



**ALBEMARLE COUNTY PLANNING
STAFF REPORT SUMMARY**

Project Name: SP-2018-00016 Ecovillage Charlottesville	Staff: Tim Padalino, AICP, Senior Planner
Planning Commission (PC) Hearing: January 15, 2018	Board of Supervisors (BOS) Hearing: <i>to be determined</i>
Owner: Ecovillage Holdings Inc.	Applicant: Ecovillage Holdings Inc.
Acreage: 6.518 acres	Special Use Permit for: "Private facilities on preserved steep slopes" pursuant to Z.O. Section 30.7.4.b.2
Tax Map Parcel (TMP): #06100-00-00-21000	Zoning/by-right use: R4 Residential (4 units/acre)
Magisterial District: Rio	Location: 480 Rio Road East
School Districts: Agnor-Hurt; Burley; Albemarle	Conditions: Yes
Development Area: Neighborhood 2 (Places 29 - Rio)	Requested # of Dwelling Units/Lots: N/A with this SP (Ecovillage Charlottesville proposes 36 total dwelling units)
Proposal(s): Disturbance of preserved steep slopes for private facilities [entrance, accessways, and parking areas] where the lot does not contain adequate land area outside of the preserved slopes to locate the facilities.	Comp Plan: <u>Neighborhood Density Residential</u> (3–6 units per acre); supporting uses such as religious institutions, schools, and other small-scale non-residential uses.
Character of Property: 6.5-acre partially-forested property characterized by significant topography and extensive frontage along a curvy section of Rio Road East; currently contains three dwelling units (two units are currently on separate parcel TMP #210A)	Use of Surrounding Properties: All adjoining properties in the County are R4 or R2 residential uses, with nearby R6 residential uses in the Stonehenge subdivision; the Locust Grove residential neighborhood in the City adjoins the property (across Rio Road East); Meadow Creek is nearby
Factors Favorable: (see "Summary" on pages 12-13) 1. <i>Characteristics of Steep Slopes:</i> The (potentially) affected Preserved Steep Slopes have substantial characteristics of a "Managed" overlay district, including being "previously disturbed" and thereby being "manufactured" (as opposed to entirely natural). 2. <i>Physical Necessity of Private Facility (Entrance):</i> The use and development of the property at levels recommended by the Future Land Use Plan, and virtually any other change of use on this property, will require the construction of a new commercial entrance – a private facility which cannot be constructed without disturbance of preserved steep slopes. 3. <i>Consistency with Comprehensive Plan:</i> The private facilities are for the proposed Ecovillage project (as shown on SDP-2018-00056) – an infill development project within the Development Areas which is consistent with the Future Land Use Plan, and which has been planned and designed in ways that strongly support and advance numerous Comp Plan goals, objectives, and recommendations.	Factors Unfavorable: (see "Summary" on pages 12-13) 1. The proposal is partially inconsistent with Comp Plan Goals and with the Purpose and Intent of the Steep Slopes Overlay District. 2. The proposal would negatively impact the aesthetic quality and character of the steep slopes overlay district. 3. The proposal would potentially create negative environmental impacts: erosion and sedimentation of Meadow Creek; removal of forest land cover; loss of wildlife habitat; and reduction of ecosystem services. 4. The proposed Ecovillage project would require multiple special exceptions, waivers, and/or modifications. 5. Insufficient documentation of the particular "physical necessity" of the proposed disturbance of preserved steep slopes for private facilities. 6. Insufficient documentation of "appropriate consideration and care in [the] design and construction" of any landscape mitigation efforts and proposed stormwater and storm drainage improvements along Rio Road East. 7. The critically important Design Waiver Request is still under review by VDOT.
Recommendation: Despite the favorable factors outweighing the unfavorable factors when this proposal is evaluated comprehensively, staff withholds a recommendation for approval unless and until outstanding issues are addressed and resolved. For full details, please see "Recommended Actions" (page 13).	

STAFF CONTACT:
PLANNING COMMISSION:
BOARD OF SUPERVISORS:

Tim Padalino, AICP, Senior Planner
January 15, 2019
TBD

PETITION:

PROJECT: SP201800016 Ecovillage Charlottesville – Preserved Steep Slopes

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL(S): 06100000021000

LOCATION: Rio Rd E, between Brookway Drive and Rockbrook Drive; existing addressed structures on the subject property(s) include 480 Rio Rd E.

PROPOSAL: Disturbance of preserved steep slopes to accommodate the development of private facilities (entrance, accessways, and parking) for the proposed “Ecovillage Charlottesville” residential development.

PETITION: “Private facilities on preserved slopes” pursuant to Zoning Ordinance (Z.O.) Section 30.7.4.b.2.

ZONING: R4 Residential, which allows residential uses by right (4 units per acre).

OVERLAY DISTRICT(S): Airport Impact Area; Steep Slopes – (Managed) and (Preserved).

COMPREHENSIVE PLAN: “Neighborhood Density Residential” which calls for residential use (3–6 units/acre) and supporting uses such as religious institutions, schools, and other small-scale non-residential uses; in the Development Area in Neighborhood 2 (Places 29).

CHARACTER OF THE AREA:

The subject property is a 6.5-acre parcel in the R4 Residential zoning district. The partially-forested property is characterized by significant topography as well as extensive frontage along a curvy section of Rio Road East. The Steep Slopes Overlay District extends along the subject property’s entire frontage with Rio Road East, with the exception of the existing driveway entrance. The property is in the vicinity of Meadow Creek, but is physically separated by the Rio Road East public right-of-way and by waterfront properties. (Attachment A)

The subject property currently contains three dwelling units; two dwelling units are currently on separate parcel, TMP #61-210A. The applicants proposes to combine the subject property with TMP #61-210A by plat.



