

**COUNTY OF ALBEMARLE
STAFF REPORT SUMMARY**

Project Name: ZMA201500002 Franklin Street	Staff: J.T. Newberry, Bill Fritz
Planning Commission Public Hearing: May 19, 2015	Board of Supervisors Public Hearing: TBD
Owner: Realty IX, LLC	Applicant: Julia Skare, Draper Aden Associates; Mark Mascotte, McLean Faulconer, Inc.
Acreage: 11.77 acres	Rezone: 31,894 square feet of preserved slopes to managed slopes within Steep Slopes Overlay District (18.30.7)
TMP: 07700-00-00-040B0	By-right use: Light Industry uses
Magisterial District: Scottsville	Proffers: No
Proposal: Amend Steep Slopes Overlay District to change designation of an area of 25%> slopes from Preserved slopes to Managed slopes as identified on the application plan.	Requested # of Dwelling Units: Not applicable to this request.
DA (Development Area): Neighborhood 4	Comp. Plan Designation: Industrial Service – warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre)
Character of Property: The subject property is located at the corner of the intersection of Broadway Street and Franklin Street. It is adjacent to the border of the County and the City of Charlottesville (See Attachment A).	Use of Surrounding Properties: The surrounding property within the County is zoned industrial (LI). Within the City, the surrounding property is residential (R-3) and industrial (M-1). Carlton Mobile Home Court is across the street from the subject property.
Factors Favorable: 1. Slopes in area “A” better meet the criteria for designation as managed slopes. 2. Design standards for managed slopes will protect the integrity of the steep slope areas and protect downstream lands and waterways from the adverse effects of unregulated disturbance.	Factors Unfavorable: Staff has identified no factors unfavorable to this request.
RECOMMENDATION: Staff recommends approval of ZMA201500002 Franklin Street with the changes recommended in the staff report.	

STAFF PERSON:
PLANNING COMMISSION:
BOARD OF SUPERVISORS

J.T. Newberry, Bill Fritz
May 19, 2015
TBD

PETITION:

PROJECT: ZMA201500002 Franklin Street Steep Slopes

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCEL: 077000000040B0

LOCATION: Property is located in the southeast corner of the intersection of Franklin Street and Broadway Street

PROPOSAL: Request to change the zoning designation of 37,918 square feet from preserved slopes to managed slopes which would allow the slopes to be disturbed. *[Note the initial square footage to be rezoned was reduced to 31,894 square feet following further analysis.]*

PETITION: Rezone 0.87 acres from Steep Slopes Overlay District (preserved) which allows uses under Section 30.7.4(b) to Steep Slopes Overlay District (managed) which allows uses under Section 30.7.4(a). No dwellings proposed.

OVERLAY DISTRICT: Steep Slopes (SS); Flood Hazard (FH)

PROFFERS: No

COMPREHENSIVE PLAN: Industrial Service – warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Neighborhood 4

CHARACTER OF THE AREA:

The surrounding area is developed with both industrial and residential uses (see Attachment A). A variety of light industrial uses are located along Broadway Street to the north and east of the site. Portions of the Moores Creek Wastewater Treatment Plant lie on the eastern and southern sides of the property. The western side abuts a residential area known as Carlton Mobile Home Court, as well as the old H.T. Ferron concrete plant site. Moores Creek Lane and a wholesale bakery nearly bisect the subject property into two separate parcels of approximately 4.9 acres and 6.8 acres. The area under review is located within the approximate 4.9 acres on the northern side of Moores Creek Lane.

SPECIFICS OF PROPOSAL:

The applicant requests to rezone 31,894 square feet of steep slopes within the subject property from preserved slopes to managed slopes. The site currently contains 45,096 square feet of preserved slopes. Preserved slopes are areas that may not be disturbed except under limited circumstances found in Section 30.7.4(b), whereas managed slopes may be disturbed for any use permitted in the underlying zoning district subject to the design standards found in Section 30.7.5.

