



**CITY OF FREDERICKSBURG
PLANNING COMMISSION
MINUTES**

January 15, 2020

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/vh56egfmsh>

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
Chris Hornung
Tom O'Toole
Jim Pates

CITY STAFF

Chuck Johnston, Director,
Planning and Building Dept.
Mike Craig, Senior Planner
James Newman, Zoning Administrator
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

Seven members present.

4. APPROVAL OF MINUTES

1. November 13, 2019
2. December 11, 2019

Mr. Hornung moved for approval of both the November 13 and December 11, 2019 meeting minutes as submitted. Mr. Durham seconded. Mr. Gantt abstained from voting on the November minutes as he was not present at the meeting.

Motion passed 6-0-1 for the November minutes and **passed 7-0** for the December minutes.

5. DECLARATION OF CONFLICT OF INTEREST

There were no conflicts of interest reported.

6. APPROVAL OF AGENDA

Mr. Durham moved for approval of the Agenda as submitted. Mr. Slominski seconded.

Motion passed 7-0.

7. PUBLIC HEARING

Mr. Johnston suggested the public hearings for Items 7.A. and 7.B be combined, but noted the items would need to be voted on separately. The Commission agreed.

- A. **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.
- 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 presentation along with a Power Point (Attachment A) and noted staff was recommending the Commissioners recommend approval. Mr. Johnston noted that the deadline for action on these amendments is January 15, 2020.

Mr. O'Toole questioned the point of measurement on height. Mr. Johnston said the height is measured along the front lot line to the midpoint between the eave and the ridge.

Mr. Rodriguez questioned the accessory structure 25 foot height allowance. Mr. Johnston said this current standard was like the limit to an addition to a structure that was located within all required setbacks.

Chairman Rodriguez opened the public hearing.

Adam Lynch, River Steward, Friends of the Rappahannock, 3219 Fall Hill Avenue.

Mr. Lynch spoke regarding his work to actively promote forms of development that will reduce impacts to the Rappahannock River. Mr. Lynch noted although development cannot be stopped, it can be steered in a river-friendly way. Mr. Lynch stated the Rappahannock River report card is currently graded at a "D" in the land use category due to new impervious surfaces and reduction of forest cover affecting water quality. Mr. Lynch said that one of the best weapons against sprawl development is infill regulations. Urban areas feature less pavement per person than suburban areas, which means that one unit built in the dense walkable area requires less impervious surface than a similar unit built in a suburban environment, thus reducing the impact per unit. Mr. Lynch requested that the Commissioners please consider whether the proposed

setbacks and height restrictions would discourage infill development in the City and further tip the balance in favor of environmentally unfriendly suburban sprawl. Mr. Lynch further asked the Commissioners to consider if these restrictions would restrict efforts to restore the “missing middle” housing types and accessory dwelling units that are suggested in the ongoing Comprehensive Plan updates and which are already present in these neighborhoods.

Scott DeHaven, 221 Braehead Drive.

Mr. DeHaven said he supported infill development, but was concerned with development that would exacerbate the drainage issues in Braehead Woods. He said he favored the proposed amendments that would limit the impact of infill development in his neighborhood.

Jon Gerlach, 809 Charlotte Street.

Mr. Gerlach spoke in his role as an attorney representing some of the citizens of Fredericksburg with respect to the UDO text amendments. Mr. Gerlach voiced his clients’ support and their recommendation for approval for these amendments as there is an immediate threat in the City.

Seeing no further speakers, Chairman Rodriguez closed the public hearing.

Mr. Pates discussed his concerns with the ordinance regarding the height limitations, which were discussed at the December 11, 2019 meeting. Mr. Pates said he believed the ordinance still did not adequately address the height-limitation concerns that were raised by Commissioners at the December meeting, at which time they asked the City staff to go back and develop some alternatives for the Commission’s consideration. He said he thought the draft ordinance would facilitate more “tear-downs” and rebuilding with larger houses. He discussed his concerns about infill development that is grossly oversized for the neighborhood. (Mr. Pates handed out a motion, Attachment B).

Mr. Durham made a point of order, reminding the Commissioners that Item 7.A and Item 7.B needed to be voted on separately and Mr. Pates’ motion addressed only Item 7.B. Mr. Durham moved to approve the Comprehensive Plan amendments to Chapter 7, “Residential Neighborhoods and Housing” in Item 7.A, but with a text modification to page 7-3, the paragraph titled “Balance Community Character / Resiliency,” Bullet 1, as follows:

Patterns of existing structures including building side setbacks, height, and tree cover are major contributors

Mr. Pates seconded.

Motion passed 7-0.

Mr. Pates moved to approve Item 7B, amending infill development requirements, with the edits outlined in his motion in two parts [Attachment B].