Image of subject property (TMP #61-210) viewed from across Rio Road E. The existing (driveway) entrance is visible right of center; the proposed new (commercial) entrance would be located approximately at the center of this image.

PLANNING AND ZONING HISTORY:

The “Ecovillage Charlottesville” project has been proposed for the subject property. This by right residential development includes the proposed utilization of bonus density factors, which (if approved) would result in a gross density of 5.5 units/acre, comprised of 25 townhouses and 11 single family detached units.

An Initial Site Plan for Ecovillage Charlottesville (SDP-2018-00056) was submitted on 7/23/2018. Because those plans showed proposed disturbance of lands within the Preserved Steep Slopes Overlay District, County staff determined that the Initial Site Plan should be deferred until a Special Use Permit (SP) application was submitted to seek County approval for the proposed disturbance of preserved steep slopes. The applicants subsequently submitted this SP application as well as a revised Initial Site Plan (dated 8/20/2018). The Initial Site Plan (Attachment B) serves as the Conceptual Plan for this SP application, and the two applications are generally being reviewed concurrently (as applicable).

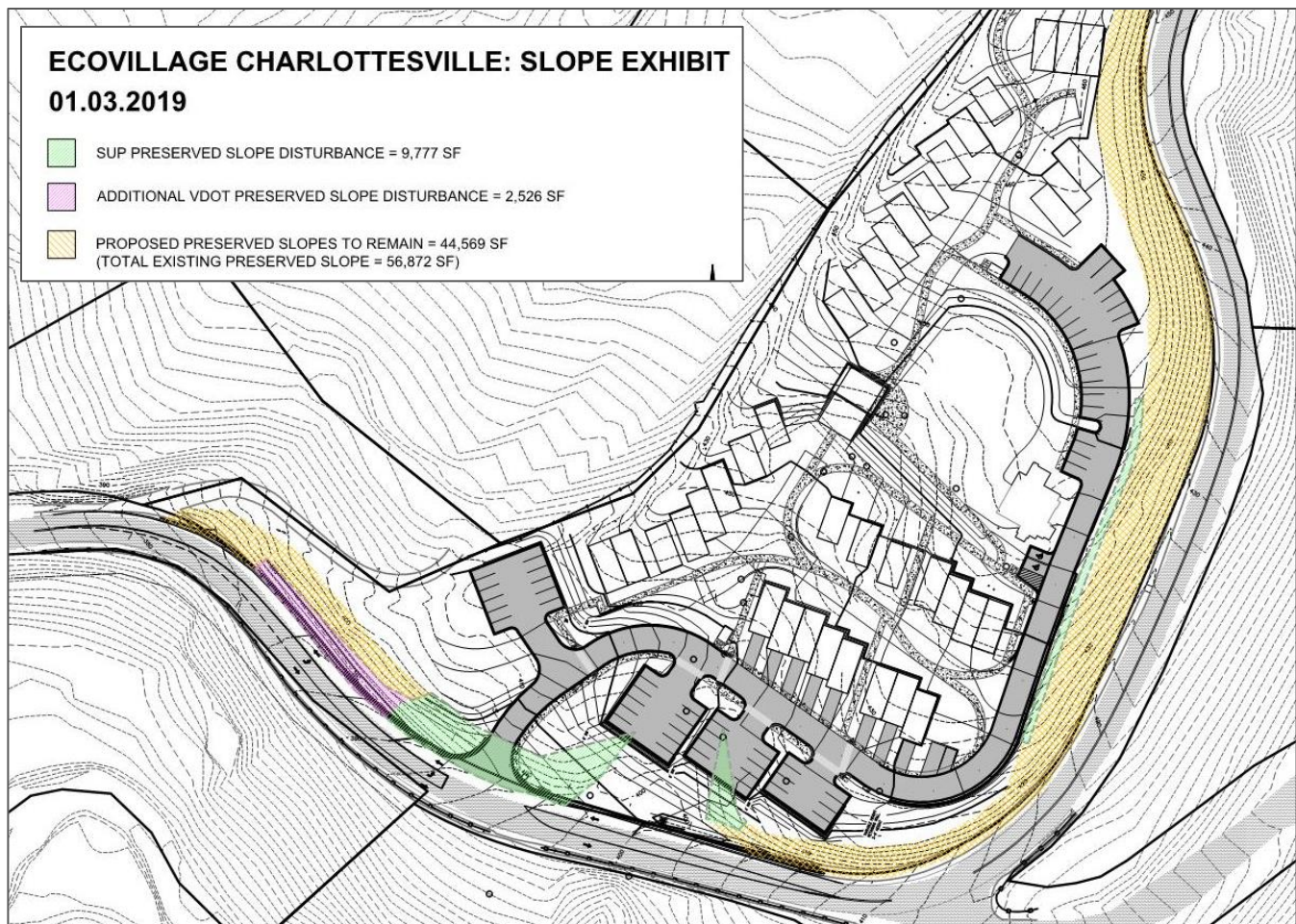
Initial Site Plan SDP-2018-00056 was approved with conditions on 10/11/2018. SP-2018-00016 remains under review but is also deferred (pursuant to Z.O. Section 33.52) with a request for the Board of Supervisors (BOS) to take action on or before 6/19/2020. If this Special Use Permit is approved, a Final Site Plan and Water Protection Ordinance Plan would need to be submitted and approved prior to any disturbance of the preserved steep slopes or other implementation of the proposed improvements.

