

## **ATTACHMENT B**

### **STAFF ANALYSIS**

**STAFF PERSON:** Syd Shoaf, Senior Planner I  
**BOARD OF SUPERVISORS:** June 21, 2023  
**PROJECT:** SE202300015 2305 Hunters Way Special Exception  
**PARCEL ID:** 07900-00-00-004P0

### **SE 202300015 2505 Hunters Way – Critical Slopes Special Exception**

#### **PROPOSAL**

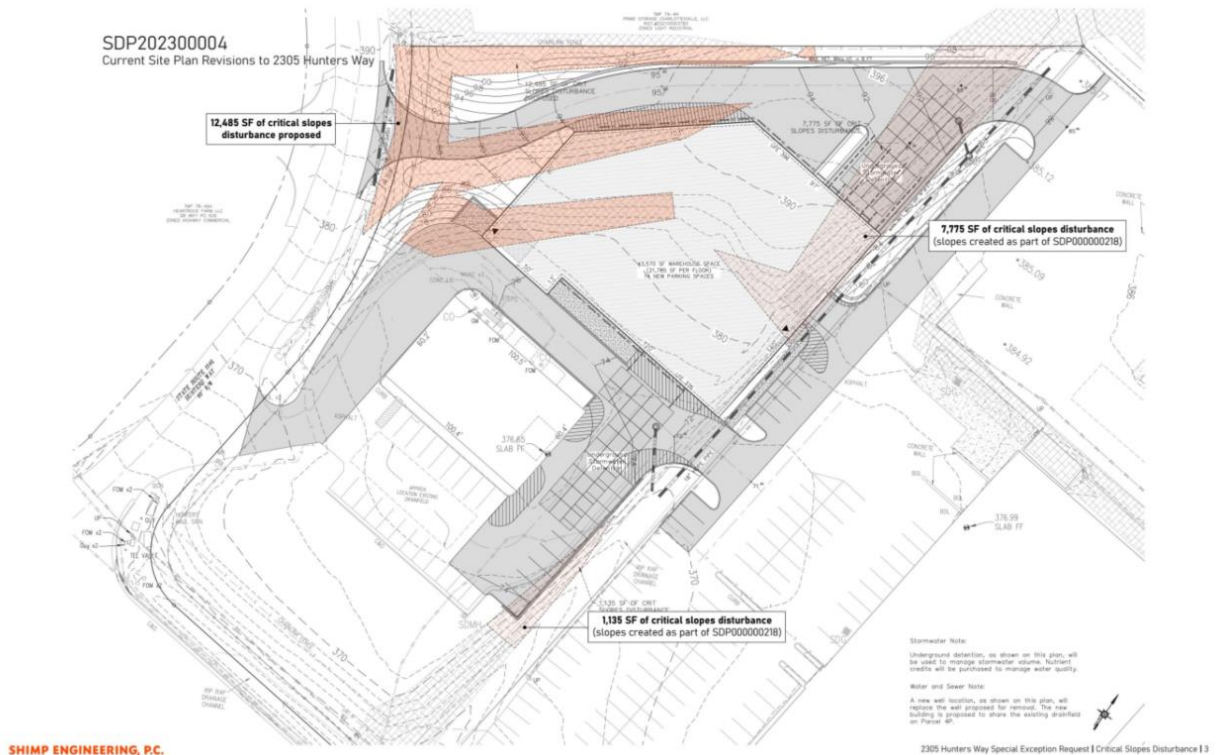
The applicant is requesting a special exception to allow the disturbance of approximately 12,485 square feet of critical slopes (slopes greater than 25%) in association with constructing a two-story building with a footprint of approximately 21,800 square feet, for a total of 43,600 square feet of warehouse space. This critical slopes disturbance would be in addition to the 8,910 square feet of slopes previously disturbed, as shown on the grading plan for SDP000000218, for a total of 21,395 square feet of disturbance. That site plan included a lumber shed addition for the former Lowes site and drainage improvements along the shared property boundary with the subject parcel. The 2.56-acre parcel is located in the Hunters Hall subdivision. It currently contains a two-story building of approximately 12,000 square feet of retail sales use that is proposed to remain. The applicant's request and proposed plans are provided in Attachment A.