APPLICANT'S JUSTIFICATION FOR THE REQUEST:

The applicant states that this rezoning is being proposed to address the issue of access and use for the parcel. The applicant believes the preserved slopes on the site should be reclassified because the existing preserved slopes actually have more characteristics of managed slopes (see Attachment B). The applicant's justification is examined more specifically within the sections containing staff's analysis.

PLANNING AND ZONING HISTORY:

The subject property is located on the western edge of an area that has consistently been designated for industrial use in the County's land use plans. This area is bordered by Franklin Street to the west, a railroad track to the north and the Moores Creek Wastewater Treatment Plant to the east and south. The 1970 Comprehensive Plan designates this area for "light industrial and research" uses and the official zoning map prior to the County's 1980 comprehensive rezoning showed this area as zoned "M1" (now called "LI" or Light Industry). Staff found that no rezoning applications have been approved in this area since the adoption of the Zoning Ordinance.

The Steep Slopes Overlay District was adopted into the Zoning Ordinance on March 5, 2014. The current slope designations on this property have existing since the adoption of the overlay district. The intent of the District is to:

The purpose of this section 30.7 is to establish an overlay district on those lands within the development areas of the county as delineated in the comprehensive plan which have steep slopes and for which additional development design care and consideration must be given, prior to permitted development occurring.

The board of supervisors finds that whenever steep slopes within the overlay district are disturbed, their disturbance should be subject to appropriate consideration and care in their design and construction in order to protect the integrity of the steep slope areas, protect downstream lands and waterways from the adverse effects of the unregulated disturbance of steep slopes, including the rapid or large-scale movement of soil and rock, or both, excessive stormwater runoff, the degradation of surface water, and to enhance and preserve the character and beauty of the steep slopes in the development areas of the county.

The board also finds that certain steep slopes, because of their characteristics, should be preserved to the maximum extent practical, and that other steep slopes, whose preservation is not required, should be managed. Preserved slopes are those slopes that have characteristics that warrant their preservation by the prohibition of disturbance except in the limited conditions provided in this overlay district. Managed slopes are those slopes where development may occur, provided that design standards are satisfied to mitigate the impacts caused by the disturbance of the slopes.

COMPREHENSIVE PLAN:

The current Comprehensive Plan designates this property for Industrial Service, which recommends warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential development (6.01-34 units/acre). The Comprehensive Plan also recommends construction of a greenway along Moores Creek, which forms the southern boundary of this parcel. The proposed rezoning would not impact the designated greenway area.

The Comprehensive Plan also contains general statements about critical slopes that were particularly relevant to the creation of the Steep Slopes Overlay District, which can be found in Attachment C.