DETAILS OF THE PROPOSAL:

The applicant proposes to disturb lands within the Preserved Steep Slopes Overlay District for the implementation of “private facilities” [new commercial entrance, new private street accessways, and new parking areas] “where the lot does not contain adequate land area outside of the preserved slopes to locate the facilities” pursuant to Z.O. Section 30.7.4.b.2. More specifically:

- The amount of proposed disturbance within the Preserved Steep Slopes Overlay District would be approximately 12,303 SF (or 21.6% of the total preserved steep slopes area on the subject property). The majority of this proposed disturbance would be associated with the proposed new commercial entrance, including the road widening that would be necessary to construct the required left turn lane as well as the establishment of sufficient sight distances. Additional smaller areas of disturbance are proposed on the east side of the existing driveway and near the existing historic dwelling (addressed as 480 Rio Rd E).
- Approximately 44,569 SF of preserved steep slopes (or the remaining 78.4% of the total preserved steep slopes area on the subject property) would remain undisturbed, including all preserved steep slopes that front along Rio Road East between the sharp curve in the road at Agnese Street and the intersection with Rockbrook Drive.
- The preserved steep slopes which are subject to this proposal are designated “preserved” but have characteristics of both “managed” and “preserved” steep slopes.

For more detailed information about the proposal, please review the application materials provided by the applicant including the “Special Use Permit Application – Project Proposal” dated 11/19/2018 (Attachment C); the “Ecovillage Charlottesville Special Use Permit: Supplementary Documentation” packet received 11/19/2018 (Attachment D); the updated “Ecovillage Charlottesville: Slope Exhibit” dated 1/3/2019 (Attachment E); and the “Ecovillage Charlottesville” Initial Site Plan (SDP-2018-00056), dated 8/20/2018, which serves as the Conceptual Plan for this SP application (Attachment B).



Detail of "Ecovillage Charlottesville: Slope Exhibit" dated 1/3/2019 (Attachment E)

COMMUNITY MEETING:

The applicants conducted the required community meeting with the Places 29-Rio Community Advisory Committee on Thursday, September 27. The community meeting was attended by the applicants and some neighbors, and included discussion of the following questions, issues, and concerns:

- **Stormwater Management:** Current conditions on this site and in this immediate vicinity include significant problematic issues with stormwater runoff affecting downslope properties. Concerns were raised about the potential for the proposed new entrance and accessway private facilities, and associated tree clearing and grading activity, to exacerbate an already problematic stormwater situation. Discussion also included the possibility of using the proposed disturbance as an opportunity to address and improve the stormwater and drainage issues in that immediate vicinity. The applicants expressed their willingness to coordinate with neighbors and address concerns, including the intention to "over-spec" the underground stormwater retention equipment in order to capture and retain more stormwater on site than would otherwise be required.
- **Access and Connectivity:** Questions were raised about the northern "emergency" vehicular access, and also about the proposed public connection(s) through the site (including an inquiry about whether the connection would accommodate bicycles or be designed exclusively for pedestrians).

ANALYSIS OF THE SPECIAL USE PERMIT REQUEST:

Section 33.39.(B) states that the Commission, in making its recommendation, shall consider the same factors found in Section 33.40.(B):

1. No substantial detriment. Whether the proposed special use will be a substantial detriment to adjacent parcels.

The proposed disturbance of preserved steep slopes could potentially be a substantial detriment to adjacent parcels – particularly the adjoining parcels located downslope from the subject property which receive the stormwater runoff that originates from, and runs along the frontage of, the subject property.

Specifically, the proposed grading of steep slopes and associated removal of vegetation could result in the following substantial detriments: rapid or large-scale movement of soil and rock, or both; excessive stormwater runoff; the degradation of surface water flowing towards nearby Meadow Creek; and diminishment of the character and beauty of the steep slopes along this heavily-travelled corridor within the Development Area.

However, staff believe that the proposed disturbance of preserved steep slopes could potentially be done in ways that effectively address and resolve the potentially detrimental issues described above. Specifically, the existing problematic stormwater and drainage issues present along Rio Road East and in the immediate vicinity could be addressed and resolved through stormwater management best practices – and thereby produce a net positive impact on stormwater and drainage issues, relative to the problematic existing conditions. The applicants have proposed such “stormwater improvements” to be incorporated throughout the proposed Ecovillage development, as well as along the Rio Road East public right-of-way, as shown and described in conceptual detail on pages 10-12 of the “Supplementary Documentation” packet. (Attachment D)

However, the applicant has not provided additional information regarding how they would specifically address the existing stormwater and drainage issues. Additional information such as a conceptual stormwater management plan should be provided to clearly demonstrate “appropriate consideration and care in [the] design and construction” of the proposed stormwater and drainage improvements along Rio Road East.

2. Character of the nearby area is unchanged. Whether the character of the adjacent parcels and the nearby area will be changed by the proposed special use.

Although the existing Steep Slopes Overlay District has both “preserved” and “managed” characteristics, the proposed disturbance of preserved steep slopes would create negative impacts to the character of the nearby area. More specifically, grading and removal of existing mature canopy trees, mature understory trees, and other vegetation along Rio Road East would negatively impact the aesthetic quality of the Steep Slopes Overlay District.

Additionally, the areas of proposed disturbance could potentially be replanted with landscaping materials consisting of native plant species and comprising herbaceous, shrub, understory, and canopy layers. However, the applicants have not addressed how the areas of proposed disturbance could be replanted in ways that would result in an ecologically beneficial, aesthetically pleasing, and vertically stratified native forest. Additional information such as a landscaping plan would be necessary in order for the applicant to clearly demonstrate the “appropriate consideration and care in [the] design and construction” of the proposed landscape mitigation practices intended to address impacts to the character of the adjacent parcels and nearby area.