Mr. Pates noted that No. 1 in his motion dealt with deleting the proposed height requirements and that No. 2 directed staff to prepare a new draft ordinance addressing the height restrictions previously deleted in No. 1. Mr. Pates noted it was not his intention to commit the Commissioners to his proposed changes in the height restrictions, but simply to ask staff to come back and use the four principles in No. 2 to draft a new proposed ordinance, as well as any other alternatives suggested by staff. He indicated that his purpose in making the motion was to allow the rest of the setback and infill provisions to go forward and get approved, but to reserve the height restrictions until staff had had a chance to re-work them and present various alternatives.

Mr. Pates then outlined his four principle proposed edits. On 2.b, Mr. Pates corrected the “HD District” to be “CD District.”

Chairman Rodriguez asked for a second to the first part of Mr. Pates’ proposed motion. Mr. Durham then seconded No. 1 of Mr. Pates’ proposed motion.

Discussion ensued regarding Mr. Pates’ proposed motion, including corrections to the numbering in the proposed ordinance. Mr. Hornung questioned the deletion of all the sections listed in No. 1. Mr. Durham stated the deletions shouldn’t change the existing height restrictions, only delete the proposed changes. Mr. Pates clarified that the motion would delete the proposed height requirements from the staff’s proposed ordinance and request that staff come back with a new separate ordinance dealing with just the height limitations. Mr. Durham stated Mr. Hornung had a valid point in that the current height restrictions should not be deleted. Mr. Durham clarified that the purpose of the motion was just to delete the proposed height changes.

For clarity, Mr. Johnston restated that Paragraph 1.b., Section 72-31.3(D)(3) and Paragraph 1.c., Section 72-31.4(D)(3) are not amendments to the existing Code. Mr. Pates agreed and withdrew those from his motion.

Mr. Johnston asked what Mr. Pates meant by deleting Paragraph 8. Mr. Pates noted that he meant to delete the change proposed to Section 72-42 and Section 72-42.4 changing the maximum height from 10 feet to 12 feet if located in a side or rear yard.

Mr. Johnston then clarified that the proposed motion, No. 1, would delete Section 72-31.2(C)(3), Section 72-31.3(C)(2), Section 72-31.4(C)(4), and the proposed amendment in Section 72-42.4.

Mr. Hornung noted that he would not support this motion as there was nothing showing the implications of these changes. Mr. Gantt referred to the December 2019 minutes where the Commissioners discussed the height requirements and unconstitutional “regulatory taking” and asked staff how they addressed this. Mr. Johnston noted that in the staff report, he had highlighted the issues germane to the issue of limiting heights of single-story structures in neighborhoods to remain single story structures. Mr. Johnston said this was a significant restriction inhibiting redevelopment. He said the map entitled “Approximate Building Height by Story” shows that most neighborhoods in the City have structures that are have mixed heights. He said after doing this research, he did not

believe limits for single-story development would be valid and therefore was not proposed.

Mr. Johnston requested that the Commission go forward with the amendments as drafted and readdress height restrictions at a later date. He suggested the Commission appoint a Committee for further discussion. He said there had been some technical difficulties with achieving what Mr. Pates' motion outlined, based simply on using a specific number of feet. It required a level of technical sophistication the City did not have and would be a challenge to develop. However, using the number of "stories" pursuant to the Commissioner of Revenue data available would be a viable option that could be discussed.

Mr. Durham clarified that the purpose of the motion was to allow the proposed UDO amendments of most concern right now to go forward to City Council, i.e., setbacks, while the Commission asked staff to further amend the height restrictions with more variety of height options.

Mr. Hornung questioned if a simpler motion might be to make the proposed staff amendments, less any height-restriction changes.

Chairman Rodriguez questioned if staff would be supportive of that course of action. Mr. Johnston said he supported further discussion of the height restrictions but believed the proposed changes were a good step for appropriate height limits.

Chairman Rodriguez asked for clarification on the timing of first and second read Council votes. Mr. Johnston explained that unless the Council decided otherwise, a second read would be at a later date after its scheduled January 28 meeting.

Mr. Pates said that what Mr. Hornung stated was actually the intent of his motion to eliminate any height restriction amendment changes at this time.

Chairman Rodriguez clarified that the first vote will be on Mr. Pates' motion to remove any height restriction amendment changes. Mr. Johnston formally restated the motion as follows: No. 1 will delete Section 72-31.2(C)(3), Section 72-31.3(C)(2), Section 72-31.4(C)(4), and the proposed amendment in Section 72-42.4.

Mr. Gantt said that he disagreed with such a piecemeal motion going forward to Council.

Due to an issue with the voting box, a verbal roll call was held and the motion carried as follows:

Motion passed 4-3 (Mr. Gantt, Mr. Hornung, and Chairman Rodriguez: Nay).

Mr. Pates moved to approve No. 2 of his motion to Item 7.B, requesting staff to come back to the Commission with new proposals as outlined in his four principles regarding height restrictions. Mr. Durham seconded.

