



**CITY OF FREDERICKSBURG
PLANNING COMMISSION
MINUTES**

**December 11, 2019
7:30 p.m.**

**715 Princess Anne Street
Council Chambers**

You may view and listen to the meeting in its entirety by going to the Planning Commission page on the City's website:

<https://amsva.wistia.com/medias/7zy9a8r28r>

The Agenda, Staff Report, Applications and Supporting Documents are also available on the Planning Commission page.

MEMBERS

Rene Rodriguez, Chairman
Steve Slominski, Vice-Chairman
David Durham
Kenneth Gantt (telephonically)
Chris Hornung
Tom O'Toole
Jim Pates

CITY STAFF

Mark Whitley, Assistant City Manager
Chuck Johnston, Director,
Planning and Building Dept.
Mike Craig, Senior Planner
James Newman, Zoning Administrator
Kate Schwartz, Historic Resource Planner
Cathy Eckles, Administrative Assistant

1. CALL TO ORDER

Chairman Rodriguez called the meeting to order at 7:31 p.m. and explained meeting procedures for the public, as well as expected decorum during public comment.

2. PLEDGE OF ALLEGIANCE

3. DETERMINATION OF A QUORUM

Six members present, Mr. Gantt present telephonically.

4. APPROVAL OF MINUTES

1. October 9, 2019

Mr. Pates moved for approval of the October 9, 2019 meeting minutes as amended. Mr. Durham seconded. Mr. Hornung abstained as he was not present at the October 9, 2019 meeting.

The motion passed 6-0-1.

5. DECLARATION OF CONFLICT OF INTEREST

There were no conflicts of interest reported.

6. APPROVAL OF AGENDA

No changes or additions to the Agenda.

7. PUBLIC HEARING

- A. **The City of Fredericksburg** proposes to adopt text amendments to the Unified Development Ordinance, Article 72-5 "Development Standards," for the purpose of identifying, evaluating, preserving, excavating, and interpreting archaeological resources located within the City of Fredericksburg during the land development process.

Kate Schwartz gave the staff presentation, along with a power point and staff's recommendation for approval of the Unified Development Ordinance (UDO) Text Amendment to the City Council.

Mr. O'Toole asked how often the predictive model underlying the proposed ordinance would be updated. Ms. Schwartz said periodically, as sites are investigated or destroyed. Discussion then ensued regarding: the depth of the required excavations; the determination of what artifacts are studied; the costs involved; the fact that avoidance of archaeological resources is not mandated but minor modifications can reduce the impact of the development; and comparisons to the City of Alexandria's and other local programs. Further discussion was also held regarding minor projects, the process, what land disturbance would require an archaeological review, and, if sites are found, how they would be studied.

Mr. Pates questioned the costs and scope of archaeological investigations. Ms. Schwartz said that costs would vary but could run anywhere from \$1,500 to \$75,000, depending on the level of investigation, the size of the site, and the type of site. Mr. Pates asked who would bear the delay costs caused by an archaeological investigation. Ms. Schwartz said that the City would bear the cost of the archaeological research for small-scale projects, but the homeowner would bear the costs of any delays; she said the program would seek to employ as rapid a timeline as possible. Mr. Johnston said that the public can weigh in on the costs of the program during the budget hearing process.

Mr. Rodriguez questioned the effective date of the ordinance. Ms. Schwartz said it proposes to be effective July 1, 2020, to coordinate with the beginning of the fiscal year. The months prior will be used to ensure that all administrative requirements are in place. The ordinance will apply citywide, but the University's compliance would be voluntary, as it is State-owned.

Chairman Rodriguez opened the public hearing.

Anne Little, 726 William St., discussed the fiscal concerns. She said the City is minimizing the possible costs and feels the City should not take on further expenses.

Jon Gerlach, 809 Charlotte St., spoke in support of the ordinance and discussed public costs. He discussed the “built-in safety valve” of this ordinance, noting that the City can choose the level of archaeological investigation.

No further speakers, Chairman Rodriguez closed the public hearing.

Mr. Slominski further questioned the costs and wanted to know the estimated percentages of commercial versus homeowner projects. Mr. Johnston stated that the impact on homeowners will be relatively modest, as very few projects entail lot grading greater than 2,500 square feet, typically only with new development on vacant lots. Mr. Hornung stated that he thought the costs would not be significant for homeowners, who will be paying an additional 5% fee on any permit fee, not any archaeological costs. This will be primarily funded by developers’ fees. Mr. Rodriguez noted that the archaeological costs are not borne until needed.

Mr. O’Toole asked why not eliminate the requirement completely for projects under 2,500 square feet. Mr. Hornung said it essentially provides for sharing the cost of the program among homeowners, developers, and the public and gives the City the authority to do supplemental inspections to be sure nothing is missed.

