



**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 Rodriquez 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



**COMPREHENSIVE PLAN AMENDMENT
UDO TEXT AMENDMENT 2019-06**

Infill Calculations

Comprehensive Plan Amendment

◆ Balance Community Character / Resiliency

- ◆ Patterns of existing structures including building scale and massing, front setbacks, side setbacks and height are major contributors to community character. Together they influence the existing intensity of residential use and create a cohesive semi-public realm that determines whether a neighborhood is walkable, automobile dependent, urban, or naturalistic. Dating back at least to the 1960's the City's zoning ordinance included infill provisions related to front setbacks. Over time, these important provisions extended to side setbacks, height, as well as exempting houses from off-street parking requirements where paving over yards was disruptive to community character. These provisions protect established building patterns and meaningful open spaces.
- ◆ Without compromising a neighborhood's ability to evolve to meet changing housing needs, evaluate setback and height infill requirements as a means to ensure modern homes and additions are consistent with the quality, uniqueness, and attractiveness of existing neighborhoods.

Existing Comprehensive Plan Goals, Polices, and Initiatives

◆ Goals for Residential Neighborhoods and Housing

- ◆ 3. Distinct and Attractive Neighborhoods: Ensure the residential areas of the City continue to comprise a collection of distinct and attractive neighborhoods, each possessing a sense of place, history, and shared identity.
- ◆ 6. Compatible Design and Functionality: Ensure the development and redevelopment is visually compatible with the overall character of the City

◆ Policies for Residential Neighborhoods and Housing:

- ◆ 1. Respect the integrity and the character of the City's neighborhoods.
- ◆ 15. Encourage infill development that is compatible with established neighborhoods, in terms of scale and massing

◆ Initiatives for Residential Neighborhoods and Housing:

- ◆ 1. Continue to evaluate infill regulations to ensure that additional and new construction does not adversely impact the character of existing neighborhoods.

UDO Amendments Infill Calculations – Setbacks

The UDO provides that the front and side setbacks on residential lots created before April 25, 1984 are calculated based on the pattern of the structures along the street where the new construction is to occur. This date was the effective date of the previous zoning ordinance.

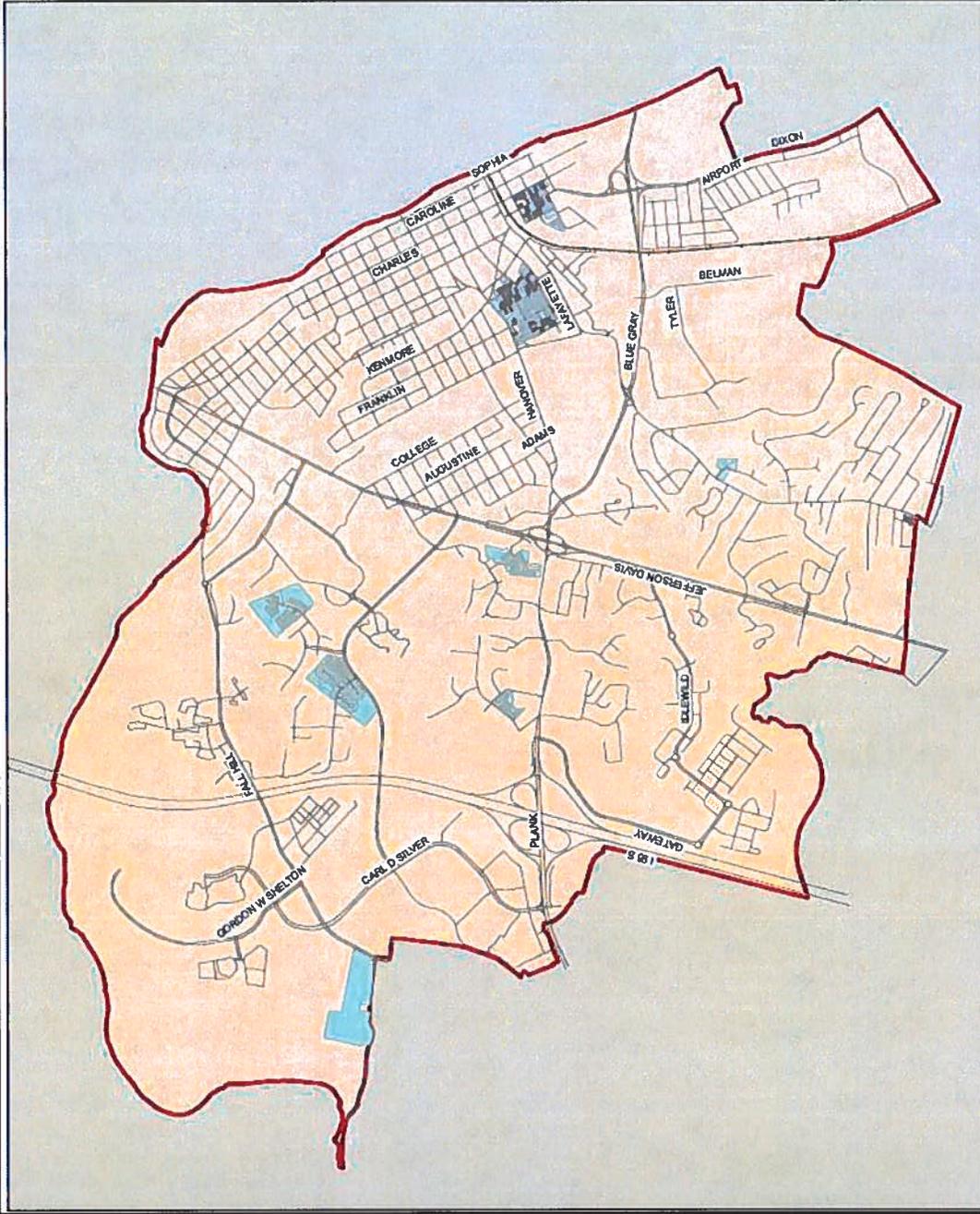
The proposal is to apply such calculations to all lots existing as of the adoption of this Ordinance, and lots created in future Administrative Subdivisions (9 or fewer lots). This would ensure the new subdivisions within existing neighborhoods would also follow existing development patterns.

UDO Amendments Infill Calculations – Height of Additions

The proposed amendment states that on lots smaller than the minimum lot size in R4 and R8 Zoning Districts, a horizontal addition to a dwelling will be no taller than the main dwelling or 27 feet, whichever is taller.

The result would be that a two story house could have a two-story addition, no taller than the main house. A one-story house could have two-story addition, but it could not be taller than 27 feet. It is common for residential parcels in the City to be smaller than the zoning district minimum lot size.

