

**CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA**



Agenda Date:	December 4, 2023
Action Required:	Consideration of a Sidewalk Waiver
Presenter:	Matthew Alfele, City Planner
Staff Contacts:	Matthew Alfele, City Planner
<b>Title:</b>	<b>Resolution to grant a Sidewalk Waiver for a residential development referred to as "VERVE Charlottesville PUD"</b>

**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.

Subtext Acquisitions, LLC ("Applicant"), on behalf of Woodrow Apartments, LLC; Woodrow Too, LLC; and 1709 JPA LLC, ("Owner") is requesting a rezoning to PUD per application ZM23-00004 for properties located at 106 – 114 Stadium Road, 409 Stadium Road, 104 Stadium Road, 102 Stadium Road, 1705 Jefferson Park Avenue, and 100 Stadium Road ("Subject Property"). The applicant is moving to rezone the Subject Property from Multifamily Residential ("R-3") to Planned Unit Development ("PUD") with a Development Plan and a proffer statement. The application and development plan includes a commitment to affordable housing at two times the requirements of code Section 34-12; parking; a use matrix including a maximum dwelling units per acre ("DUA"); yard and height regulations; open space; and landscaping. The applicant is proposing to redevelop the Subject Property and replace the existing (62) residential units (spread between nine different buildings) with one building containing between (524) to (550) residential units. The proposed building will have a height range of (75) feet to (135) feet and stories that range from (5) to (12). In addition, the proposed PUD includes improved pedestrian and bicycle circulation along Stadium Road, Emmet Street, and Jefferson Park Avenue and road improvements to Montebello Circle. In addition to the rezoning, the applicant is requesting a waiver for a portion of requirements set out in Section 29-182(j)(3) of the City Code that calls for construction of a sidewalk to approved City standards when land being developed fronts on an existing street, and adjacent property on either side has an existing sidewalk. The applicant is proposing to provide a sidewalk on all four (4) frontages of the proposed development but is requesting a waiver for approximately three hundred (300) feet along Montebello Circle.

**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)(4) but also Section 29-36. The applicant's analysis of these factors are included in the Application Materials, **Attachment 1**.

#### Staff Analysis

Public Works Engineering and the City's Fire Department have provided the following analysis:

The existing conditions for Montebello Circle include one-way vehicular travel entering from Stadium Road, a small variable width sidewalk on a portion of the north side of Montebello Circle starting approximately 400 feet from the intersection of Stadium Road, and on street parking (south side from Stadium Road for about 400 feet). As part of the PUD development, the applicant will be providing an 8 foot sidewalk from Stadium Road for approximately 100 feet with pedestrian access to the development. In addition, the applicant will be improving Montebello Circle to bring it up to the City's Fire Department standards. This includes widening the paved portion of Montebello Circle that fronts the development to a minimum of twenty (20) feet and relocating overhead utility lines.

As previously noted, per Section 29-182(j)(5), 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 although there are steep slopes along Montebello Circle that would make building a sidewalk more difficult, these conditions are not insurmountable. It would require impacts to Critical Slopes and substantial retention and fill.

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 Critical Slopes abutting Montebello Circle on the Subject Property side, but the applicant is also requesting a Critical Slope Waiver (P23-0055) as part of the development project. Staff does find that due to the low volume of vehicular traffic on Montebello Circle and the presence of a sidewalk on the opposite side of the Subject Property waiving the sidewalk requirement, as presented, would not impact pedestrian activities in the area. Staff finds that even if a sidewalk was built along the full frontage of the Subject Property, it would not connect to the existing sidewalk system on Montebello Circle due to a gap in the sidewalk and a retaining wall on the adjacent property to the south (1707 JPA).

Whether the sidewalks reasonably can connect into an existing or future pedestrian system in the area. The applicant plans on providing a robust sidewalk system for around 90% of the Subject Property that will connect to the existing sidewalk system along Jefferson Park Avenue. These improvements provided by the applicant include an 8 foot sidewalk, a 6 foot raised bike lane, a planted buffering between the sidewalk/bike lane and the street, and bicycle parking for the frontages along Stadium Road, Emmet Street, and Jefferson Park Avenue. The portion of sidewalk being

proposed off Montebello Circle includes a sidewalk that is 8 feet wide for approximately 100 feet that will provide direct access to the development.

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. The majority of pedestrian traffic around the development will be on Stadium Road, Emmet Street, and Jefferson Park Avenue. Although there will be some pedestrian traffic along Montebello Circle (from people cutting over to Grounds from Jefferson Park Avenue), the existing sidewalk system and low traffic generated by vehicles do not warrant a sidewalk running the full length of the Subject Property.

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. Nothing in the application materials indicates any sidewalk provided as part of the development would not be public and 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. Staff finds that the project as a whole would contribute to some goals within the City's Comprehensive Plan, such as providing increased residential density at an ideal location within the City, supporting a wide range of rental and homeownership housing choices that promote walkability, bikeability, ADA accessibility, public transit use, and creating a connected network of safe, convenient, and pleasant accommodations for pedestrians, bicyclists, and transit riders by providing upgraded pedestrian connectivity around the majority of the Subject Property.

### **Alignment with City Council's Vision and Strategic Plan**

Public Sidewalks contribute to the City's Vision Statement of Transportation:

Charlottesville provides a regional transportation system that increases mobility options and is reliable and affordable for all.

### **Community Engagement**

Under the City's Zoning Code, a Sidewalk Waiver Application does not require a Public Hearing or community engagement meeting, but public engagement for this project has been achieved through other methods such as the rezoning application. See the City Action memos related to applications **ZM23-00004** and **ZT23-09-02** for more detailed information.

### **Budgetary Impact**

If City Council grants a sidewalk waiver to the applicant in connection with the proposed development, then if the City later wishes to establish a sidewalk adjacent to the development along Montebello Circle, 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, then the City's long-term maintenance costs will be slightly higher than if no sidewalk is constructed.

## **Recommendation**

Although Public Works Engineering has confirmed there are no hardships per Section 29-36 preventing the installation of a new sidewalk for the location in question, staff finds other factors could warrant waving the construction of a sidewalk in this location and recommends approval.

## **Alternatives**

City Council has several alternatives:

- (1) by motion, take action to deny the sidewalk waiver;
- (2) by motion, take action to approve the attached Resolution granting the requested sidewalk waiver;
- (3) by motion, defer action on the sidewalk waiver.

## **Attachments**

1. VERVE Charlottesville PUD Sidewalk Waiver Application
2. VERVE Charlottesville PUD Sidewalk Resolution