3. Harmony. Whether the proposed special use will be in harmony with the purpose and intent of this chapter,

Per Z.O. Section 1.4 (“Purposes”), the purposes of the Zoning Ordinance (“this chapter”) are “to promote the public health, safety, convenience, and welfare and to accomplish the objectives of

Virginia Code §§ 15.2-2200 and 15.2-2283.” Of the specific examples provided in Z.O. Section 1.4, the following are applicable to this proposal and to the associated Ecovillage Charlottesville project:

- C. *“Facilitate creating a convenient, attractive and harmonious community”* – The Ecovillage project would be an infill development project within the Development Areas which is consistent with the Future Land Use Plan.
- H. *“Provide for preserving ... other lands of significance for the protection of the natural environment”* – Grading and removal of soil could potentially contribute to erosion and sedimentation of downstream water resources, including the nearby Meadow Creek, which is impaired. Additionally, grading and removal of vegetation would reduce the amount of forest land cover, which negatively impacts wildlife habitat and diminishes the ecosystem services (such as stormwater management, and carbon sequestration, and reduction of urban heat island effect) that would otherwise be provided if the forest land cover were to remain intact.
- J. *“Promote creating and preserving affordable housing suitable for meeting the current and future needs of the County as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated”* – The applicant proposes that 50% of the dwelling units (or 18 units) in the Ecovillage project would be designated as “affordable.”

Per Z.O. Section 1.5 (“Implementation of the Comprehensive Plan”), another purpose of the Zoning Ordinance (“this chapter”) is to *“implement the policies, goals and objectives of the comprehensive plan.”* As described in this report, the proposed disturbance of preserved steep slopes for private facilities is inconsistent with certain Comprehensive Plan goals. However, Staff also believes the associated Ecovillage project has significant favorable attributes when evaluated relative to the Comprehensive Plan, such as: consistency with the Future Land Use Plan; support and advancement of Comp Plan objectives, strategies, and policies; and ambitious applications of Neighborhood Model principles. Please see subsection 4 (“Consistency with Comprehensive Plan,” below) for more detailed information.

Per Z.O. Section 30.7.1, the “Purpose and Intent” of the “Steep Slopes Overlay District” states that *“additional development design care and consideration must be given, prior to permitted development occurring”* and *“The board of supervisors finds that ... [steep slopes] disturbance should be subject to appropriate consideration and care in their design and construction.”* Staff believes additional information is necessary in order to determine that the proposed disturbance and associated mitigation practices would have the *“appropriate consideration and care in their design and construction,”* which would be necessary to make a positive finding that the proposed special use would be in harmony with the applicable purposes and intentions as required per Z.O. Section 33.40.(B).3.

Finally, per Z.O. Section 30.1.1, the “Intent” of “Overlay Districts, Generally” states that overlay districts are *“intended to promote the general health, safety and welfare of the citizenry and to promote the goals and objectives of the comprehensive plan.”* Staff has identified the following considerations regarding Z.O. Section 30.1.1:

- The applicants have proposed “stormwater improvements” to be incorporated throughout the proposed Ecovillage development, as well as along the Rio Road East public right-of-way, as shown and described in conceptual detail on pages 10-12 of the “Supplementary Documentation” packet. (Attachment D) Such practices could be reasonably expected to “promote the general public health, safety, and welfare of the citizenry” by addressing and improving the existing problematic stormwater and drainage issues in this immediate vicinity – and thereby benefitting adjoining properties which are currently subject to disruptive volumes and velocities of stormwater and drainage, and also improving stream

health for Meadow Creek by reducing sedimentation and pollution and reducing stormwater volume and velocity.

However, additional information (such as a conceptual stormwater management plan) would need to be provided to clearly demonstrate “appropriate consideration and care in [the] design and construction” of the proposed “stormwater improvements” along Rio Road East, before staff could make a positive finding that the proposed improvements would promote the general health, safety, and welfare.

- Additionally, the proposed disturbance would be necessary in order to develop and use the property for the proposed Ecovillage project (as specifically shown on the Conceptual Plan / Initial Site Plan SDP-2018-00056) – a proposed project which is consistent with the Future Land Use designation in the Comp Plan, which supports and advances other Comprehensive Plan goals, and which embodies numerous Neighborhood Model principles contained in Objective 2 of the Development Areas chapter. Please see subsection 4 (“Consistency with Comprehensive Plan”) of this report (below) for more detailed information on how the Ecovillage project (as shown on SDP-2018-00056) would “promote the goals and objectives of the comprehensive plan.”

with the uses permitted by right in the district,

There are virtually no applicable uses permitted by right (pursuant to Z.O. Section 30.7.4.b.1) within this Preserved Steep Slopes Overlay District. The proposal would not be inherently unharmonious with any “necessary public facility,” subject to VDOT review and approval of the Entrance Design Waiver Request. The associated Ecovillage project is generally harmonious with the uses permitted in the R4 Residential District.

with the regulations provided in Section 5 as applicable,

There are no applicable “Supplementary Regulations” for the proposed use.

and with the public health, safety, and general welfare.

Public health, safety, and welfare comments are provided above relative to Z.O. Sections 1.4, 1.5, 30.1.1, and 30.7.1.

4. Consistency with the Comprehensive Plan. Whether the proposed special use will be consistent with the Comprehensive Plan.

The proposed disturbance of preserved steep slopes (in order to locate and develop private facilities for the proposed Ecovillage development) is an activity that would be inconsistent with certain Comprehensive Plan goals, objectives, and/or recommendations. For example, Strategy 5c in the Natural Resources chapter encourages the protection of steep slopes in the Development Areas that are shown for preservation on Master Plan maps. However, please note the following site-specific details regarding the Preserved Steep Slopes on the subject property:

- a. The Steep Slopes Overlay District in this location is designated as “Preserved” – but it also has substantial characteristics of a “Managed” overlay district, including: being “significantly disturbed prior to June 1, 2012” (by the construction and subsequent modification of Rio Road East), and thereby being “manufactured” (as opposed to being entirely natural); and also the adjacency of Rio Road East, which results in these Preserved Steep Slopes not “physically abutting” Meadow Creek (although this landform would have likely had an unbroken physical connection with the Meadow Creek riparian corridor prior to urban development of this area).
- b. The preserved steep slopes along Rio Road East are not identified as “Environmental Features” on the Places 29 “Future Land Use Plan (South),” and only a portion of the overall Preserved Steep Slopes Overlay District is included as “Critical Slopes > 25%” on the Places 29 “Parks and Green Systems Map (South).”