R8 – Substandard Lots Citywide




**City of
Fredericksburg**

**Citywide
141 R8 Parcels
Less Than 3,750 sq ft
23% of Total R8 Parcels**

Dec 2019

-  Substandard Lots
-  R8 Zoning
-  Streets
-  Railroad



Prepared by City of Frederickburg GISD



R8 – Substandard Lots Downtown



**City of
Fredericksburg**

**Downtown Area
129 R8 Parcels in Area
Less Than 3,750 sq ft**

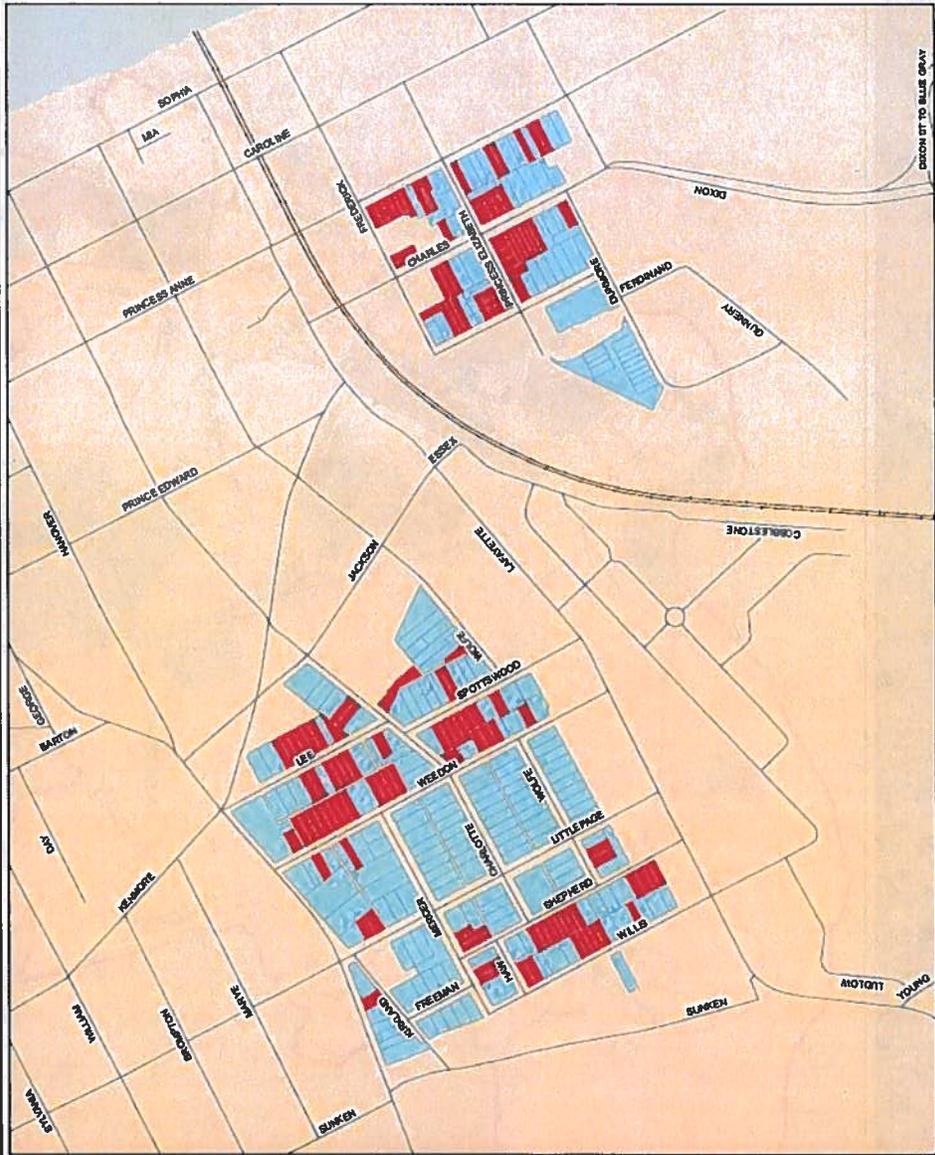
38.7% of R8 Parcels in Area

Dec 2019

- Substandard Lots
- R8 Zoning
- Streets
- Railroad



Prepared by City of Fredericksburg GIS



R4 – Substandard Lots Citywide



**City of
Fredericksburg**

**Citywide
1,949 R4 Parcels
Less Than 7,500 sq ft**

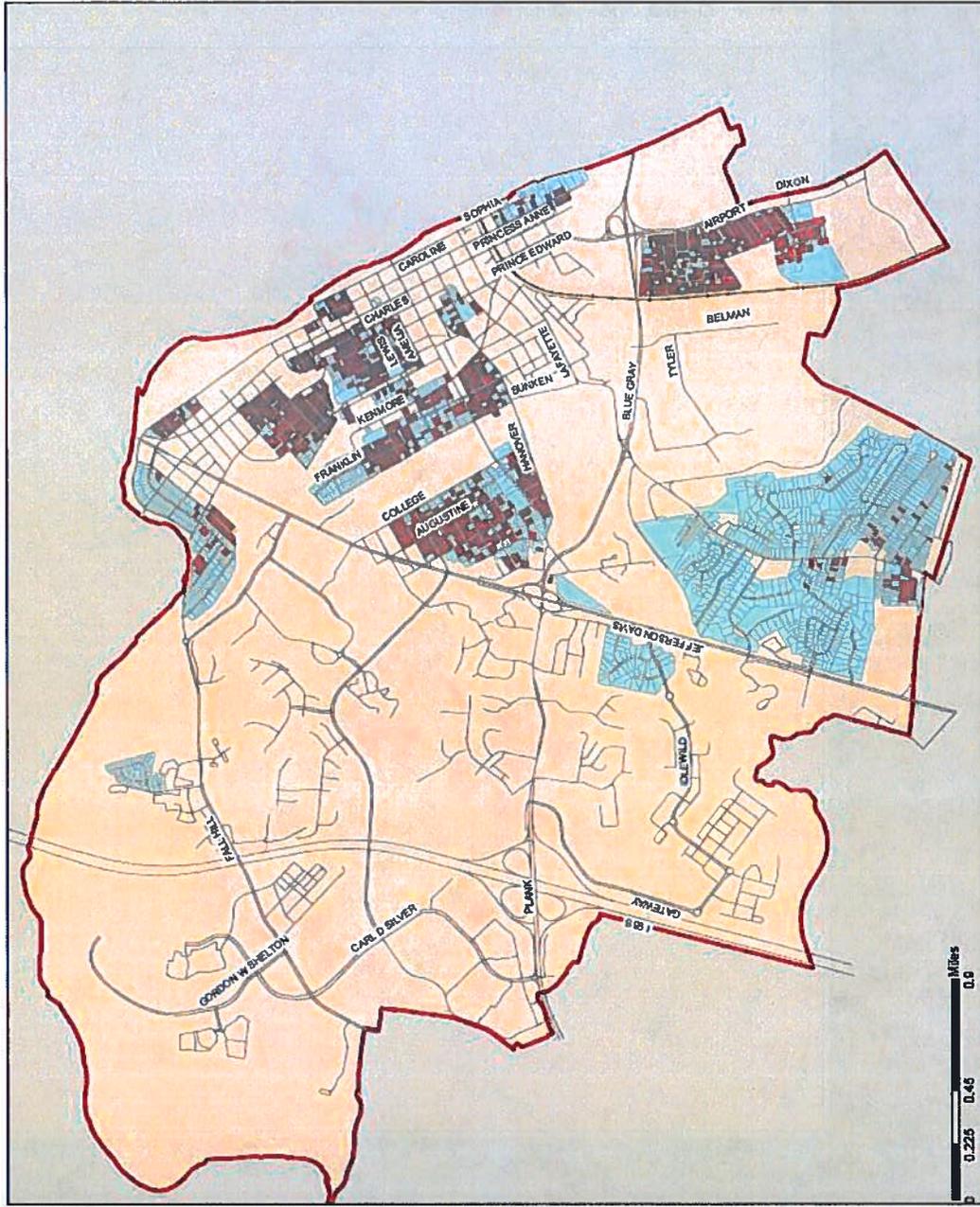
53.7% of Total R4 Parcels

Dec 2019

- Substandard Lots
- R4 Zoning