#### **CHARACTER OF THE AREA**

The subject property is a 2.56-acre parcel zoned Highway Commercial (HC), as part of a 16-parcel subdivision designated as Rural Area in the Comprehensive Plan. Currently, the subject property is developed with a two-story building with a footprint of 6,000 square feet, for a total gross floor area of 12,000 square feet (2305 Hunters Way) and 22 parking spaces. The property fronts on both Hunters Way and Route 250, with access from Hunters Way. Parcels zoned HC within the subdivision are primarily along Route 250 and consist of approximately 12 acres. The majority of the subdivision is zoned Light Industrial (LI), consisting of approximately 46 acres. Surrounding the property, uses vary from auto repair shop, daycare, retail, self-storage, manufacturing, distribution, and medical office/research. Adjacent to the property is a 45,000 square foot UPS Distribution Center, an 11,000 square foot storage warehouse, a two-story 40,000 square foot gross floor area building, and Prime Storage buildings that range from 4,000 square feet to 13,000 square feet.

#### **ANALYSIS OF SPECIAL EXCEPTION REQUEST**

The critical slopes proposed for disturbance are in the northern, northwestern, and northeastern sections of the parcel. Below is map taken from the application materials prepared by Shimp Engineering, P.C.



The project proposes to disturb the critical slopes located within highlighted orange area shown above. County Code § 18-4.2.5(a) allows for the disturbance of critical slopes only if the findings in § 18-4.2.5(a)(3) are made.

The procedure and criteria for evaluation of the special exception are contained in County Code § 18-4.2.5(a).

1. Request. A developer or subdivider requesting a modification or waiver shall file a written request in accordance with section 32.3.5 of this chapter and identify and state how the request would satisfy one or more of the findings set forth in subsection 4.2.5(a)(3). If the request pertains to a modification or waiver of the prohibition of disturbing slopes of 25 percent or greater (hereinafter, "critical slopes"), the request also shall state the reason for the modification or waiver, explaining how the modification or waiver, if granted, would address the rapid and/or large-scale movement of soil and rock, excessive stormwater run-off,

Prior to any disturbance, an applicant is required to obtain both site plan and grading plan approvals. The approval of these plans would include provisions to minimize stormwater run-off and the movement of soil and rock. During the review of the site plan, including proposed grading, the ordinance requires measures to minimize the adverse impacts caused by grading.

siltation of natural and man-made bodies of water.

This project would require VSMP permitting and bonding. Inspections and bonding by the County will ensure siltation is controlled during construction. Post construction, the

areas would be stabilized and stormwater management systems would be installed and required to be maintained. This project is not located within a reservoir watershed and no stream buffer is adjacent to the slopes to be disturbed. As stated above, the ordinance requires mitigation measures to address the impacts of the proposed activity.

loss of aesthetic resources,

The proposed disturbance of critical slopes would not change the view or aesthetics of this parcel. The critical slopes are also not currently an aesthetic resource.

and, in the event of septic system failure, a greater travel distance of septic effluent (collectively referred to as the "public health, safety, and welfare factors") that might otherwise result from the disturbance of critical slopes.

The proposed disturbance to critical slopes would be at least 50 feet from the existing drainfield. There are no proposed changes to the septic system.

2. Consideration of recommendation; determination by county engineer. In reviewing a request for a modification or waiver, the Board of Supervisors shall consider the recommendation of the agent as to whether any of the findings set forth in subsection 4.2.5(a)(3) can be made by the commission. If the request pertains to a modification or waiver of the prohibition of disturbing critical slopes, the Board of Supervisors shall consider the determination by the county engineer as to whether the developer or subdivider will address each of the public health, safety and welfare factors so that the disturbance of the critical slopes will not pose a threat to the public drinking water supplies and flood plain areas, and that soil erosion, sedimentation, water pollution and septic disposal issues will be mitigated to the satisfaction of the county engineer. The county engineer shall evaluate the potential for soil erosion, sedimentation and water pollution that might result from the disturbance of slopes of 25 percent or greater in accordance with the current provisions of the Virginia Department of Transportation Drainage Manual, the Commonwealth of Virginia Erosion and Sediment Control Handbook and Virginia State Water Control Board best management practices, and where applicable, [Chapter 17, Water Protection, of the Code](#).