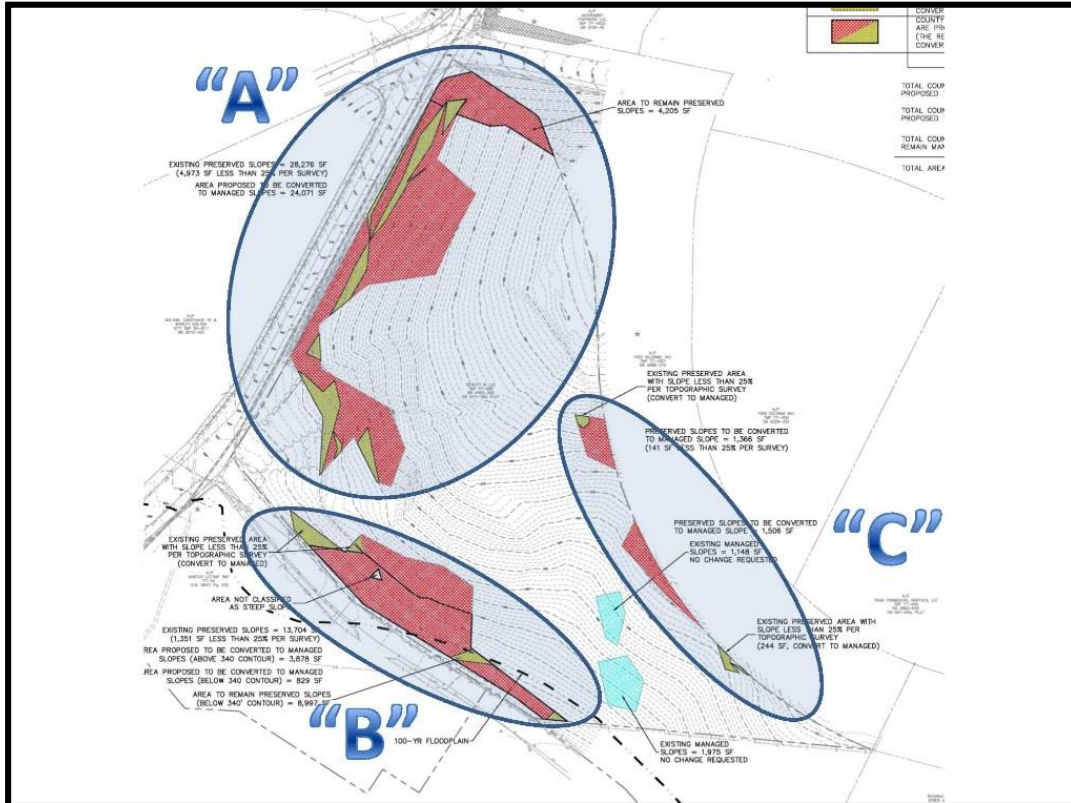
ANALYSIS OF REQUEST:

The review of this rezoning request focuses primarily on the appropriate designation of steep slopes as adopted within the Steep Slopes Overlay District on the official zoning map. This review is not specifically related to a development proposal for the site, although conceptual site development information was provided by the applicant as an exhibit to show areas that could be impacted by eventual development of the site.

The analysis begins with the purpose and intent of the Steep Slopes Overlay District. As noted above, this district was created to delineate lands which have steep slopes and for which additional development design, care and consideration must be given prior to any permitted development occurring. It states that "certain steep slopes, because of their characteristics, should be preserved to the maximum extent practical, and that other steep slopes, whose preservation is not required, should be managed."

The characteristics of preserved slopes and managed slopes are outlined in Section 30.7.3(a) and (b) respectively and represent the specific criterion used to determine the appropriate designation of steep slopes (see Attachment D). Broadly, staff found the steep slopes on this parcel contained characteristics of both managed and preserved slopes, but will make reference to three distinct areas on the site labeled as “A”, “B” and “C” in the figure below to further explain our analysis.