- Roads
- Railroad



0 0.25 0.5 1 Miles
Prepared by City of Fredericksburg GIS



R4 – Substandard Lots Downtown



**City of
Fredericksburg**

**Downtown Area,
Normandy Village,
College Heights, Mayfield**

**1,891 R4 Parcels
Less Than 7,500 sq ft**

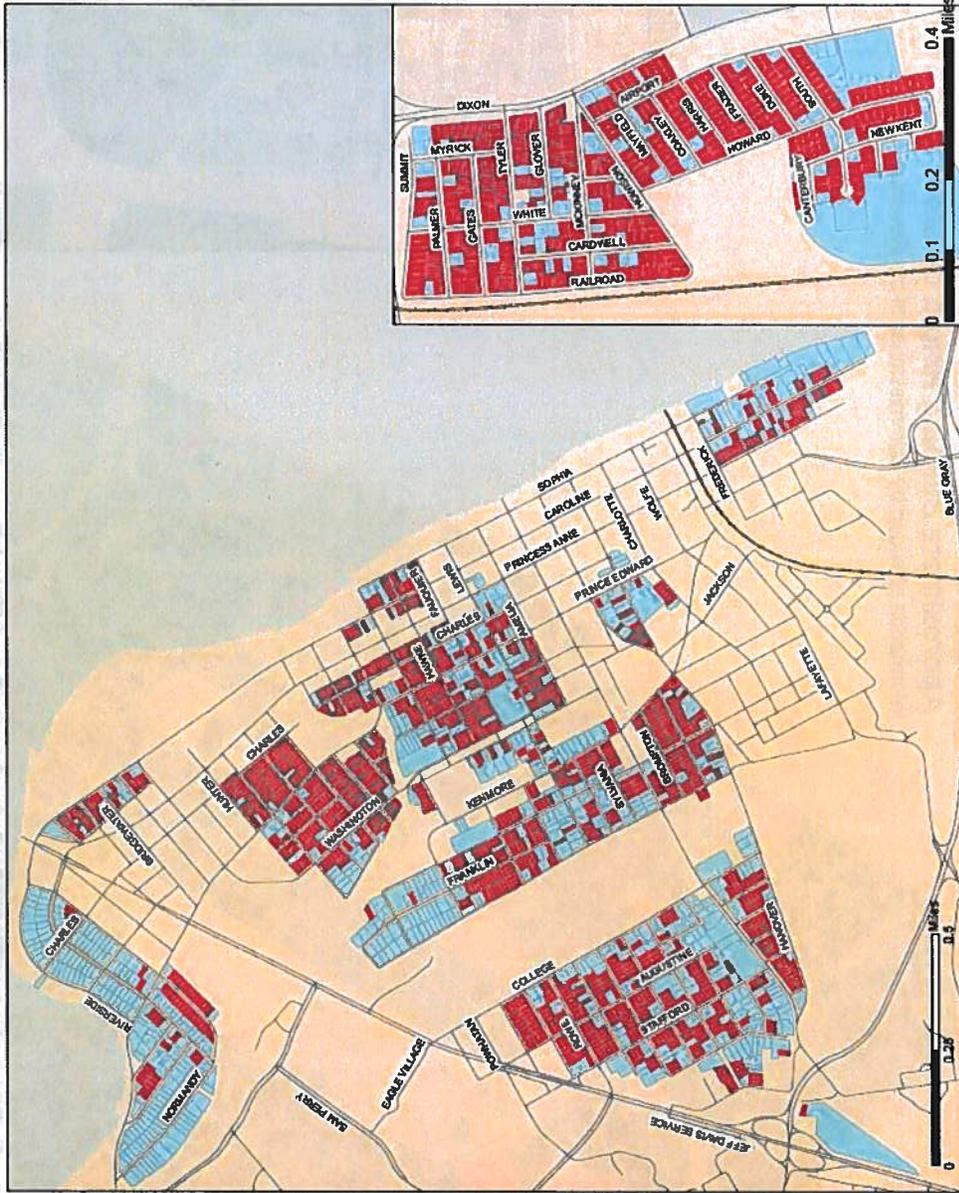
71.8% of R4 Parcels in Area

Dec 2019

- Substandard Lots
- R4 Zoning
- Roads
- Railroad



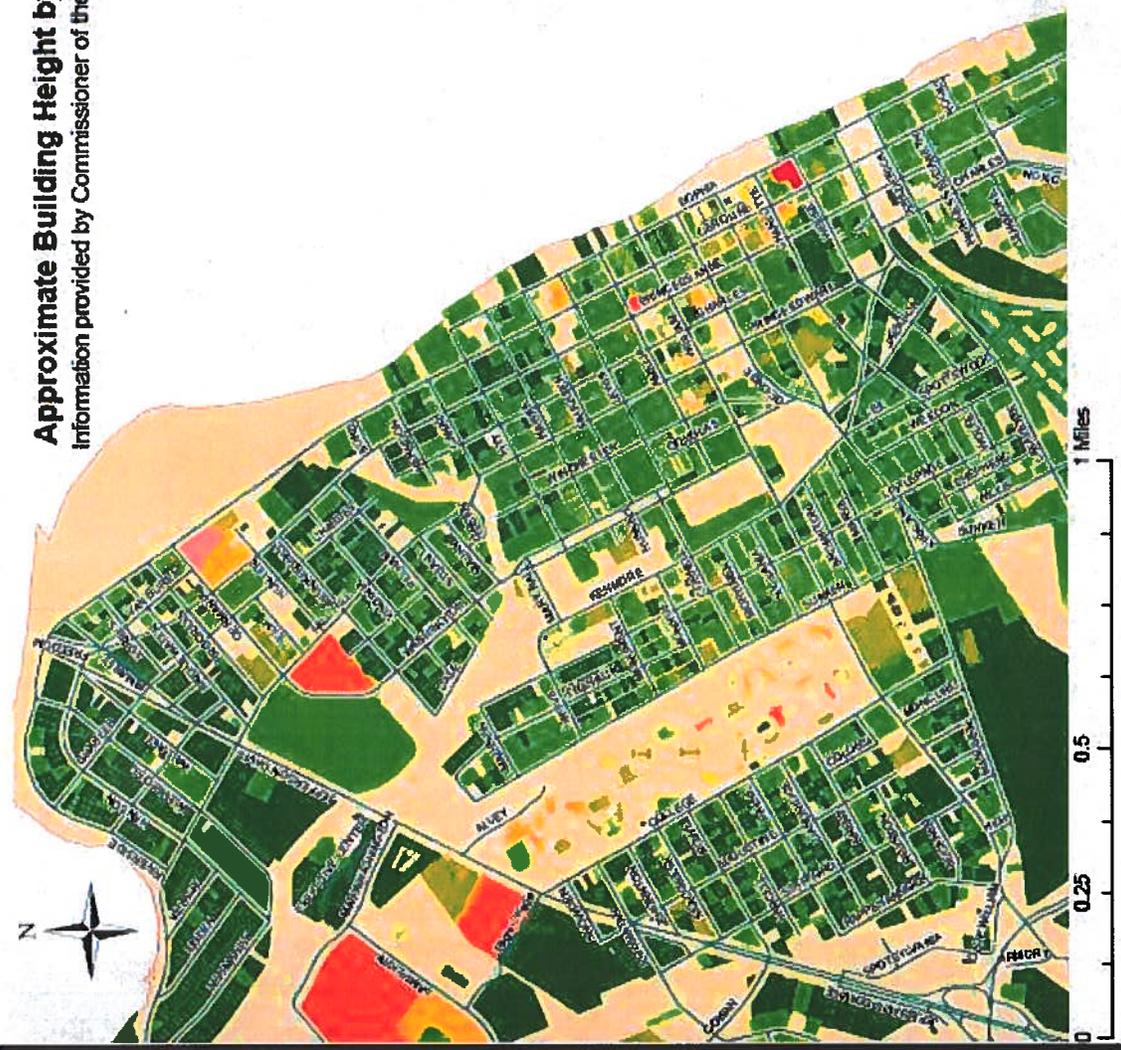
Prepared by City of Fredericksburg GIS



Approximate Building Height by Story

Information provided by Commissioner of the Revenue

December 23, 2019
 Fredericton Planning Dept.



Legend

- Road Centerline

Parcels

STORIES

- 0
- 1-1.4 stories
- 1.5-2.4 stories
- 2.5-3.4 stories
- 3.5-3.9 stories
- 4 stories
- 5 stories
- 6 stories
