

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



<b>Agenda Date:</b>	October 2, 2023
<b>Action Required:</b>	Adoption of a Resolution Deciding Petitioner Seven Development LLC's Appeal of Planning Commission's Decision on 15.2-2232 Review
<b>Presenter:</b>	Jacob Stroman, City Attorney, Carrie Rainey, Urban Designer/City Planner
<b>Staff Contacts:</b>	Jacob Stroman, City Attorney James Freas, Director of NDS Missy Creasy, Deputy Director of NDS Ryan Franklin
<b>Title:</b>	<b>Resolution of disposition for Appeal of Planning Commission's 15.2-2232 Review Decision for 0 E. High Street (1 reading)</b>

**Background**

On August 8, 2023, the Planning Commission held a public hearing and reviewed the public facilities associated with the 0 E High development project pursuant to Virginia Code Section 15.2-2232 and City Code Section 34-28 to determine if the general character, approximate location and extent of the proposed improvements are substantially in accord with the City's adopted Comprehensive Plan or part thereof. Following the public hearing, Planning Commission took a vote finding that some of the public facilities, specifically Public Road A, Public Road B and the Public Parking Lot within Lot B were not substantially in accord with the City's Comprehensive Plan. Code of Virginia Sec. 15.2-2232(B) requires that the Commission communicate its findings to City Council indicating its approval or disapproval with written reasons for its decision. The Planning Commission communicated such attached findings with written reasons to City Council on September 12, 2023.

**Discussion**

The Planning Commission considered this item at their meeting on August 8, 2023. The Commission expressed concern with impacts of the proposed public streets, public trails and public parking lot to the Rivanna River floodplain and associated ecological systems. The Commission also expressed concerns with the lack of connectivity of the proposed public streets with the surrounding public street network. The Commission discussed the benefits provided by the proposed lot donations, including improved access to the Rivanna River trail network and opportunities to preserve ecological systems within the lots. The Commission further discussed the benefits of the proposed widening of Caroline Avenue and Fairway Avenue, including additional pedestrian access to the Rivanna River, trail network, and transit stops. However, the Commission was concerned with the proposed parking lot being placed within a floodplain, which would likely increase flooding in this ecologically sensitive location. After hearing public comments and deliberating further, the Commission made the following determination in accordance with Code of Virginia, § 15.2-2232, by unanimous vote:

The Planning Commission determined the following facilities were **not substantially in accord** with the City's adopted Comprehensive Plan:

1. Public Road A;
2. Public Road B; and
3. Public parking lot within Lot B

The Planning Commission determined the following facilities were **substantially in accord** with the City's adopted Comprehensive Plan:

1. Widening of Caroline Avenue and Fairway Avenue;
2. Lot A, including the public trails included therein; and
3. Lot B, including public trails included therein, but excluding the parking lot

The staff report and supporting documentation presented to the Planning Commission on August 8, 2023 can be found starting on page 25 at the following link: <https://charlottesvilleva.portal.civicclerk.com/event/1743/files>

On August 18, 2023, City Council received a Petition for Appeal from counsel for Seven Development LLC, the developer who submitted the application for a § 15.2-2232 review, challenging the Planning Commission's determination. On appeal City Council must determine whether to accept the Developer's arguments to overrule the Planning Commission's determination or overrule the Planning Commission's decision as City Council sees fit. Once City Council hears the appeal and deliberates, it is required under Code of Virginia, § 15.2-2232 to determine whether the proposed public facilities as presented to the Planning Commission are substantially in accord with the Comprehensive Plan or whether some or all of the proposed public improvements are not in substantial accord with the Comprehensive Plan.

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

Council's determination of the appeal aligns with the City Council Vision Statements of "A Green City, A Connected Community, and Smart, Citizen-Focused Government".

The proposal aligns with City Council Strategic Plan Goal 3: A Beautiful and Sustainable Natural and Built Environment through Strategy 3.1 Engage in robust and context sensitive urban planning and implementation, Strategy 3.3 Provide a variety of transportation and mobility options, and Strategy 3.4 Be responsible stewards of natural resources.

### **Community Engagement**

The Planning Commission conducted a public hearing on August 8, 2023. Many members of the public spoke to the item. Members of the public expressed concern with the impacts of the proposed facilities on the Rivanna River floodplain and associated ecological systems. Members of the public also expressed concern with the lack of connectivity of the proposed public streets with the larger public street network.

### **Budgetary Impact**

No direct budgetary impact is anticipated as a direct result of this Comprehensive Plan compliance review.

### **Recommendation**

Staff recommends that Council uphold the Planning Commission's determination that Public Roads A and B and Parking Lot within Lot B are not substantially in accord the Comprehensive Plan.

### **Alternatives**

Council may adopt the proposed resolution finding that the public improvements are not in substantial accord with the Comprehensive Plan (Resolution A); or Council may adopt the proposed resolution that the public improvements are in substantial accord with the Comprehensive Plan (Resolution B); or Council may adopt the proposed resolution overruling the action of Planning Commission in accordance with Code of Virginia, § 15.2-2232(B), determining that the all public facilities as presented in the submission to the Planning Commission on August 1, 2023, are not substantially in accord with the Charlottesville Comprehensive Plan or part thereof (Resolution C).

### **Attachments**

1. Resolution of the Charlottesville Planning Commission Communicating its 0 E High Comprehensive Plan Review Findings
2. 2232 Appeal 0 E. High St. CP23-00001
3. 0 E High Comprehensive Plan Compliance Review August 8, 2023 Staff Report
4. Memorandum in Reply to Petition for Appeal for 0 E. High St. 2232 Review
5. A\_Resolution Upholding the Planning Commission's Decision in the Code of Virginia 15.2-2232 Comprehensive Plan Review.9.27.23
6. B\_Resolution Overruling the Planning Commission's Code of Virginia 15.2-2232 Determination on August 8 2023
7. C\_Resolution Overruling the Planning Commission's Code of Virginia 15.2-2232 Determination on August 8 2023