Figure 1: Areas of Slopes

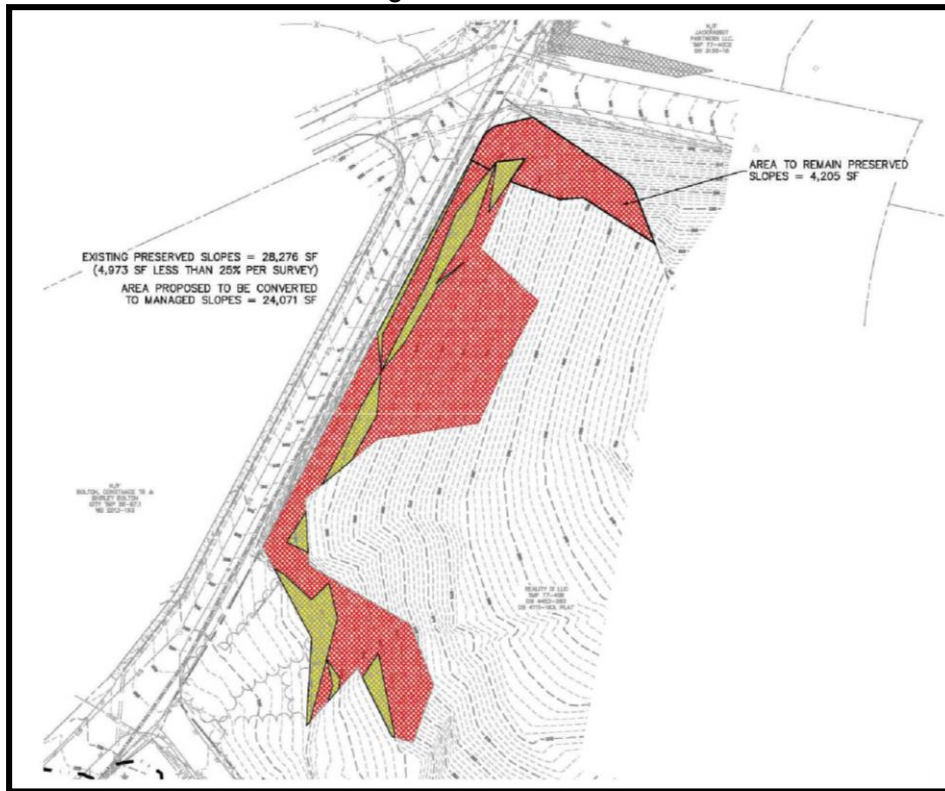


In addition to receiving comments from other reviewers in the County and City, staff considered a variety of information to further research these areas. Staff relied on information from previous County approvals, consulted with the County's Water Resources Manager, conducted onsite visits and reviewed several different historical maps, aerial photos, plats and deeds from up to 80 years ago. Staff's understanding of the history of the area was also informed by the neighbors and community members that attended two separate community meetings held by the applicant.

ANALYSIS OF AREA "A"

This area contains the largest swath of steep slopes on the site at approximately 28,276 square feet, all of which are currently designated as preserved slopes. The total square footage requested to be rezoned in this area is reduced by the 4,205 square feet proposed to remain as preserved slopes adjacent to the northern property line and by the 4,973 square feet shown to be less than 25% grade by field run topography (outlined in yellow in the figure below). Subtracting these areas yields a total of 19,098 square feet of preserved slopes that are proposed to be rezoned to managed slopes in area "A."

Figure 2: Area "A"



In analyzing this specific area, staff found characteristics of both managed and preserved slopes. In particular, the yellow strips of land that run parallel to Franklin Street significantly fragment the steep slopes. This fragmentation supports the applicant's view that these slopes are manufactured. Other reviewers also agreed that the extent to which this area became steep slopes (greater than 25% grade) was likely the result of the construction of Franklin Street. That said, even though the largest contiguous area of preserved slopes in area "A" is less than 10,000 square feet (which is characteristic of managed slopes), the sum of this grouping overall is greater than 10,000 square feet (which is characteristic of preserved slopes).

Staff also found the context of slopes for area "A" to be an important factor to consider. The adjacent properties to the west of the subject parcel (Parcel 40C1 and Parcel 40M) show a large area of managed slopes across the front of their property (shown in yellow in Figure 3). These slopes connect seamlessly to the preserved slopes at the northern end of the subject parcel (shown in green), which might suggest a "hillside system" that would be characteristic of preserved slopes. However, historical maps and engineering review suggest that all of the steep slopes along the southern side of Broadway Street were the result of road construction. Therefore, although the preserved slopes on the subject parcel are a part of a hillside system, that system is mostly manufactured and was significantly disturbed prior to June 1, 2012. This feature is more characteristic of managed slopes.

Charlottesville City
Using the Identify tool:
Click inside the City to launch the City's GIS viewer.