- c. Virtually any infill development of the subject property will require a new commercial entrance – and due to applicable standards and requirements of the Virginia Department of Transportation (VDOT), it is expected that a new commercial entrance for this subject property will have to be sited and constructed in ways that involve disturbance of Preserved Steep Slopes.

Even though the proposed disturbance would be partially inconsistent with the Comprehensive Plan, the proposed disturbance of preserved steep slopes is necessary in order to enable the particular infill development and use of the property as specifically shown on the Conceptual Plan / Initial Site Plan SDP-2018-00056. Staff believes the proposed Ecovillage project has significant favorable attributes when evaluated relative to the Comprehensive Plan, such as: consistency with the Future Land Use Plan; support and advancement of Comp Plan objectives, strategies, and policies; and ambitious applications of Neighborhood Model principles. Please see the following explanations of these examples.

Consistency with the Future Land Use Plan:

The subject property is located within a portion of the County that is included in the Places 29 Master Plan, and is further located in a specific area designated for “Neighborhood Density Residential” future land uses. This designation envisions single-family detached and attached housing with a gross density range between 3–6 units/acre. The proposed development shown on SDP-2018-00056 would consist of 25 townhouse units and 11 single-family detached units, for a total of 36 dwelling units at a gross density of 5.52 units/acre.

Neighborhood Model and Other Comp Plan Objectives, Strategies, and Policies:

When analyzing the proposed disturbance of preserved steep slopes for private facilities within the broader context of the proposed Ecovillage project (as shown on SDP-2018-00056), the relegation of vehicular parking and accessways to the outer edges of the site (and the resulting disturbance of preserved steep slopes) would allow this proposed development to be planned and designed in ways that support and advance numerous Comp Plan goals, objectives, and/or recommendations. Examples include the following:

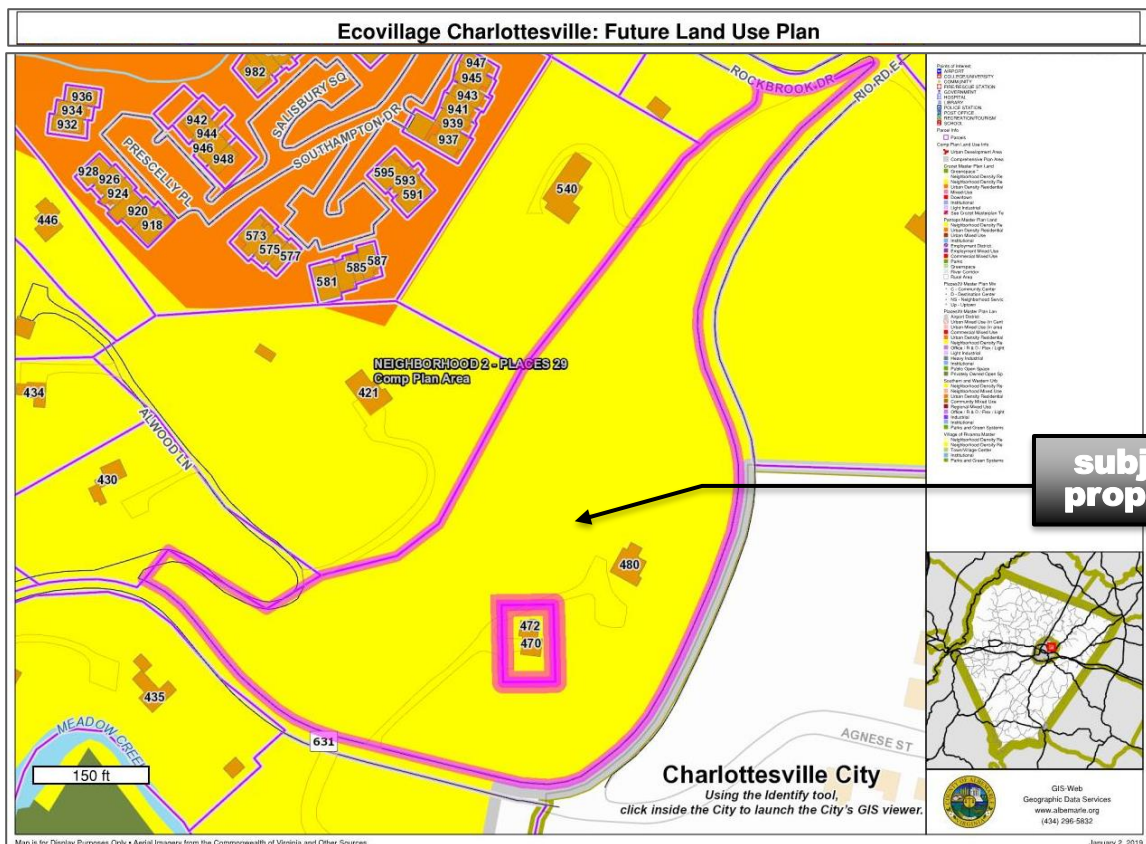
- a. Enabling compact new residential development (inclusive of affordable housing, multiple housing types, and a mixed arrangement of both) within the Development Area, as specified in Strategy 1a in the Growth Management chapter and Objective 5 of the Development Areas chapter.
- b. Supporting site planning features that embody Neighborhood Model Principles contained in Objective 2 of the Development Areas chapter, including (but not necessarily limited to):
 - Pedestrian Orientation: Extensive sidewalks and walkways are proposed throughout Ecovillage. Most notably, the majority of private streets are conceptualized as “pedestrian streets” which are designed primarily for non-vehicular use by residents (while also being engineered and designed for use by vehicles, including emergency vehicles). Additionally, the Ecovillage project includes the provision of a publicly-accessible pedestrian path through the proposed development which would support and advance the implementation of the “Proposed Multi-Use Path” shown on the “Parks and Green Systems Map (South)” in the Places 29 Master Plan.
 - Relegated Parking: The location and configuration of the proposed parking areas along the outer perimeter of the development would minimize the presence of automobiles throughout the Ecovillage community, and would maximize the pedestrian orientation of streets, private lots and dwellings, and public open spaces. (Staff acknowledges this proposed layout would place the parking areas in a location between the public right-of-way of Rio Road East and the primary uses/structures on the subject property, which is the inverse arrangement for typical “relegated parking.” Relegated parking, in this instance, has been considered relative to the internal arrangement of on-site uses and improvements.)
 - Parks, Recreational Amenities, and Open Space: The Ecovillage concept includes a community center and open space area, which is intended to be a centralized open space