Mr. Gantt questioned how this would move forward. What he understood was that staff would go to Council and present the staff report, and present what was being

recommended by the Commission. Chairman Rodriguez agreed, but noted that after this motion he would like to discuss how this matter would be presented to Council.

Mr. Johnston requested that the Commission designate specific members for staff to work with on the proposed amendments regarding height restrictions.

Mr. Hornung asked for clarification of the height restrictions prior to the proposed amendments. Mr. Johnston said in the current ordinance, the maximum height [for residential units] is 35 feet but that it is reduced proportionally to the degree that the existing lot is smaller than the minimum lot size. He said that in the proposed ordinance any horizontal addition to a single-family dwelling on a lot smaller than the minimum lot area could not be taller than 27 feet or the height of the principal structure, whichever was greater.

Motion passed 5-2 (Mr. Hornung and Mr. Gantt: Nay).

Chairman Rodriguez requested a motion or discussion on how to address Council on this matter. Mr. Durham moved that if staff presents their original proposed ordinance to Council that the Chair appoint a Commission member to represent the Commission and present the Commission's majority and minority positions. Mr. Pates seconded.

Mr. Durham noted that a request needed to be made to Council for the Commission to be put on the agenda and not merely as a public presentation subject to the 5-minute rule.

Mr. Johnston noted that the presentation will use different graphics to show the various positions of the presentation and clearly delineate what was voted in favor and what was deleted.

Motion passed 6-1 (Mr. Gantt-Nay).

Chairman Rodriguez appointed a Commission Committee consisting of Mr. Durham and Mr. Pates to work with staff on the additional height amendments. He said he would present the Commission's positions to Council at the January 28, 2020 City Council meeting.

8. GENERAL PUBLIC COMMENT

None.

9. OTHER BUSINESS

A. Calendar Change – Shift June 10, 2020 meeting to June 17, 2020.

Mr. Johnston suggested that, due to a staff conflict, the June meeting be changed. The Commission agreed.

B. Bylaws – discuss possible proposed amendments.

Mr. Johnston noted that at previous meetings, Commissioners had mentioned possible amendments to the Bylaws and wanted an opportunity to discuss these. Mr. Durham said that he would like to see an amendment regarding addressing Council when staff presents recommendations contrary to the Commission's decisions. Chairman Rodriguez appointed a Bylaw Amendment Committee consisting of Mr. Durham and himself.

Mr. Johnston noted that any amendments would first need to be placed on the February agenda as formal notice of an amendment to the Bylaws and then voted on at the March Commission meeting.

C. Planning Commissioner Comments

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

Mr. Pates discussed a recent article from *The Washington Post* (Attachment C) regarding zoning text amendments that often don't get the public's attentions until the changes have been made and impacted their area. The article highlighted Prince George's County, Maryland, where text amendments have been widely used to avoid a zoning map amendment, which was legal but the public was left unaware of the project or its potential impacts. Mr. Pates suggested that the Commission be mindful of the origins of zoning text amendments and their potential for unintended impacts. He also suggested that the City should be further explaining text amendments to the public in the public notices and how they might impact areas.

Mr. Hornung noted that the proposed height amendments were a perfect example of a text amendment change that will impact the majority of the City.

D. Planning Director Comments

Mr. Johnston said that a new voting system will be coming soon for City Council and the Commission, with votes appearing on the monitors in Council Chambers and the voting box on the wall being removed. Training will be held prior to the February 12, 2020 meeting, during the Commissions' work session.

Mr. Johnston reviewed the January 14, 2020 Council meeting:

- (1) The archaeology ordinance was approved, but an issue was raised as to the nature of the fees to be paid to offset the expected costs of the archaeological consultant. Staff promised Council there would be an alternative plan regarding fees at the second read.
- (2) Council discussed text amendments to residential development in the Planned Development Commercial (PDC) district, prior to initiation on January 28. Currently that district states that no more than 10% of the land area can be devoted to residential. The proposed text amendment would change this to 20% with a special use permit. This matter will come before the Commission at the February 12 meeting.

Mr. Johnston said that a public hearing on a potential rezoning from CH to PDC for a potential hotel across from Wegmans will come before the Commission at the February 12 Commission meeting. The potential residential development text amendments would affect this property also.

Mr. Johnston stated the VA Clinic deadline for applications is January 24, 2020.

Mr. Johnston said that the ongoing discussions regarding Braehead drainage will continue on February 6, 2020 at 7 pm at the Dorothy Hart building, when Timmons Engineering Group will present its analysis of the area.

Mr. Johnston noted that there will be a second Commission meeting on February 26, 2020 for the Area 7 Comprehensive Plan amendments.

Chairman Rodriguez said that he attended his first Parking Committee meeting on January 6 and that the Committee was considering language to allow electric charging stations in public rights-of-way.

8. ADJOURNMENT

There being no further items to be discussed, the Planning Commission adjourned at 9:02 pm. Next meeting is February 12, 2020.

Rene Rodriguez, Chairman