It should also be noted that the only public road access to this site is along Franklin Street and almost the entire frontage contains steep slopes. When an application is made to develop this site, the County will need to allow an entrance to the subject parcel and this area is almost certain to impact and further fragment this area of steep slopes. VDOT and County reviewed potential entrances along Moores Creek Lane and Broadway Street, but ultimately agree with the applicant that the safest location on a public street is centered along the Franklin Street frontage. The City and County will need to work together on the review of an entrance because Franklin Street is a City-controlled street, but the disturbance of steep slopes will either be governed by the design standards in Section 30.7.5 or will require a special use permit to evaluate the impacts of an entrance across preserved slopes. The County would risk a “regulatory taking” by denying an entrance to the property.

Characteristics of Managed Slopes as shown under Section 30.7.3 (a)				
	Applicant Analysis		Staff Analysis	
	Yes	No	Yes	No
(i) the contiguous area of steep slopes is limited or fragmented;	X		X	
(ii) the slopes are not associated with or abutting a water feature, including, but not limited to, a river, stream, reservoir or pond;	X		X	
(iii) the slopes are not natural but, instead, are manufactured;	X		X	
(iv) the slopes were significantly disturbed prior to June 1, 2012;	No comment			X
(v) the slopes are located within previously approved single-family residential lots;	No comment			X
(vi) the slopes are shown to be disturbed, or allowed to be disturbed, by a prior county action.		X		X

Below is a table that summarizes our analysis under the characteristics of preserved slopes and compares it to the applicant's analysis:

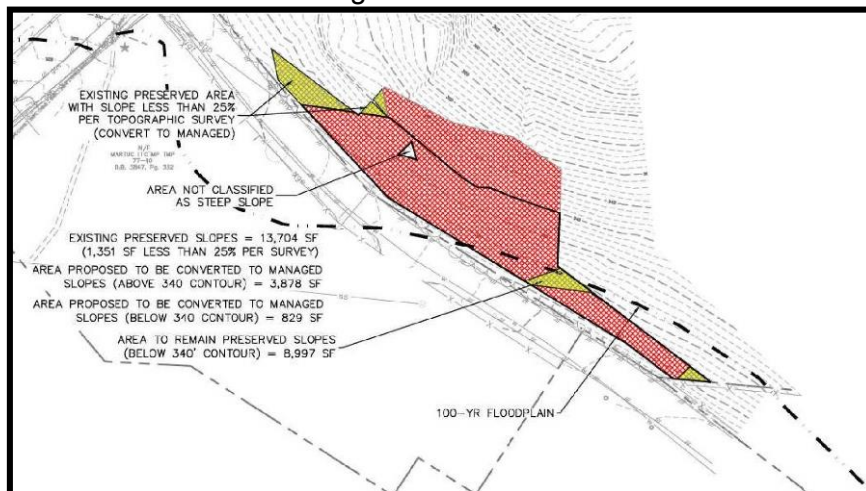
Characteristics of Preserved Slopes as shown under Section 30.7.3 (b)				
	Applicant Analysis		Staff Analysis	
	Yes	No	Yes	No
(i) the slopes are a contiguous area of ten thousand (10,000) square feet or more or a close grouping of slopes, any or all of which may be less than ten thousand (10,000) square feet but whose aggregate area is ten thousand (10,000) square feet or more;		X	X	
(ii) the slopes are part of a system of slopes associated with or abutting a water feature, including, but not limited to, a river, stream, reservoir or pond;		X		X
(iii) the slopes are part of a hillside system;		X	X	
(iv) the slopes are identified as a resource designated for preservation in the comprehensive plan;	No comment			X
(v) the slopes are identified as a resource in the comprehensive plan;	No comment			X
(vi) the slopes are of significant value to the entrance corridor overlay district;		X		X
(vii) the slopes have been preserved by a prior county action, including, but not limited to, the placement of an easement on the slopes or the acceptance of a proffer or the imposition of a condition, restricting land disturbing activity on the slopes.	No comment			X

Staff ultimately recommends that all 28,276 square feet of the preserved slopes in area “A” should be rezoned to managed slopes.

