

Memorandum

*Neighborhood Development Services
Office of the City Engineer
City Hall Annex, 610 East Market St., Charlottesville*

To: Ebony Walden
From: Sujit Ekka and Kristel Riddervold
Date: October 5, 2009
Subject: Fontaine Ave Station Critical Slopes Waiver Request

Please find below the review comments for above referenced project. The following comments are a response to/analysis of the applicants' narrative and slope waiver application package.

1. Requirement # 1 - That a strict application of the requirements would not forward the purposes and intent of these critical slopes provisions.

The applicant's development proposal impacts steep hillsides. Development of these critical slopes increases the potential for soil erosion, sedimentation and water pollution. Adherence to the critical slope requirements would forward the purposes of the critical slope provisions and use of this finding is not applicable. However, the applicant's development proposal addresses these impacts. The alternatives presented by the applicant provide significant evidence to grant a waiver based on requirement #2 (The alternative proposed by the developer would satisfy the purposes and intent of these critical slope provisions to at least an equivalent degree). See responses #1a-1g and 2 below.

a. Requirement#1a-Protect and conserve steep hillsides

The slopes appear to be man-made with the construction of the old Chinese restaurant, Summit St, Fontaine Ave and other adjacent properties. Currently, the site has unsightly vegetation that has grown over time. In driving by this site, the slopes are actually not visible as they drop down below the street level, so the statement that the proposed plan will eliminate unsightly slopes is irrelevant.

b. Requirement#1b-To recognize the increased potential for soil erosion

It is recognized that during construction there is an increased potential for soil erosion but with good erosion and sediment control practices this requirement can be satisfactorily addressed. An erosion and sediment control plan in accordance with Virginia Erosion and Sediment Control Handbook will be submitted by the applicant and reviewed in the final site plan stage. In the post-construction condition, with the proposed hardscape, stabilized slopes, and proposed stormwater BMPs the potential for soil erosion does not seem to be of concern.

c. Requirement#1c- To recognize the increased potential for sedimentation and water pollution

See response to 1b. Sedimentation and water pollution are typically linked to the erosion. Other proposed BMPs can address the water pollution occurring through parking areas etc.

d. Requirement#1d- To recognize that development of critical slopes may result in rapid or large scale movement of soil and rock

It is recognized that sometimes development on critical slopes may result in rapid or large-scale movement of soil and rock. However, the applicant will provide a full geotechnical report as part of the final site plan to assist with the design and review. The proposed design is minimizing the need for fill material by providing the parking garage below grade and a retaining wall that will be designed by a structural engineer to prevent any movement of soil and rock.

e. Requirement#1e-To recognize that development of critical slopes may result in concentrated and/or excessive stormwater runoff

It is recognized that with development of new impervious areas there is a potential for increase in stormwater runoff. However, with the proposed stormwater BMPs it does not appear that concentrated and excessive stormwater runoff will be an issue. A full review of the comprehensive stormwater management plan and compliance with state and city stormwater ordinance will ensure that there is no net increase in stormwater runoff.

f. Requirement#1f-To recognize that development of critical slopes may result in siltation of natural and man-made bodies of water

See response to 1b.

The application states that an Army Corp permit has been obtained. According to the language in the cover letter and the contents of the letter from the Corps, the accurate statement would be that the project can be covered under a nationwide permit...no individual permit will be necessary.

g. Requirement#1g-To recognize that development of critical slopes may result in loss of aesthetic resources

The current condition of site with overgrown vegetation and a vacant concrete pad do not seem to be a loss of aesthetic resources. The proposed fire station building with planned landscaping will likely be aesthetically more pleasing.

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

See responses to 1a-1e above. The alternatives proposed by developer to address the issues of sedimentation, water pollution, stormwater runoff, and rapid and large-scale movement of soil and rock satisfies the purposes and intent of these critical slope provisions to at least an equivalent degree. Given that the site plan is at a preliminary stage, some of the strategies described as “Integrated Management Practices” are conceptual in nature and these strategies are still being worked out. The commitment to comprehensive stormwater management, however, is apparent throughout the waiver narrative.

3. Requirement#3-Due to unusual size, topography, shape, location or other unusual physical conditions of a property one or more of these critical slope provisions would effectively prohibit or unreasonably restrict the use of such property or would result in significant degradation of the site or adjacent properties

About 43% of the 1 ac site comprises of critical slopes with a drainage channel draining through the middle of the site. A strict adherence to the critical slopes provisions will restrict the use of the lot for further development.

4. Requirement#4-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 slope provisions

The attachments in the applications showing the response time for fire department and several conversations with the fire department personnel demonstrate the need and importance of this strategic location for a fire station. Granting the critical slopes waiver will serve a public purpose of greater importance than would be served by a strict application of the requirements of these critical slope provisions.

Other comments:

- 1) In the last paragraph of the Page 1 of the submittal, the statement is made that Army Corps of Engineers permitting is not needed for this project. It should be clarified that the Corps has provided confirmation that the project can be covered by nationwide permit 39 (Commercial and Institutional Development) and does not require an individual permit.

Staff Recommendation

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

Staff recommends approval of the waiver of the steep slope ordinance for this project.

Suggested Motions

I move to recommend approval of this steep slope waiver for Tax Map 17A, Parcels 13 and 14 for the Fire Station on the grounds based on findings 2, 3 and 4 with the following conditions:

1. During the final site plan review process, the applicant shall provide:
 - a. Full geotechnical report with test boring results
 - b. Design of retaining wall by a structural engineer licensed in the Commonwealth of Virginia
 - c. Erosion and sediment control plan in accordance with Virginia Erosion and Sediment Control Handbook, latest edition
 - d. Stormwater management plan in accordance with Virginia Stormwater Management Handbook, latest edition; City of Charlottesville stormwater ordinance, and City standards and design manual
 - e. Phase II Environmental Site Assessment report