area for recreation and social connectivity.

- Mixture of Housing Types and Affordable Units: The Ecovillage concept includes single-family detached, single-family attached units, and the applicants have proposed that 50% of the dwelling units (or 18 units) be designated as “affordable.”
- Multimodal Transportation Opportunities: The Ecovillage project includes the provision of a publicly-accessible pedestrian path through the proposed development which would support and advance the implementation of the “Proposed Multi-Use Path” shown on the “Parks and Green Systems Map (South)” in the Places 29 Master Plan.

The only Neighborhood Model principle that is directly applicable to the proposal contained in SP201800016 is “Respecting Terrain and Careful Grading and Re-grading of Terrain.” The proposed disturbance of preserved steep slopes, when analyzed in isolation, does not support or advance this principle – especially without more information to demonstrate a commitment to “appropriate consideration and care” for mitigating the proposed grading and removal of vegetation on preserved steep slopes.

In summary, the proposed disturbance of preserved steep slopes for private facilities would have significant inconsistencies with the Comprehensive Plan, and would not be appropriate, if evaluated without consideration to the overall proposed development shown on SDP-2018-00056. However, when the proposed disturbance of preserved steep slopes is evaluated more comprehensively in the context of the overall proposed Ecovillage development – including site-specific constraints and existing conditions, the necessity of relocating the entrance and constructing a left turn lane to meet VDOT requirements, as well as the extensive application of Neighborhood Model principles to an infill development project in the Development Areas – the SP proposal does indirectly have positive attributes, and in total represents a complex combination of favorable and unfavorable factors relative to Comprehensive Plan policies.



Future Land Use Plan: “Neighborhood Density Residential” (Places 29 Master Plan)

ADDITIONAL STAFF ANALYSIS AND EVALUATION:

SP-2018-00016 has been evaluated regarding the permissibility and the appropriateness of the proposed disturbance of preserved steep slopes. The appropriateness of the proposal has been evaluated pursuant to the applicable sections and subsections of Z.O. Section 33.40(B) (above).

Regarding permissibility, SP-2018-00016 has been applied for pursuant to Z.O. Section 30.7.4.b.2, which is the only provision which (potentially) allows for the disturbance of preserved steep slopes. That provision reads as follows: *“The only use permitted by special use permit on preserved slopes are private facilities such as accessways, utility lines and appurtenances, and stormwater management facilities, not otherwise permitted by right under subsection (b)(1)(e), where the lot does not contain adequate land area outside of the preserved slopes to locate the private facilities.”*

As such, Z.O. Section 30.7.4.b.2 requires the following two-part evaluation to determine if the proposed private facilities involving disturbance of preserved steep slopes are (potentially) permissible:

1. (Eligibility): Are the proposed improvements eligible as “private facilities”? *and*
2. (Physical Necessity): Do the proposed improvements need to be located and/or configured in a way that requires disturbance of preserved steep slopes because “the lot does not contain adequate land area outside of the preserved slopes to locate the private facilities”?

Regarding the first part of this evaluation (“eligibility”):

County staff has conducted an interdivisional review of the proposal, and has concluded that the new entrance on Rio Road East, the new private street, and the new parking areas are all eligible as “private facilities” pursuant to Z.O. Section 30.7.4.b.2.

Regarding the second part of this evaluation (“physical necessity”):

County staff has conducted an interdivisional review of the proposal, and has concluded the following:

- The new entrance location at Rio Road is considered a private facility and is (potentially) permissible – it clearly meets the “physical necessity” bar because of locational requirements. It is staff’s understanding(*) that in order to comply with VDOT entrance requirements, the proposed new entrance for the proposed Ecovillage project must be sited in the proposed location (to meet the minimum required intersection sight distance and to meet the minimum required stopping sight distance). Because the preserved steep slopes extend virtually the entire length of the frontage of Rio Road East, it is physically necessary to disturb the preserved steep slopes in this immediate vicinity in order to physically construct the entrance, to establish and maintain minimum sight lines (for adequate visibility and safe use of the entrance), and to accommodate a wider Rio Road East ROW to construct the required left turn lane.
 - o (*) Please note that this understanding is subject to VDOT review and approval of an Entrance Design Waiver Request that has been submitted, revised, and resubmitted, and is now under review by VDOT’s Culpeper District Location and Design Engineer. VDOT has informed staff that this Waiver Request will still be under review on January 15, 2019; and as such, VDOT has agreed to send a representative to the public hearing for SP-2018-00016 on January 15 to assist the County in understanding and discussing these technical issues.
- The new private street accessway and new parking areas private facilities which are more internal to the site do not clearly meet the physical necessity bar, because the subject property is 6.5 acres in size – and as such, it can be reasonably assumed that the property physically contains “adequate land area” to site these proposed private facilities in locations that would not involve disturbance of preserved steep slopes. For example, it may be possible to further reduce or eliminate the proposed impacts to the preserved steep slopes through a small reduction in the number of units and/or parking, or a reduction in the total open space area proposed on-site, or other potential options to modify or reorganize the proposed site layout.