- 7 stories
- City_Boundary

UDO Amendments Infill Calculations- Accessory Structures

Increase in height from 10 feet to 12 feet for accessory structures located in a rear or side yard, so as to permit useable garages.

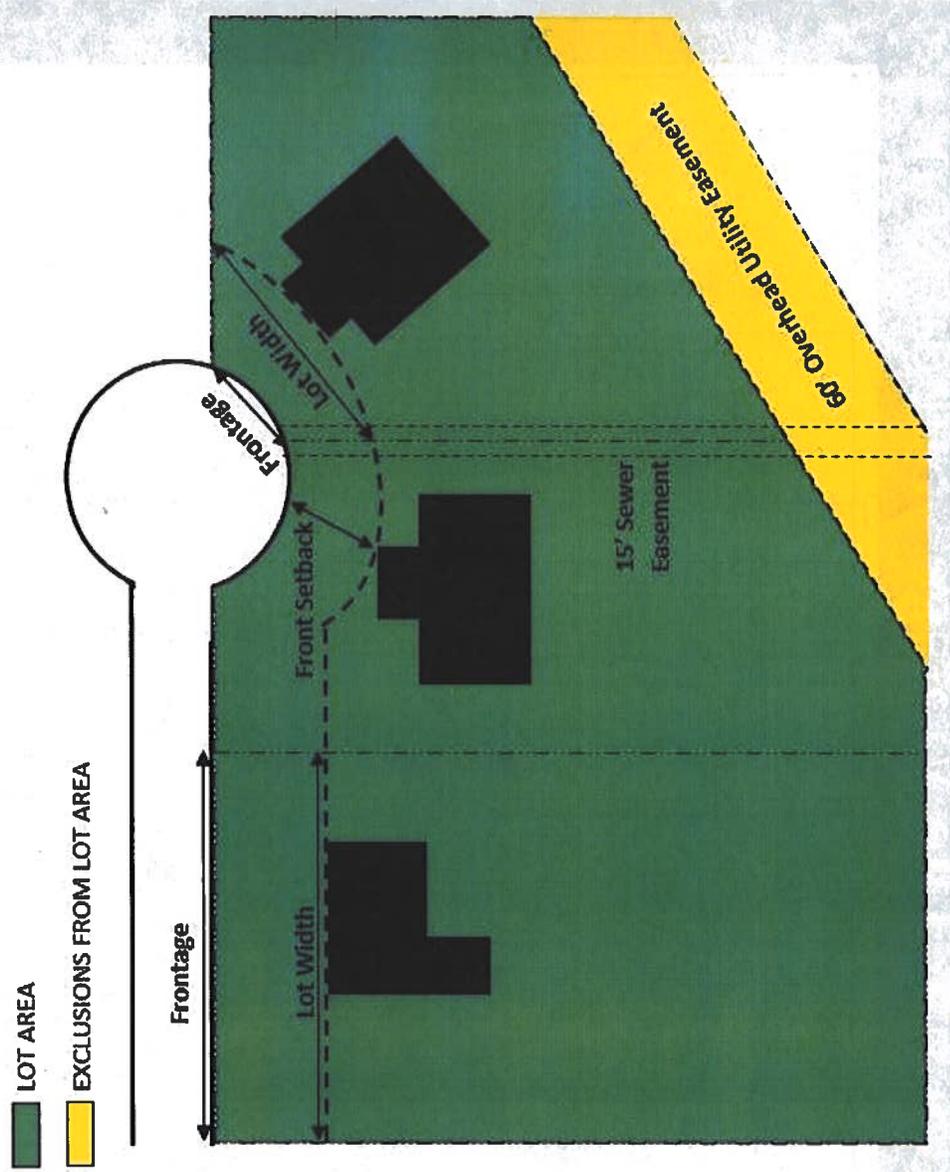
In-ground pools shall not count towards occupancy of the rear/side yard, and may exceed 25% of the buildable area of the lot/heated area of the principle use.

All other Accessory Structures in residential rear yards are allowed so long they don't cover more than 30% of the rear yards, or exceed 25% of the heated floor area of the principal building. To ensure adequate on-site open space, a minimal distance of 5 feet between the principle structures and any accessory structure requiring a building permit.