The property is not in a water supply watershed. The slopes to be disturbed are not in a floodplain or stream buffer. As previously stated, a site plan and grading plan would be required. These plans must comply with State and local regulations. The County Engineer has stated that the required plans must address the provisions of all State and local erosion and sediment control regulations. The slopes do not contain any unusual or unique characteristics that would prevent compliance with the regulations or that would result in excessive erosion, sedimentation, or water pollution.

3. Findings. The Board of Supervisors may grant a modification or waiver under this subsection (a) if it finds that the modification or waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, or to adjacent properties; would not be contrary to sound engineering practices; and at least one of the following:

The site plan review process would verify and require that the proposed grading minimizes soil erosion and stormwater runoff. With the approval of a site plan, sound engineering practices would be satisfied and the public health, safety, and welfare would be protected. The areas of slope to be disturbed would not impact any adjacent properties. The disturbance of the critical slopes would not pose a threat to public drinking water supplies or flood plain areas. Additionally, the proposed grading would minimize soil erosion on both the subject and adjacent properties. Therefore, the proposed special exception would not be detrimental to the public health, safety, and welfare or to the orderly development of the area.

a. Strict application of the requirements of [section 4.2](#) would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare;

Staff has reviewed the purposes of “this chapter” (the Zoning Ordinance) contained in Albemarle County Code § 18-1.4. Application of the regulations limiting disturbance of critical slopes does not conflict with the purposes stated in the ordinance and would not cause harm to public health, safety, or welfare. The application meets this criterion for granting a modification or waiver.

b. Alternatives proposed by the developer or subdivider would satisfy the intent and purposes of [section 4.2](#) to at least an equivalent degree;

The project would meet all requirements of State and local regulations for the disturbance of soils. These provisions would satisfy the intent and purpose of the ordinance to at least an equivalent degree. The application meets this criterion for granting a modification or waiver.

c. Due to the property's unusual size, topography, shape, location or other unusual conditions, excluding the proprietary interest of the developer or subdivider, prohibiting the disturbance of critical slopes would effectively prohibit or unreasonably restrict the use of the property or would result in significant degradation of the property or adjacent properties; or

A strict application of the regulations would not prevent use of the property. The application does not meet this criterion for granting a modification or waiver.

d. Granting the modification or waiver would serve a public purpose of greater import than would be served by strict application of the regulations sought to be modified or waived.

The applicant has stated, “The disturbance of critical slopes would allow for the creation of warehouse space that is in high demand in the region. Warehouse vacancy in the Central Virginia area is just over 1% (Albemarle Land Use Buildout), indicating a clear need for similar commercial and warehouse space that is anticipated to grow with steady County expansion.” The application does meet this criterion for granting a modification or waiver.