Although the new private street accessway and new parking areas do not clearly meet the physical necessity bar when considering the property's amount of land area (using a simple "physical necessity – size" test), staff has identified the following notable considerations when conducting a more comprehensive evaluation of these proposed private facilities (using a "physical necessity – context and configuration" test):

- The upper portion of the proposed private street accessway would extend from the new entrance on Rio Road East and provide access to the upper interior portions of the subject property, with an alignment along the outer perimeter of the proposed Ecovillage development. This alignment was chosen to minimize the presence of vehicles within the Ecovillage community, and to maximize the pedestrian orientation of the private streets and public spaces. To achieve this alignment along the perimeter of the property, and to maintain and reuse the historic dwelling unit located close to the perimeter (addressed as 480 Rio Rd E) without impacting the structure in a way that compromises its historic integrity, additional instances of minor disturbance of preserved steep slopes are proposed along the upper portion of the accessway (near the existing historic structure).
- Similarly, the proposed location and configuration of parking spaces was chosen to relegate the parking away from private streets and dwellings, and towards the perimeter of the property. This was done to minimize the presence and impact of vehicles within the proposed Ecovillage community, and to maximize the pedestrian orientation of the private streets and public spaces. To achieve this separation and relegation of parking from the primary uses (dwellings), additional instances of minor disturbance of preserved steep slopes are proposed for the parking areas (between the proposed private street accessway and Rio Road East).
- Although the proposed areas of disturbance associated with the upper portion of the proposed private street accessway and the proposed parking areas do not pass the simple "physical necessity – size" test, these proposed private facilities could pass the "physical necessity – context and configuration" test, because the proposed disturbance would be necessary in order to develop and use the property for the proposed Ecovillage project (as specifically shown on the corresponding initial site plan SDP-2018-00056, approved with conditions on 10/11/2018).
- However, the applicants have not clearly demonstrated that the proposed site layout and associated disturbance of preserved steep slopes are physically necessary in order to develop the proposed Ecovillage project (or to develop the project using a modified site layout that is comparable, but distinct from, the proposed site layout as shown on SDP-2018-00056).
The applicants should provide more information to sufficiently document the particular physical necessity of the proposed disturbance of preserved steep slopes for the upper portion of the private street accessway and parking areas private facilities. Specifically, information should be provided to clearly demonstrate that the site layout shown on SDP-2018-00056 is necessary and appropriate, and to demonstrate the feasibility (or infeasibility) of potential alternative iterations of the proposed Ecovillage Charlottesville site layout which could accomplish the same project goals without requiring disturbance of preserved steep slopes for the private facilities specified above.

SUMMARY:

After careful interdivisional review of this request, staff have identified the following factors of this proposal which are favorable and unfavorable:

Factors favorable to this request include:

1. *Characteristics of Steep Slopes:* Although the proposed disturbance involves lands within the Preserved Steep Slopes Overlay District, the (potentially) affected steep slopes have substantial characteristics of a "Managed" overlay district, including being "significantly disturbed prior to June 1, 2012" (by the construction and subsequent modification of Rio Road East), and thereby being "manufactured" (as opposed to being entirely natural). Based on these mixed characteristics, Staff concludes that the proposed disturbance could be appropriate, provided that the applicants clearly

demonstrate “additional development design care and consideration” for the proposed landscape mitigation efforts and proposed stormwater and storm drainage improvements.

2. *Physical Necessity of Private Facility (Entrance)*: Use and development of the subject property at levels recommended by the Future Land Use Plan, and virtually any change (intensification) of use on this 6.5 acre property, will require the construction of a new commercial entrance that is located and designed to meet VDOT entrance requirements. Because of the physical characteristics and spatial configuration of this site, as well as the alignment of Rio Road East, a new commercial entrance on this subject property cannot be constructed without disturbance of preserved steep slopes.
3. *Consistency with Comprehensive Plan*: The proposed Ecovillage project (as shown on SDP-2018-00056) is an infill development within the Development Areas, and is consistent with the Future Land Use Plan, and has been planned and designed in ways that strongly support and advance numerous Comp Plan goals, objectives, and/or recommendations. Examples include enabling compact new residential development (inclusive of affordable housing and multiple housing types) within the Development Areas, and an ambitious application of multiple Neighborhood Model Principles.

Factors unfavorable to this request include:

1. The proposed disturbance of preserved steep slopes is partially inconsistent with Comprehensive Plan Goals and with the Purpose and Intent of the Steep Slopes Overlay District.
2. Although the existing Steep Slopes Overlay District has both “preserved” and “managed” characteristics, the proposed disturbance of preserved steep slopes would negatively impact the aesthetic quality of the steep slopes overlay district through the removal of existing mature canopy trees and other vegetation along Rio Road East, and would thereby create negative impacts to the character of the nearby area.
3. Grading and removal of soil could potentially contribute to erosion and sedimentation of downstream water resources, including the nearby Meadow Creek, which is impaired.
4. Grading and removal of vegetation would reduce the amount of forest land cover, which negatively impacts wildlife habitat and diminishes the ecosystem services (such as stormwater management, and carbon sequestration, and reduction of urban heat island effect) that would otherwise be provided if the forest land cover were to remain intact.
5. Proposed Ecovillage development (as shown on SDP-2018-00056) would require multiple special exceptions and/or waivers/modifications.
6. The application does not sufficiently document the particular physical necessity of the proposed disturbance of preserved steep slopes for private facilities – specifically for the proposed new parking areas or the upper portion of the proposed private street accessway. Additional information should be provided to clearly demonstrate that the site layout shown on SDP-2018-00056 is necessary and appropriate, and to demonstrate the feasibility (or infeasibility) of potential alternative iterations of the site layout which would not require disturbance of preserved steep slopes for the private facilities specified above.
7. The application does not sufficiently document the “additional development design care and consideration” that is required in order to make a finding that the proposed disturbance is appropriate. Additional information such as a landscaping plan and conceptual stormwater management plan should be provided to clearly demonstrate “appropriate consideration and care in [the] design and construction” of the proposed mitigation efforts and proposed stormwater and storm drainage improvements along Rio Road East.
8. The Commercial Entrance Design Waiver Request that is required for the proposed new commercial entrance for the Ecovillage Charlottesville project is still under review by the VDOT Location & Design Engineer. Staff is unable to make a final, fully-informed determination on the necessity of the proposed new commercial entrance private facility prior to VDOT taking action on the applicant’s Design Waiver Request, as the terms and conditions of any such approval (as may be applicable) may result in modifications to the proposed areas of disturbance.