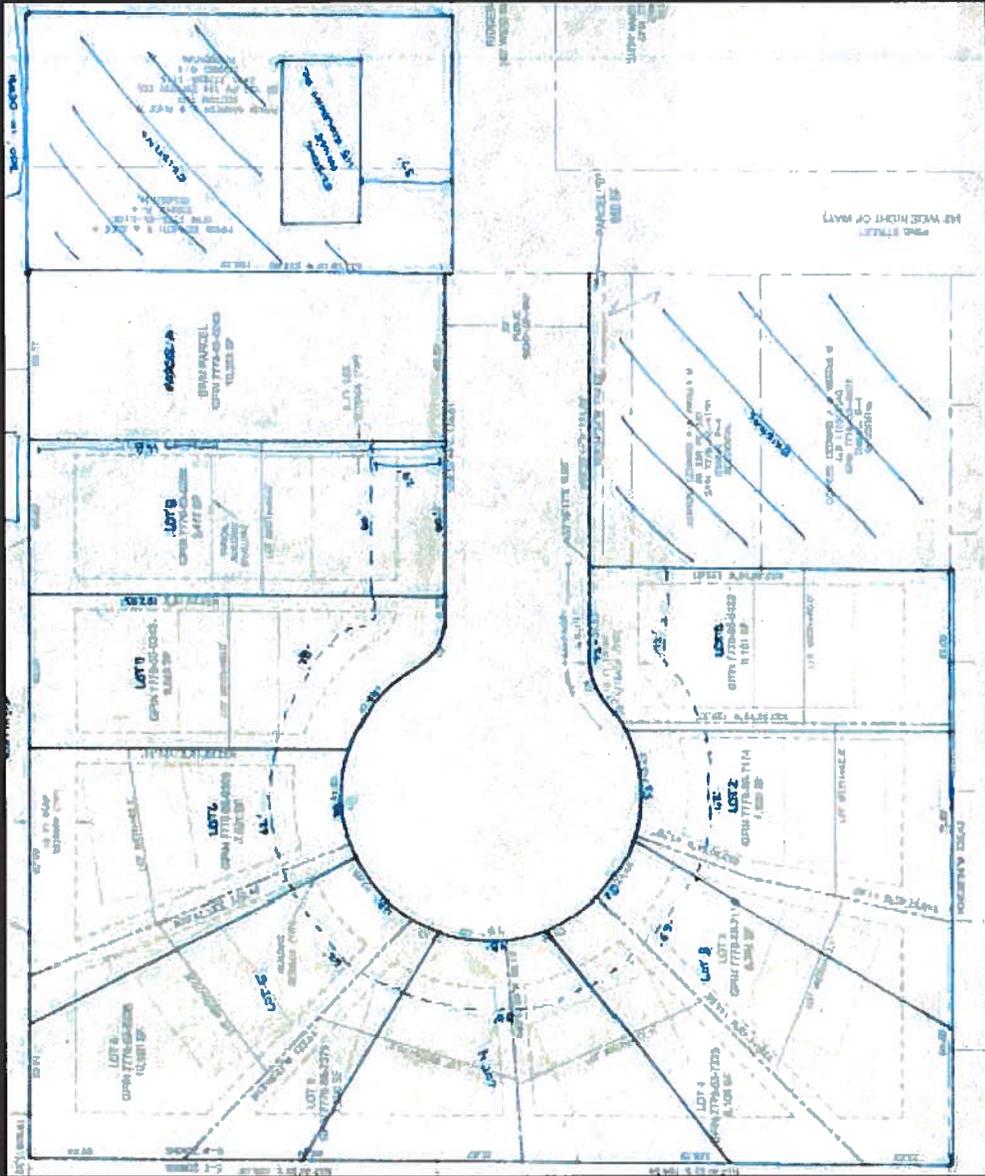
UDO Amendments Infill Calculations- - Minimum Lot Width

It is proposed that lot width be measured at the front setback line where a dwelling is to be located, instead of the front lot line (along the street), which is the current standard and that the lot dimension at the street would be at least 80% of required width. In addition, to provide for regular shaped lots, it is proposed that lot depth could not exceed five times lot width

Revised: Figure 72-82.3A(1). Lot Area Measurement



Changes in action - "The Vintage" Subdivision



Changes in action - "The Vintage" Subdivision

DICKILL DAVID J
 41 7778-55-9482
 ZONING: R-4
 RESIDENTIAL

LOT DEPTH - LOT 8 PROPOSED

RATIO

AS A RESULT OF
 DEPTH → SIDE LOT LINES → $157.93 + 158' = 315.93 / 2 = 157.65$

WIDTH → 60'

RATIO → $157.65 : 60$ OR

2.63 : 1

LOT DEPTH PERMITTED
 5:1 MAXIMUM
 (RPM: WIDTH)
 IF LOT IS 60' IN WIDTH IT
 IS PERMITTED TO BE UP TO
 300' IN DEPTH

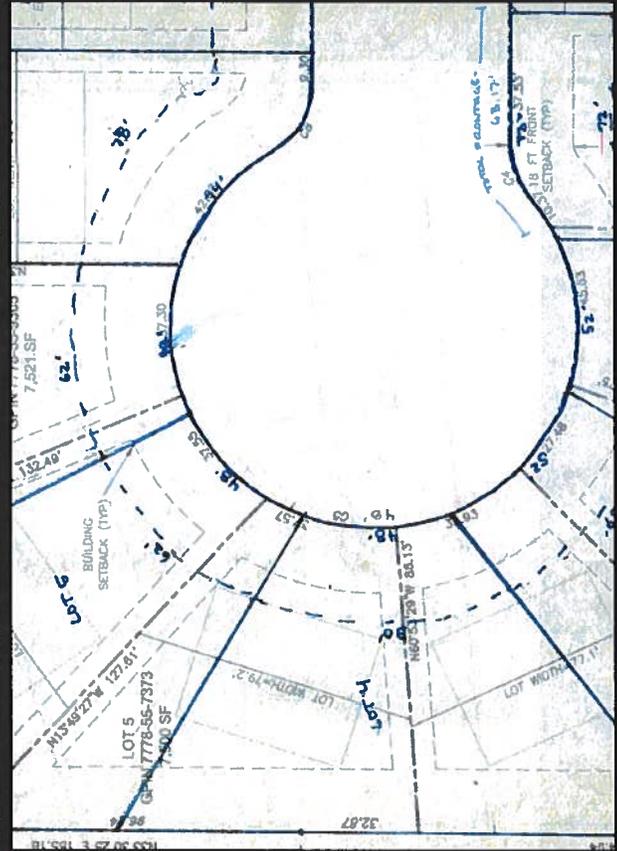
P-4 ZONING DISTRICT (72-31.3)