Mr. Durham asked for numbers regarding projects exceeding 2,500 square feet. Ms. Schwartz said in FY17 there were 9 major site plans, 4 of which would have required investigation; there were 12 minor site plans, of which 6 would potentially have required monitoring; there were 70 residential lot grading plans, but 60 of them had already been reviewed through the major site plan process; and there were 71 Certificates of Appropriateness, of which 6 would have been impacted. Mr. Durham noted the relatively small number of homeowners (possibly 1 or 2) impacted by this ordinance.

Mr. Durham moved to approve the proposed amendments to the Unified Development Ordinance to preserve and accommodate archaeological resources. Mr. Hornung seconded. Mr. Pates noted that his concerns about the potential cost of the program had been alleviated due to the small number of projects potentially affected and that he supported adoption. He asked, however, that Council look closely at the financial aspects and fiscal impact to the City.

The motion passed 5-2 (Mr. O’Toole and Mr. Slominski: Nay).

B. The City of Fredericksburg proposes to adopt text amendments to the Unified Development Ordinance: Article 72-2 “Administration”, Article 72-3 “Zoning Districts”, Article 72-4 “Use Standards”, Article 72-5 “Development Standards”, Article 72-8 “Definitions and Interpretations”. These changes will affect residential development in the R2, R4, R8, R12, and/or CT Zoning Districts regarding setbacks, height, and lot frontage.

Mr. Johnston reviewed the staff report with a Power Point presentation. He said the staff recommendation was for approval of the ordinance, as modified from previous discussions.

Mr. O'Toole questioned the strikeout of "before April 25, 1984," asking if this change means that the ordinance pertains to all lots in the City, no matter when created. Mr. Johnston said: Yes.

Mr. Pates questioned whether the Commission should vote on the UDO text amendments before holding a public hearing on the Comprehensive Plan amendments, scheduled for the January 15 Commission meeting. Mr. Johnston said the notice for the Comprehensive Plan amendments was inadvertently omitted from the notice for this evening's meeting. He said the Comprehensive Plan currently contains statements in the "Goals, Policies, and Initiatives" section listed in the Residential, Neighborhoods, and Housing Chapter that support the proposed UDO text changes. He said the City Attorney recommended additional text in the body of that chapter to further support ordinances for compatible infill development. He said, however, that there would be no problem for the Commission to wait to vote on the UDO text amendments until after the Comprehensive Plan public hearing.

Mr. Pates also questioned why the recommendation to limit the height of additions did not also pertain to main structures in residential districts. He said that over-sized infill development in the City was a continuing problem that resulted in new structures "overwhelming" neighboring properties and that this should be addressed as part of the proposed UDO amendments. Mr. Johnston said because 73% of lots in R4 are smaller than the minimum lot size, there are already limitations in place. He explained the maximum height of any structure is reduced by the same percentage that a lot falls below the minimum lot size. Commissioners and staff further discussed height limitations for additions.

Mr. Pates questioned the rear yard setbacks and whether paving of rear yards should be addressed because of the potential for large rear-parking areas. Mr. Johnston stated that paving limitations in front yards are provided, but that such limitations are not applied to rear yards as they would affect patios and swimming pools, in addition to parking areas.

Mr. Hornung questioned the height limitations and how they were calculated for additions. Mr. Johnston stated that the height of additions relative to the main structure is calculated to a midpoint between the eave and the ridge of a pitched roof based on the elevation of the front lot line.

Mr. Durham questioned whether the proposed changes would affect the ability of lots having a single-story structure to potentially have higher additions. Mr. Johnston said it potentially could. He suggested that neighborhood conservation districts should be considered to implement limits on two-story additions to single-story structures. Mr. Johnston noted the various neighborhoods with "substandard" lots downtown currently zoned R-4 and R-8.

Mr. Durham questioned the calculations used to determine the degree to which the expected building square footage will increase/decrease and any sense of the practical effect of these changes. Mr. Johnston stated that the proposed increase for rear-yard setbacks for corner lots from 6 to 24 feet would reduce potential buildable area. The

increased rear-yard setback for internal lots from 18 to 24 feet would also impact mass to a lesser extent.

Mr. Durham said that neighborhoods have a certain of pattern of development and that these ordinance amendments would not prevent a developer from coming in, tearing down existing houses, and building new ones substantially larger than others in the neighborhood. Mr. Johnston noted that infill calculations based on height are simpler to say than do. These modifications address the issue, but bear further study as part of a neighborhood conservation district effort.

Mr. Gantt said that the Commissioners need to determine if they are here to be progressive, prescriptive, or transformative, and stated he is supportive of the proposed recommendation.

Chairman Rodriguez opened the public hearing. There were no public speakers. Mr. Johnston stated that the Commission received a letter supporting the changes from Sabina Weitzman, member of the City Architectural Review Board, and four emails from citizens supporting the changes providing more flexibility for swimming pools in rear yards. Chairman Rodriguez closed the public hearing.

