes and intent of these critical slopes provisions;
- 2) That the alternative proposed by the developer would satisfy the purposes and intent of these critical slopes provisions to at least an equivalent degree;
- 3) That, due to unusual size, topography, shape, location or other unusual physical conditions of a property one or more of these critical slopes provisions would effectively prohibit or unreasonably restrict the use of such property or would result in significant degradation of the site, or adjacent properties; or
- 4) That granting the proposed modification or waiver would serve a public purpose of greater import than would be served by a strict application of the requirements of these critical slopes provisions.

No modification or waiver granted by the planning commission 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.

In granting a modification or waiver, the planning commission may impose such conditions as it deems necessary to protect the public health, safety or welfare and to insure that a development will be consistent with the purpose and intent of these critical slopes provisions.”

Project Review / Analysis

The applicant has provided information in the enclosed steep slopes waiver application for each item discussed below. The Planning Commission may grant a modification or waiver, upon making one or more of the following findings:

1. A strict application of requirements would not forward the purposes and intent of these critical slopes provisions:

a) *To protect and conserve steep hillsides*

The applicant notes that approximately 50% of the critical slopes for the parcels will remain undisturbed. These slopes border the adjacent residential neighborhood. Staff has advised the applicant to keep construction activity away from this property line due to a 20’ access easement that runs along the line. The applicant’s site plan has been careful to heed this advice, but staff is still concerned about the preservation of vegetation along this buffer.

b) *To recognize the increased potential for soil erosion*

Any impact on the disturbed slopes is proposed to be mitigated through retaining walls that will support and stabilize the slopes, which would minimize erosion.

- c) *To recognize increased potential for sedimentation and water pollution*
The applicant is intending to apply for LEED certification for the finished structure. To support this certification, and to prevent sedimentation and water pollution, the proposed plan includes a bioswale that would run along Rose Hill Drive and continue down the hill along Amherst Street. This swale would have vegetation that would trap sediment and filter harmful pollutants before dispatch into the stormwater drainage system. This feature, as well as an underground retention tank in the basement level parking, are planned to capture virtually all of the water on site to abate sedimentation.
- d) *To recognize that development of critical slopes may result in rapid or large-scale movement of soil and rock*
With the construction of the basement level parking, layers of soil and rock are to be removed from the site, and some of these layers will be a part of critical slopes. The applicant maintains that this removal will reduce the potential for large scale soil movement.
- e) *To recognize that development of critical slopes may result in concentrated and/or excessive stormwater runoff*
An existing stormwater drain swale runs through the wooded access easement and continues on to one of the adjacent residential properties. This swale would remain undisturbed, but the balance of stormwater runoff would be contained in the site features outlined in #1c.
- f) *To recognize that development of critical slopes may result in siltation of natural and man-made bodies of water*
The applicant's proposal would alleviate concerns focused on siltation through a mulch berm and a diversion dike. These components are slated to reroute stormwater during construction activity to silt traps closer to Amherst Street. These traps would prevent silt from entering the drainage system.
- g) *To recognize that development of critical slopes may result in the loss of aesthetic resources*
The current conditions of the critical slopes serve as an aesthetic resource for the property owners along nearby Augusta Street. The slopes support tree canopy and other vegetation that screens commercial activity from the residences. The applicant intends to keep as much of this tree buffer intact once construction has commenced. This consideration, along with the applicant's site designs to protect the health of a 42' poplar tree, shows that careful attention has been made to take tree preservation into account.

2. The alternative proposed by the developer would satisfy the purposes and intent of these critical slopes provisions to at least an equivalent degree

The applicant's alternative would improve upon the existing conditions currently seen on the site. The site design, with two parking levels, provides an efficient use of space that surpasses the City's requirements for open space. The additional pervious surface would allow for a higher degree of infiltration for stormwater and less potential for erosion. The critical slopes to be disturbed would be eliminated, and the existing slopes would be supported with retaining walls for the basement parking. Features such as the vegetated bioswale and the underground retention tank for excess water would ensure that the impacts of disturbing the critical slopes are minimal.

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

The site's critical slopes occupy 16% of the project area's total acreage. The applicant contends that the denial of a waiver would restrict approximately 33% of the site from development. Still, the balance of the acreage could be improved with new structures or other designs. A denial of the waiver would not prohibit or unreasonably restrict the property's use.

3. Granting the proposed modification or waiver would serve a public purpose of greater importance than would be served by a strict application of the requirements of these critical slopes provisions.

The applicant highlights the numerous benefits that the project would propose if the steep slope waiver is approved. The planned bicycle lockers and showers, coupled with the project's proximity to public transit, make automobile transportation an option instead of a necessity. The basement parking will help provide enough parking spaces to keep excessive commercial vehicle activity off of Amherst Street, which has become a critical concern for nearby residents. Despite these localized benefits, the project's implementation with an approved waiver would not serve a public purpose of greater importance.

Staff Recommendation

Staff is pleased with the abundant proposed low-impact development (LID) features included with the plans. If approved, the project will successfully impede the flow of stormwater to the City's drainage system while cleaning pollutants out of the water. The access easement, which is held by an adjacent commercial property owner, effectively prevents the applicant from disturbing the majority of the site's critical slopes.

Even with this body of support, staff still harbors reservations over the applicant's ability to preserve the existing tree buffer at the property's western boundary between the residential

neighborhood. According to the City’s zoning code, §34-872(a)(2), the applicant is required for this particular project to provide an “opaque landscaping scheme, one that blocks views between two adjacent properties.” Staff has spoken with the applicant at length on the subject and believes wholeheartedly that this is the applicant’s primary intention. Moreover, the applicant has promised to increase plantings within this easement to comply with the screening regulation. In order to add an additional layer of expertise, the site’s existing tree canopy should be evaluated by a third-party, licensed arborist to ascertain if the applicant’s tree preservation plan is feasible given the necessary construction activity to build the proposed plan. The issue of tree preservation has been a controversial point on a number of recent projects in the City, and this evaluation would help confirm the applicant’s good intentions. With this one condition, staff recommends approval of the waiver.

The applicant needs to meet at least one the four above findings for a waiver to be granted.

On Finding 1: Staff concludes the applicant **does meet** the criteria for a waiver.

On Finding 2: Staff concludes the applicant **does meet** the criteria for a waiver.

On Finding 3: Staff concludes the applicant **does not meet** the criteria for a waiver.

On Finding 4: Staff concludes the applicant **does not meet** the criteria for a waiver.

Suggested Motions

1. “I move to approve the steep slope waiver for Tax Map 37, Parcels 80.2, 80.3, 80.6, and 80.4 on the grounds that [*use one of the four findings here*], with the following condition:
 - A licensed, third-party arborist has reviewed the plans and submitted a letter to staff with his or her analysis of the applicant’s plans for tree preservation.”
2. “I move to approve the steep slope waiver for Tax Map 37, Parcels 80.2, 80.3, 80.6, and 80.4.”
2. “I move to deny the steep slope waiver for Tax Map 37, Parcels 80.2, 80.3, 80.6, and 80.4.”