LOT WIDTH - CONVENTIONAL
 INTERIOR LOT 60' MINIMUM
 CORNER LOT 75' MINIMUM

SETBACKS - CONVENTIONAL
 FRONT 18' MINIMUM
 SIDE 6' MINIMUM
 REAR 18' MINIMUM

LOT AREA - CONVENTIONAL
 7,500 SF MINIMUM

FRONTED FRONTAGE REQUIREMENT → INTERIOR LOT 48' MINIMUM
 (50% REQUIRED LOT WIDTH) CORNER LOT 60' MINIMUM



UDO Amendments

Infill Calculations - Corner Lot Setbacks & Increased Rear Yard Setbacks

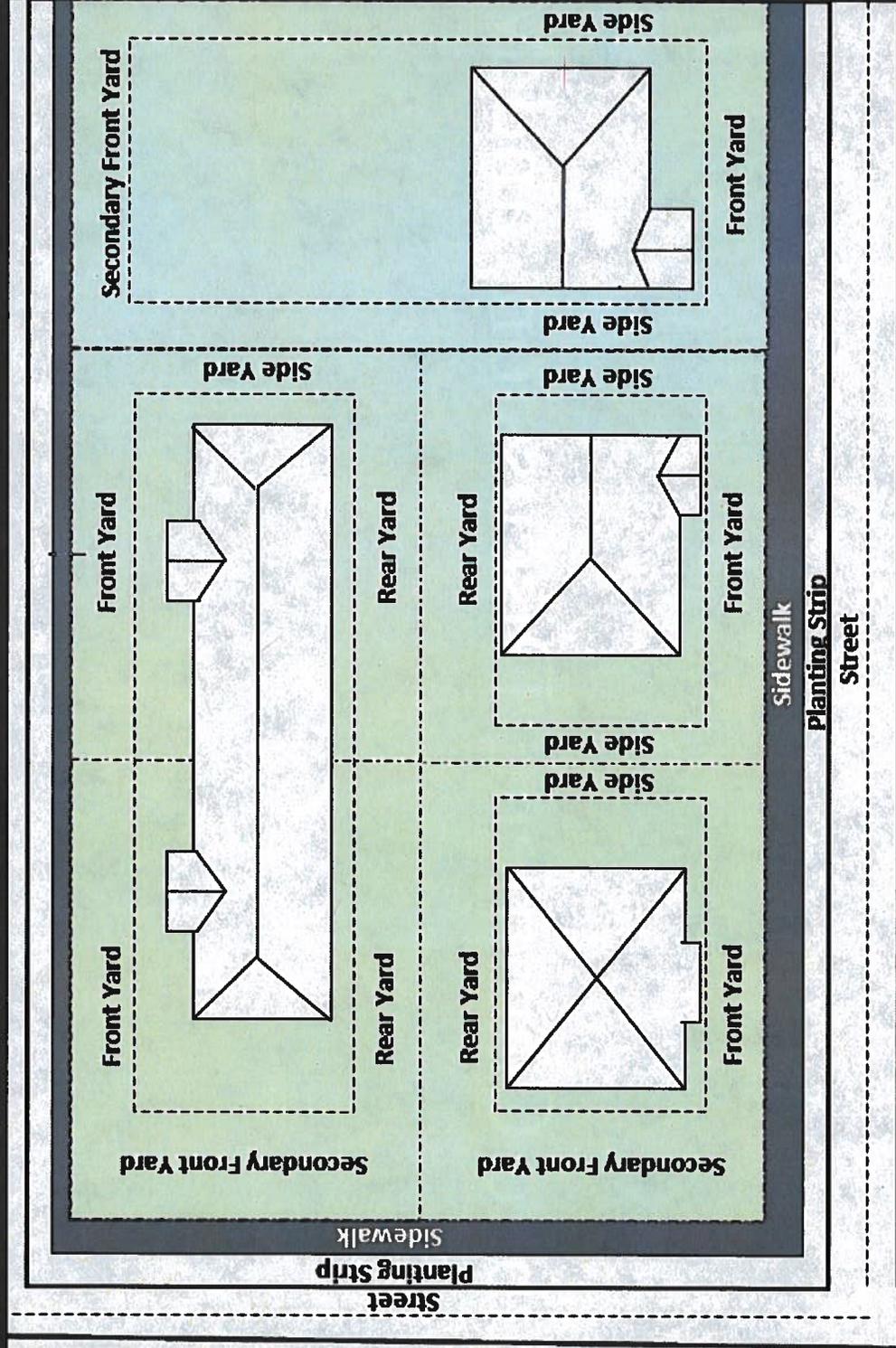
The UDO established that corner residential lots have two front setback and two side setbacks so as to ensure new construction is respectful of both of the streets it fronts. However, it was a common practice in Fredericksburg to have minimal setback for the secondary street frontage (not the side of the house with a front door) and a full rear yard setback.

The potential amendments would go back to the tradition arrangement for older lots, possibly pre-October 8, 2013, but the appropriate cut-off date is being studied. This would make infill development more consistent with the pattern of the traditional neighborhood arrangement.

Corner lots will no longer have two side yards. The side yard opposite the primary front yard will now be considered a rear yard.

In addition, rear yard setbacks are being increased, generally from 18 feet to 24 feet

Revised Figure 72-82.4A Yard Types



Public Comment, Discussion, and Motion

**Proposed Ordinance to Amend Infill Development Requirements
January 15, 2020 Planning Commission Meeting
Motion Proposed by Commissioners Pates and Durham
AS AMENDED AT THE MEETING**

Motion to Approve the Draft Infill Ordinance Regarding Height Restrictions:

I move:

1. To recommend approval of the proposed ordinance with the following amendments in Section II relating to building heights:
 - a. Deleting Section 72-31.2(C)(3);
 - b. Deleting Section 72-31.3(C)(2);
 - c. Deleting Section 72-31.4(C)(4); and
 - d. ~~Deleting Section 72-42.4.~~
2. To direct the City staff to prepare a new draft ordinance that addresses height restrictions contained in the deleted provisions and that includes alternatives to the deleted proposed text, including, at a minimum, the following:
 - a. **Residential Districts** - Amend the dimensional standards for R-2, R-4, and R-8 zoning districts to eliminate the residential height limit of 35 feet and replace it with a standard establishing the maximum height by using the median height of other houses on the same block face, calculated using rules equivalent to those in § 72-82.4(B)(2) for establishing setbacks. The resulting height limit may be varied by plus or minus 10%. There shall be no minimum height;
 - b. **CT and HCD Districts** – The same methodology for calculating height limits shall be used for the CT and Commercial Downtown ~~Historic~~ Districts, except that building heights may be higher by special use permit (or special exception). For example, a building in the ~~Historic~~CD District located on a block where the median height is 32 feet may go 10% higher, or 35.2 feet, or, by special permit or special exception, up to 50 feet. This will help ensure that new development in these districts is more compatible with existing development patterns;
 - c. **Residential Additions** – The maximum height of a horizontal addition to a single-family dwelling on an existing lot smaller than the minimum lot area shall not exceed 27 feet or the height of the existing dwelling whichever is less; and
 - d. **Accessory Structures on Residential Lots** – No accessory structure on an existing residential lot shall exceed the height of the principal dwelling structure on the lot or 25 feet, whichever is less, or 12 feet if located in a side or rear yard.

