

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



Agenda Date:	June 3, 2024
Action Required:	Resolution Approval
Presenter:	Dannan OConnell, Planner
Staff Contacts:	Dannan OConnell, Planner
Title:	Resolution considering a Sidewalk Waiver Request for the MACAA Planned Unit Development

Background

Piedmont Housing Alliance ("Applicant"), on behalf of the Monticello Area Community Action Agency ("Owner"), 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 request seeks to waive the sidewalk requirement for the western side of "Road C," a new street proposed as part of the MACAA Planned Unit Development (PUD) final site plan. This development was subject to a PUD rezoning and development plan with proffers, which was approved by City Council on January 18, 2022. The approved PUD Development Plan does not show sidewalk along this stretch of "Road C," and the submitted site plan matches this layout. However, approval of the PUD Development Plan does not constitute a waiver for subdivision or engineering streetscape design standards, and an approved waiver is still required to permit the proposed sidewalk layout.

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 determined that only the legislative body (City Council) may grant this type of waiver. Existing 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. The City's new Development Code no longer requires City Council approval to waive or modify sidewalk standards for new development projects. However, the MACAA PUD is considered vested in the City's previously approved zoning and subdivision regulations, and therefore the previous practice remains applicable to the project.

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 attached Application Materials.

Per Section 29-36, the authority granting any waiver shall consider whether 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 reviewed this waiver request and confirmed that no hardships due to the physical site conditions exist for the area adjacent to 'Road C' within this development.

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. However, only the east side of 'Road C' is proposed to be developed with six (6) attached townhome lots. This row of lots will be served by a sidewalk connecting them to MACAA Drive and the adjacent apartment parking area. The west side of 'Road C' is a proposed open greenspace area which will remain undeveloped per the approved PUD Development Plan.

Whether the sidewalks reasonably can connect into an existing or future pedestrian system in the area. Sidewalks will be installed on both sides of MACAA Drive, as well as the east side of 'Road C.' The latter will also connect to a public pedestrian pathway to the 250 Bypass, per the development's approved PUD rezoning. A sidewalk on the west side of 'Road C' could connect to both these proposed sidewalks, at the cost of relocating street trees and utility infrastructure and providing an additional crosswalk and stop bar.

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 central greenspace west of 'Road C' is already accessible via a sidewalk off MACAA Drive, and is surrounded by off-street and on-street parking on all other sides. Adjacent sidewalks along MACAA Drive and the east side of 'Road C' provide more direct pedestrian routes through the proposed development. Therefore, staff believes there is only marginal public benefit to providing sidewalk on both sides of 'Road C.'

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, in particular 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

Public Sidewalks contribute to the Transportation Outcome Area of the City's Strategic Plan Framework: *Charlottesville provides a regional transportation system that increases mobility options and is reliable and affordable for all.*

Community Engagement

A Sidewalk Waiver Application does not require a Public Hearing or community engagement meeting. However, a community meeting and notification was conducted as part of the PUD Rezoning for this development (ZM21-00003), approved in January of 2022. A public site plan conference for the associated site plan was also held on September 21, 2022.

Budgetary Impact

If City Council grants a sidewalk waiver to an applicant in connection with the proposed development of a new subdivision/ city street, and 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 Capital Improvements Plan. 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

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 of this waiver.

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. MACAA PUD Sidewalk Waiver Application
- 2. MACAA PUD Sidewalk Waiver Narrative
- 3. RESOLUTION MACAA PUD Sidewalk Waiver