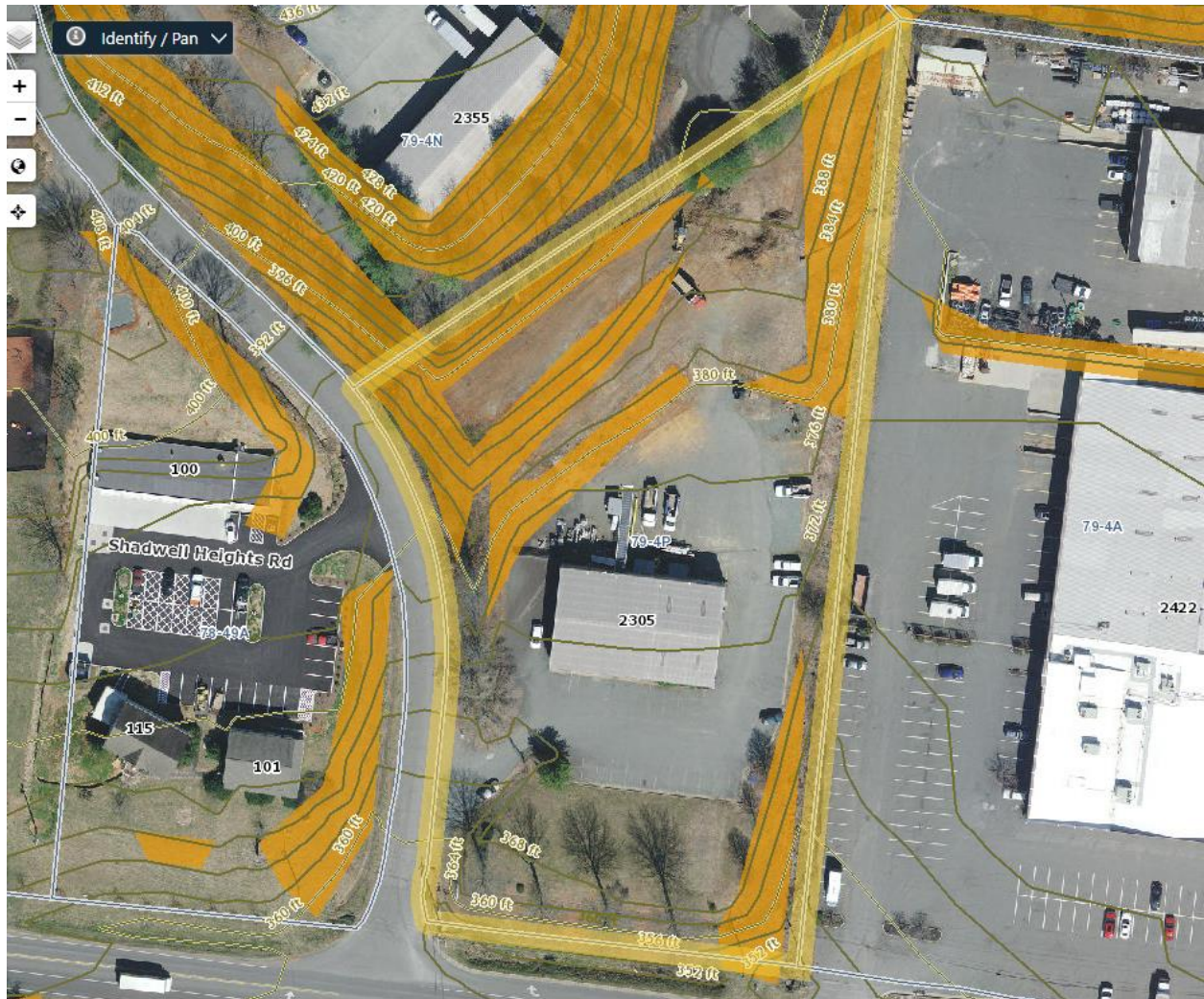
Additional Analysis

In evaluating this request, staff has considered if disturbance of these slopes was shown by a prior County action. For the critical slopes east of the property, the approved SDP000000218



for the former Lowes site proposed grading on the subject parcel to create a ditch condition along the shared property boundary.

Additionally, it appears that the critical slopes are the product of prior construction activity. On the western edge of the parcel, the creation of Hunters Way and building pads created the slopes. Lastly, according to aerial imagery and the applicant's correspondence, mass grading has taken place by the previous owner (see photo below).



Because of the approval of SDP000000218, the creation of steep slopes from Hunters Way and existing building pads, along with existing mass grading on the site, staff has no concerns with granting the special exception request to disturb additional slopes.

**RECOMMENDATION:**

In staff's opinion, the request to allow disturbance of critical slopes meets several of the criteria for granting a modification or waiver, allowing the Board to grant a modification or waiver. Based on the analysis of the request, staff recommends approval of the

request to disturb critical slopes, provided that the area of land disturbance on critical slopes not exceed the disturbed slopes shown on Page 3 of "SDP202300004 2305 Hunters Way Special Exception Request Per Sec. 4.25 – Critical Slopes Disturbance", prepared by Shimp Engineering, P.C. and last revised on March 27, 2023.