**Proposed Ordinance to Amend Infill Development Requirements
January 15, 2020 Planning Commission Meeting
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AS AMENDED AT THE MEETING**

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 - b. **CT and HD Districts** – The same methodology for calculating height limits shall be used for the CT and Downtown Historic Districts, except that building heights may be higher by special use permit (or special exception). For example, a building in the Historic District located on a block where the median height is 32 feet may go 10% higher, or 35.2 feet, or, by special permit or special exception, up to 50 feet. This will help ensure that new development in these districts is more compatible with existing development patterns;

 - c. **Residential Additions** – The maximum height of a horizontal addition to a single-family dwelling on an existing lot smaller than the minimum lot area shall not exceed 27 feet or the height of the existing dwelling whichever is less; and

 - d. **Accessory Structures on Residential Lots** – No accessory structure on an existing residential lot shall exceed the height of the principal dwelling structure on the lot or 25 feet, whichever is less, or 12 feet if located in a side or rear yard.

Ask Pates to send this electronically

**Proposed Ordinance To Amend Infill Development Requirements
January 15, 2020 Planning Commission Meeting
Motion Proposed by Commissioners Pates and Durham**

Motion to Approve the Draft Infill Ordinance Regarding Height Restrictions:

I move:

1. To recommend approval of the proposed ordinance with the following amendments in Section II relating to building heights:
 - a. In Paragraph 2, deleting Section 72-31.2(C)(3):
 - b. In Paragraph 4, deleting Section 72-31.3(C)(2) and (D)(3) *- actual Para 3*
 - c. In Paragraph 5, deleting Section 72-31.4(C)(4) and (D)(3), and *not an amendment / withdrawn*
 - d. Deleting Paragraph 8. *- only the 10' change*
2. To direct the City staff to prepare a new draft ordinance that addresses height restrictions contained in the deleted provisions and that includes the following provisions and additional alternatives, if appropriate:

? (4)

- a. **Residential Districts** - Amend the dimensional standards for R-2, R-4, and R-8 zoning districts to eliminate the residential height limit of 35 feet and replace it with a standard establishing the maximum height by using the median height of other houses on the same block face, calculated using rules equivalent to those in § 72-82.4(B)(2) for establishing setbacks. The resulting height limit may be varied by plus or minus 10%. There shall be no minimum height;
- b. **CT and HD Districts** – The same methodology for calculating height limits shall be used for the CT and Downtown Historic Districts, except that building heights may be higher by special use permit (or special exception). For example, a building in the Historic District located on a block where the median height is 32 feet may go 10% higher, or 35.2 feet, or, by special permit or special exception, up to 50 feet. This will help ensure that new development in these districts is more compatible with existing development patterns;
- c. **Residential Additions** – The maximum height of a horizontal addition to a single-family dwelling on an existing lot smaller than the minimum lot area shall not exceed 27 feet or the height of the existing dwelling whichever is less; and
- d. **Accessory Structures on Residential Lots** – No accessory structure on an existing residential lot shall exceed the height of the principal dwelling structure on the lot or 25 feet, whichever is less, or 12 feet if located in a side or rear yard.

* The draft ordinance paragraphs are mis-numbered. For example, on page 4, paragraph "3" should be paragraph "5."

Cathryn A. Eckles

From: James Pates <jmpates@outlook.com>
Sent: Tuesday, January 21, 2020 5:40 PM
To: Charles R. Johnston; james.pates@dot.gov
Cc: Cathryn A. Eckles
Subject: [EXTERNAL] Re: Copy of Printed Motion

Yes, but I would insert today's date at the top.

Thanks for your help on this.

Jim

Sent from [Outlook](#)

From: Charles R. Johnston <crjohnston@fredericksburgva.gov>
Sent: Tuesday, January 21, 2020 5:19 PM
To: James Pates <jmpates@outlook.com>; james.pates@dot.gov <james.pates@dot.gov>
Cc: Cathryn A. Eckles <caeckles@fredericksburgva.gov>
Subject: RE: Copy of Printed Motion

Hello Jim
Just to be clear, you would alter your text as shown in the attached?
Thanks
Chuck

Charles Johnston AICP CNU-A
Director
Community Planning & Building Department

City of Fredericksburg
715 Princess Anne Street
Fredericksburg, VA 22401
540-372-1180

From: James Pates [mailto:jmpates@outlook.com]
Sent: Tuesday, January 21, 2020 5:12 PM
To: Cathryn A. Eckles; james.pates@dot.gov
Cc: Charles R. Johnston
Subject: Re: Copy of Printed Motion

Cathy-

My apologies. These amendments got very confusing to me because there was language in certain sections of the ordinance that I did not intend to alter as part of the amended motion but that I would like for us to re-visit when a new ordinance on height limitations is re-introduced. I think the best solution for the language in paragraph 1(d) that you pointed out is simply to delete it. It was not my intent in the amended motion to make any change to section 72-42.4 at this time and to keep the language presented by staff.

Also, in 2(b), you are correct. It should be referred to as C-D.

Please feel free to make these changes if Chuck's okay with them and attach the revised version to the minutes.

Jim

Sent from [Outlook](#)

From: Cathryn A. Eckles <caeckles@fredericksburgva.gov>
Sent: Tuesday, January 21, 2020 1:55 PM
To: James Pates <jmpates@outlook.com>; james.pates@dot.gov <james.pates@dot.gov>
Cc: Charles R. Johnston <crjohnston@fredericksburgva.gov>
Subject: RE: Copy of Printed Motion

Good afternoon,

We've run into a few more questions regarding your motion:

- 1.d Deleting Section 72-42.4
– should this actually say
Deleting the amendment to Section 72-42.4

Also,

- 2.b All references to historic downtown, should those all read Commercial Downtown?

Thanks, Cathy

From: Cathryn A. Eckles
Sent: Tuesday, January 21, 2020 10:45 AM
To: 'James Pates'
Cc: Charles R. Johnston
Subject: RE: Copy of Printed Motion

Good morning Mr. Pates:

Would we not need the original motion also to include with the minutes? Additionally, on the amended motion, you were going to correct the reference in No. 2(b) to be CD districts rather than HD district.

Thanks, Cathy

From: James Pates [<mailto:jmpates@outlook.com>]
Sent: Saturday, January 18, 2020 4:17 PM
To: Cathryn A. Eckles

Cc: Charles R. Johnston
Subject: RE: Copy of Printed Motion

Cathy-

Here is the written motion, as amended to reflect the changes made at the 1/15/20 meeting. If you or Chuck have a different recollection of how the motion was amended, please let me know.

Jim

From: Cathryn A. Eckles <caeckles@fredericksburgva.gov>
Sent: Thursday, January 16, 2020 9:39 AM
To: James Pates <jmpates@outlook.com>
Subject: RE: Copy of Printed Motion

Thanks, appreciate it.