ANALYSIS OF AREA “B”

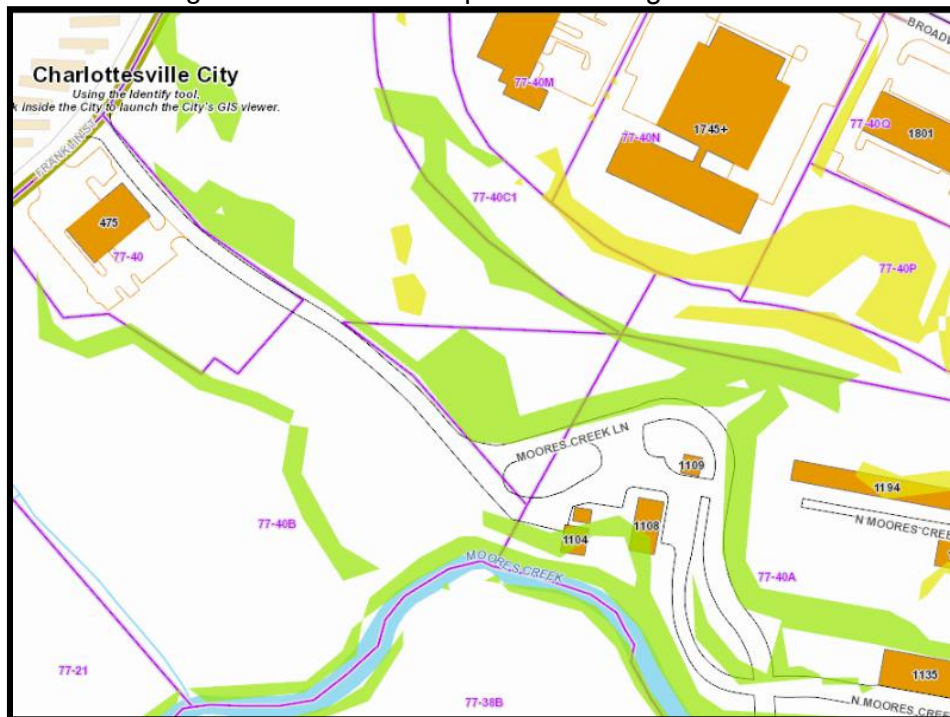
This area contains the second largest area of steep slopes on the site at 13,704 square feet. The total square footage requested to be rezoned in this area is reduced by the 8,997 square feet proposed to remain as preserved slopes adjacent to the southern property line and by the 1,351 square feet shown to be less than 25% grade by field run topography (outlined in yellow in Figure 4). Subtracting these areas yields a total of 3,356 square feet of preserved slopes to be rezoned to managed slopes in area “B.”

Figure 4: Area “B”



Staff found more characteristics of preserved slopes than managed slopes within this area. The areas determined to be less than 25% grade were mostly found on the periphery of this system and it still yields a contiguous area of more than 10,000 square feet when those areas are subtracted. It is located partially within the floodplain of Moores Creek, so it is associated with an abutting water feature. It is also connected to a much larger system of slopes (see Figure 5 below). Staff believes that even if some portion the steep slopes are the result of the construction of Moores Creek Lane, the size of its contiguous area and proximity to the most impaired watershed in the County warrants its preservation.

Figure 5: Context of slopes connecting to area “B”



Below is a table that summarizes our analysis under the characteristics of managed slopes and compares it to the applicant's analysis:

Characteristics of Managed Slopes as shown under Section 30.7.3 (a)				
	Applicant Analysis		Staff Analysis	
	Yes	No	Yes	No
(i) the contiguous area of steep slopes is limited or fragmented;	X			X
(ii) the slopes are not associated with or abutting a water feature, including, but not limited to, a river, stream, reservoir or pond;	X			X
(iii) the slopes are not natural but, instead, are manufactured;	X		X	
(iv) the slopes were significantly disturbed prior to June 1, 2012;	No comment			X
(v) the slopes are located within previously approved single-family residential lots;	No comment			X
(vi) the slopes are shown to be disturbed, or allowed to be disturbed, by a prior county action.		X		X