RECOMMENDED ACTIONS:

Staff's interdivisional analysis and evaluation of this specific proposal on this particular subject property has resulted in a complex combination of favorable factors and unfavorable factors being identified, as described in detail throughout this report. Staff currently believes the favorable factors outweigh the unfavorable factors, with particular consideration given to the characteristics of these steep slopes; to the subject property's location within the Development Areas; and also to the extent to which the proposed Ecovillage project embodies, supports, and advances numerous Comprehensive Plan strategies, objectives, and policies.

However, staff believes that position cannot be fully verified at this time, because (1) the applicant has not yet clearly demonstrated the physical necessity of all proposed areas of disturbance for private facilities within the Preserved Steep Slopes Overlay District, and most importantly, because (2) the applicant has not clearly demonstrated "appropriate consideration and care in [the] design and construction" of the proposed landscape mitigation efforts or the proposed stormwater and storm drainage improvements along Rio Road East.

Therefore, despite the evaluation factors being more favorable than unfavorable, staff withholds a recommendation for approval of SP-2018-00016 unless and until the outstanding issues described above are addressed and resolved to the satisfaction of County staff. Specifically, staff recommends the following at this time:

- a) The Planning Commission and applicant should identify a strategy and timeline for documenting the "appropriate consideration and care in [the] design and construction" of the proposed landscape mitigation and stormwater improvements, as would be necessary in order to make a positive finding that the proposed disturbance of preserved steep slopes is appropriate; and
- b) The applicant should field-identify the proposed limits of disturbance on site (using flags, stakes or other similar equipment) to better enable County staff and officials to clearly understand the extent and consequences of the proposed disturbance within the Steep Slopes Overlay District; and
- c) The Commission should consider waiting to take action until the applicant is able to provide an update on the status of the proposed new commercial entrance private facility, after VDOT takes action (pending) on the Entrance Design Waiver Request (under review).

However, if the Planning Commission should choose to recommend approval of SP-2018-00016 based on the findings described in this report and factors identified as favorable, then **staff would recommend the following conditions of approval for SP-2018-00016** (below), as may be applicable. Please note the following conditions which may need further technical refinement prior to review by the Board of Supervisors.

Recommended Conditions of Approval:

1. The limits of disturbance within the Preserved Steep Slopes Overlay District shall be limited to the sizes, locations, and extents of disturbance as shown on the exhibit titled "Ecovillage Charlottesville: Slope Exhibit" prepared by Shimp Engineering, P.C. and dated January 3, 2019,
2. The land disturbance within the Preserved Steep Slopes Overlay District shall only be permissible for the development and use of the proposed "Ecovillage Charlottesville" project, which must be in general accord with the Conceptual Plan / Initial Site Plan SDP-2018-00056 (or a subsequent Final Site Plan that is approved by the County). The publicly-accessible pedestrian path that is proposed to be located through the interior of the "Ecovillage Charlottesville" project is a major element of the Conceptual Plan / Initial Site Plan SDP-2018-00056.
3. The applicants must submit plans for stormwater improvements to address the existing stormwater and storm drainage infrastructure along Rio Road East, to the satisfaction of the County Engineer and Director of Planning, prior to Final Site Plan approval by the County.

4. The applicants must submit plans for landscaping and screening to mitigate the hydrological, ecological, and aesthetic impacts to the steep slopes district and nearby area and to screen private facilities, to the satisfaction of the Director of Planning prior to Final Site Plan approval by the County. These landscaping plans shall consist of native deciduous and native evergreen plant species, which at the time of planting shall exceed the minimum sizes required by Zoning Ordinance Section 32, and which will also result in a vertically stratified forest composition that includes herbaceous, shrub, understory, and canopy layers.

POSSIBLE PLANNING COMMISSION MOTIONS – SP-2018-00016:

- A. Should the Planning Commission **choose to recommend approval** of this special use permit:
I move to recommend approval of SP-2018-00016 for “Ecovillage Charlottesville” with the conditions outlined in the staff report.
- B. Should the Planning Commission **choose to recommend denial** of this special use permit:
I move to recommend denial of SP-2018-00016 for “Ecovillage Charlottesville” for (state reasons for denial).

ATTACHMENTS:

- A – Location Maps: [Existing Conditions Map and Critical Resources Map](#)
- B – Application Materials: [Conceptual Plan / Initial Site Plan SDP-2018-56](#) (dated August 20, 2018)
- C – Application Materials: [Special Use Permit Application – Project Proposal](#) (dated 11/19/2018)
- D – Application Materials: [Special Use Permit – Supplementary Documentation](#) (received 11/19/2018)
- E – Application Materials: [Ecovillage Charlottesville: Slope Exhibit](#) (dated 1/3/2019)