Mr. Pates suggested that the Commission hold the proposed ordinance amendments over until the next Commission meeting in order for staff to look at additional alternatives putting greater limitations regarding height of residences and all buildings in the historic district. Mr. Durham agreed that it made sense to hold the ordinance amendments. Mr. O'Toole asked staff to re-address the height issues. Mr. Johnston noted that more research will be done. He asked whether, if a neighborhood was mostly single story, the Commission would want to limit all new houses in a neighborhood to be single story. Mr. O'Toole questioned if this could legally be done. Mr. Pates responded that what Mr. O'Toole was referring to is known as an unconstitutional "regulatory taking," but that in order for a regulatory action such as the one being discussed to rise to the level of a confiscatory "taking," the government action would have to essentially deprive a property owner of all commercially viable use of his property. Such takings are extremely rare.

Mr. Durham stated that he believed stronger height limitations were absolutely what should be done to preserve the character of each neighborhood, and requested that staff to do more work on defining those and more text amendments strengthening the preservation of neighborhoods.

Chairman Rodriguez requested staff readdress this item at the Commission's January 15, 2020 meeting. Mr. Johnston noted that under this proposed ordinance amendment, properties in the local historic district will be governed by the Architectural Review Board.

Chairman Rodriguez requested more information to establish formal conservation districts and expand the Architectural Review Board's footprint.

Mr. Durham noted he does not support a pattern of redevelopment with rear additions continuing the same roof level as the primary residence all the way back on the lot. He believes there should be a step down in height as the addition extends back.

8. GENERAL PUBLIC COMMENT

Scott DeHaven, 221 Braehead Drive, spoke in favor of the infill ordinance amendments. No other speakers. Chairman Rodriguez closed the general public comment.

9. OTHER BUSINESS

- A.** The Planning Commission of the City of Fredericksburg proposes to amend its Bylaws:
Article 4-3-8, regarding the preparation and review of an annual report; and
Article 5-1, regarding recommendations on the City's Capital Improvement Plan.

Mr. Johnston reviewed the proposed changes to the Bylaws as previously discussed.

Mr. Pates moved to approve the Bylaw changes as presented. Mr. O'Toole seconded.
The motion passed 7-0).

B. 2021 CIP Recommendations

Mr. Craig reviewed the staff memo and recommendations listed. Mr. Whitley was present to discuss same.

Mr. Pates said there should be additional funds directed to train station improvements and the removal of unsightly billboards, particularly along Princess Anne Street. Mr. Durham discussed additional funds for intersection striping and safety/visibility mirrors. Discussion was also had on recommending acceleration to one or two projects, the reasoning for particular projects and how to prioritize. Mr. Craig noted this is why we are discussing. Staff wants to know what projects the Commissioners would like to see accelerated, and possible future projects for the capital budget.

Mr. Durham recommended that next year a committee be formed to look at this year's CIP recommendations and how well the current plan is upholding the Comprehensive Plan. Mr. Hornung noted that this was addressed in the just-approved Commission By-law amendments.

Mr. Gantt moved to approve the CIP recommendations as presented. Mr. Durham seconded.

The motion passed 7-0.

C. Planning Commissioner Comments

1. Commissioner Pates: Washington Post Article by Rachel Chason, September 3, 2019

Mr. Pates postponed his discussion on this until the January 15, 2020 meeting.

2. Commissioner Durham: Report on PC actions at City Council meetings.

Mr. Durham discussed the Commission's recent recommendations to City Council that were at odds with the City staff's recommendation. Mr. Durham believes these were not transmitted correctly and recommended that the Commission itself should advise Council directly on proposals where the Commission and the City disagree and not rely on staff to do so. State Code states that Commission members serve primarily in an advisory capacity and their duties are to make recommendations. His recommendation would be to actually do the presentation to Council as the Commission and not be speaking simply as a "public citizen." Commission members discussed such presentations and the Commission's desire to have its own forum. Mr. Johnston recommended that the Commission members contact the Council with their thoughts and concerns. The Commission members agreed that Chairman Rodriguez will initiate a discussion with the Mayor regarding these issues.

D. Planning Director Comments

1. Area Plans, Update: 1 and 2: Process Update

Mr. Johnston gave a brief update on the process for the area plans and what will be coming before the Commission in early 2020.

2. January 15, 2020 Public Hearing :

The City of Fredericksburg proposes to amend the 2015 Comprehensive Plan, Chapter 7, "Residential Neighborhoods and Housing," to discuss the importance and role of the built environment or form in creating neighborhood character

8. ADJOURNMENT

There being no further items to be discussed, the Planning Commission adjourned at 10:07.

Rene Rodriguez, Chairman