Below is a table that summarizes our analysis under the characteristics of preserved slopes and compares it to the applicant's analysis:

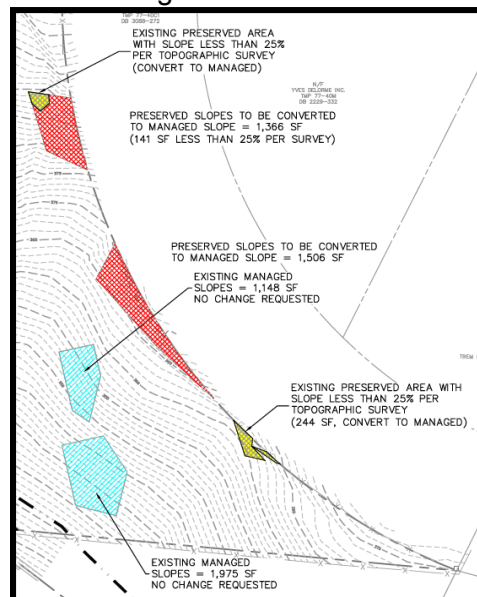
Characteristics of Preserved Slopes as shown under Section 30.7.3 (b)				
	Applicant Analysis		Staff Analysis	
	Yes	No	Yes	No
(i) the slopes are a contiguous area of ten thousand (10,000) square feet or more or a close grouping of slopes, any or all of which may be less than ten thousand (10,000) square feet but whose aggregate area is ten thousand (10,000) square feet or more;		X	X	
(ii) the slopes are part of a system of slopes associated with or abutting a water feature, including, but not limited to, a river, stream, reservoir or pond;		X	X	
(iii) the slopes are part of a hillside system;		X	X	
(iv) the slopes are identified as a resource designated for preservation in the comprehensive plan;	No comment			X
(v) the slopes are identified as a resource in the comprehensive plan;	No comment			X
(vi) the slopes are of significant value to the entrance corridor overlay district;		X		X
(vii) the slopes have been preserved by a prior county action, including, but not limited to, the placement of an easement on the slopes or the acceptance of a proffer or the imposition of a condition, restricting land disturbing activity on the slopes.	No comment			X

Staff ultimately recommends that all of the preserved slopes in area “B” should remain preserved slopes.

ANALYSIS OF AREA “C”:

This area contains the smallest grouping of steep slopes on the site at approximately 3,116 square feet. The total square footage requested to be rezoned in this area is reduced by the 385 square feet shown to be less than 25% grade by field run topography (outlined in yellow in Figure 6). Subtracting these areas yields a total of just 2,731 square feet of steep slopes to be rezoned from preserved slopes to managed slopes in area “C.”

Figure 6: Area “C”



The location of the property line makes these slopes look relatively small and unimportant, but they're actually a part of a much larger system on the County's maps (see Figure 7). Although the field run topography did show some portions of these areas as less than 25% grade, it's difficult to know if that is a more comprehensive characteristic within this system (as observed in area "A") or if it's indicative of only minor modifications along the edges of the system (as observed in area "B"). Without additional information, staff finds it appropriate to maintain these slopes as preserved slopes.

Figure 7: Context of slopes connecting to area "C"



The GIS map shows the property line in a different location, but this figure provides greater context of the larger system of slopes. The size of this system adjacent to subject parcel is approximately 20,000 square feet, but it continues south into the Moores Creek Treatment Plant site to encompass a much larger area.

Below is a table that summarizes our analysis under the characteristics of managed slopes and compares it to the applicant's analysis:

Characteristics of Managed Slopes as shown under Section 30.7.3 (a)				
	Applicant Analysis		Staff Analysis	
	Yes	No	Yes	No
(i) the contiguous area of steep slopes is limited or fragmented;	X			X
(ii) the slopes are not associated with or abutting a water feature, including, but not limited to, a river, stream, reservoir or pond;	X		X	
(iii) the slopes are not natural but, instead, are manufactured;	X			X
(iv) the slopes were significantly disturbed prior to June 1, 2012;	No comment			X
(v) the slopes are located within previously approved single-family residential lots;	No comment			X
(vi) the slopes are shown to be disturbed, or allowed to be disturbed, by a prior county action.		X		X

Below is a table that summarizes our analysis under the characteristics of preserved slopes and compares it to the applicant's analysis:

Characteristics of Preserved Slopes as shown under Section 30.7.3 (b)				
	Applicant Analysis		Staff Analysis	
	Yes	No	Yes	No
(i) the slopes are a contiguous area of ten thousand (10,000) square feet or more or a close grouping of slopes, any or all of which may be less than ten thousand (10,000) square feet but whose aggregate area is ten thousand (10,000) square feet or more;		X	X	
(ii) the slopes are part of a system of slopes associated with or abutting a water feature, including, but not limited to, a river, stream, reservoir or pond;		X		X
(iii) the slopes are part of a hillside system;		X	X	
(iv) the slopes are identified as a resource designated for preservation in the comprehensive plan;	No comment			X
(v) the slopes are identified as a resource in the comprehensive plan;	No comment			X
(vi) the slopes are of significant value to the entrance corridor overlay district;		X		X
(vii) the slopes have been preserved by a prior county action, including, but not limited to, the placement of an easement on the slopes or the acceptance of a proffer or the imposition of a condition, restricting land disturbing activity on the slopes.	No comment			X

Staff ultimately recommends that all of the preserved slopes in area “C” should remain preserved slopes.

Economic Vitality Action Plan

Any rezoning application should consider the goals of the County's Economic Vitality Action Plan. The primary goal of the Plan is to:

Increase the County's economic vitality and future revenues through economic development by expanding the commercial tax base and supporting the creation of quality jobs for local residents. This Plan is developed for the benefit and economic well-being, first, of current local residents and existing local businesses.

The proposed amendment would support the Plan by providing a larger area for development on the site.

SUMMARY:

In evaluating this rezoning request, staff has evaluated three areas of steep slopes. Staff is recommending no change to the zoning map for areas “B” and “C.” Staff is recommending to change the Steep Slopes Overlay District zoning map in area “A” from preserved slopes to managed slopes. Staff has identified the following factors as favorable to the rezoning requested:

1. Slopes in area “A” better meet the criteria for designation as managed slopes.
2. Design standards for managed slopes will protect the integrity of the steep slope areas and protect downstream lands and waterways from the adverse effects of unregulated disturbance.

Staff has identified no factors unfavorable to this request.

RECOMMENDATION

Staff recommends approval of ZMA201500002, Franklin Street, to amend the Steep Slope Overlay District zoning map of area “A” from preserved slopes to managed slopes as identified in Attachment B and shown in Figure 2 of the staff report.

PLANNING COMMISSION MOTION—Zoning Map Amendment:

- A. Should a Planning Commissioner **choose to recommend approval of** this zoning map amendment:

Move to recommend approval of ZMA2015-00002, Franklin Street, with changes to the application plan as recommended by staff.

- B. Should a Planning Commissioner **choose to recommend denial of** this zoning map amendment:

Move to recommend denial of ZMA2015-00002, Franklin Street, based on the following identified by the Planning Commission. *Should a commissioner motion to recommend denial, he or she should state the reason(s) for recommending denial.*

ATTACHMENTS

Attachment A: [Area Map](#)

Attachment B: [Applicant Narrative and Proposed Steep Slopes Overlay District map](#)

Attachment C: [Comprehensive Plan section regarding critical slopes](#)

Attachment D: [Section 30.7 of Zoning Ordinance \(Steep Slopes Overlay District\)](#)

Attachment E: [Comments provided by the Woolen Mills Neighborhood Association](#)