Thanks, Cathy

From: James Pates [<mailto:jmpates@outlook.com>]
Sent: Thursday, January 16, 2020 9:27 AM
To: Cathryn A. Eckles
Subject: [EXTERNAL] Re: Copy of Printed Motion

Thanks. I will have to send it tomorrow when I have access to my home computer.

Sent from [Outlook](#)

From: Cathryn A. Eckles <caeckles@fredericksburgva.gov>
Sent: Thursday, January 16, 2020 8:18 AM
To: Jim Pates <jmpates@outlook.com>
Subject: Copy of Printed Motion

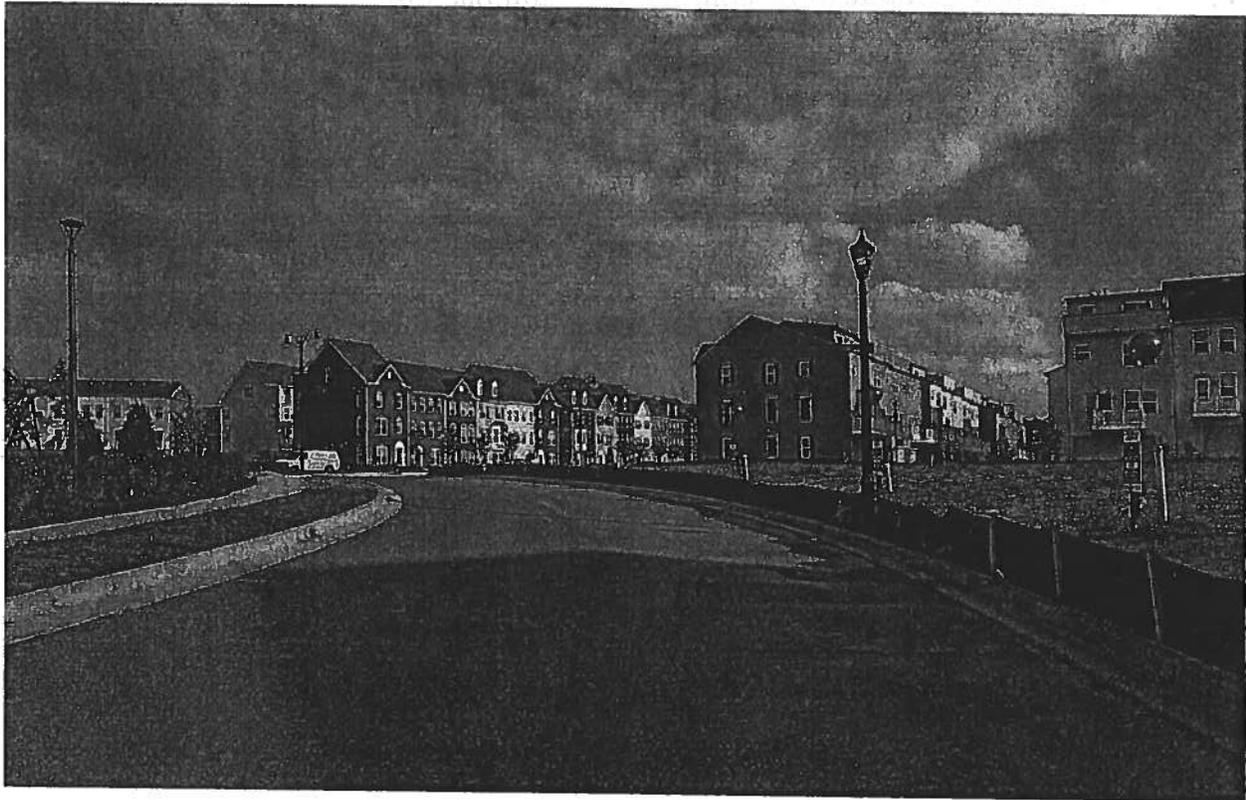
Good morning,

Can you send me an electronic version of your printed motion from last night so I can attach it to the draft minutes.

Thanks!

Cathryn Eckles
Administrative Specialist IV
Planning Services Division
540-372-1179
caeckles@fredericksburgva.gov

An Amazon warehouse instead of offices. Townhouses in place of an airport. Zoning 'tool' allows changes with little scrutiny.



New homes in Westphalia, where a recent zoning text amendment passed by the Prince George's County Council would allow a warehouse instead of office space in what is supposed to be a town center-type development. (Ricky Carioti/The Washington Post)

By
Rachel Chason

September 3, 2019 at 5:00 p.m. EDT

Grassy hills where residents were promised bustling office buildings could now hold a massive warehouse. A small airport could be replaced with more than 500 townhouses. A church property could include housing for the elderly.

Each of the projects is dependent on fast-track changes to existing zoning by the Prince George's County Council, which relies on bills called "text amendments" to circumvent what lawmakers describe as an outdated and cumbersome zoning process.

For decades, text amendments have paved the way for some of the biggest projects in the Maryland suburb, including FedEx Field in Landover and MGM National Harbor in Oxon Hill. To date this year, 22 of 41 bills being considered by the council involve text amendments; they constituted 35 of 85 bills enacted by the council last year.

But residents are increasingly objecting, with the loudest outcry coming in response to a text amendment that would have allowed Amazon to build a 4 million-square-foot “merchandise logistics center” in Westphalia, a subdivision in Upper Marlboro that was supposed to rival town centers in Reston, Va., or Columbia, Md.

Amazon announced Aug. 23 that it was pulling back from the project, following opposition from residents and an appeal in court.

Homeowners in Westphalia say they are thrilled by Amazon’s decision but will continue to pressure the council to change the way it uses text amendments, which critics say can be shrouded in secrecy and rob the public of the chance to voice concerns.

“We have to be really vigilant — a year from now, it could be another warehouse owner,” said Briana Bostic, whose family bought a home in the neighborhood last year. “The bigger story is that this is a pattern.”

Prince George’s County Executive Angela D. Alsobrooks (D), who has met with homeowners and the developers of Westphalia, said she was “deeply dissatisfied” with the experience of Westphalia residents and shares their concerns about how the zoning process played out.

“A process that lacks public input does not benefit anybody,” Alsobrooks said in a statement. “I think that a process that allows adequate time for public comment in a transparent way not only benefits the community, but also businesses that come here.” Macy Nelson, a land-use lawyer hired by the Westphalia residents, said other Maryland jurisdictions also use text amendments, but the Prince George’s council has long “led the pack.”

Unlike zoning-map amendment applications, text amendments do not include the names of applicants or properties that will be affected, or require staff reports, or analysis of the potential impact that zoning changes could have, including on schools or roads. Sometimes there is confusion, even among council members, about the affected properties. As a result, citizens rarely show up to public hearings on the amendments, often held on the same day as the council vote.

“It is important to have consistency and certainty,” said Stewart Schwartz, who heads the D.C.-based Coalition for Smarter Growth, noting that in other jurisdictions, a change as substantial as the proposed warehouse would likely have gone through full zoning review processes.

M.H. Jim Estep, a former council member who now leads the Greater Prince George’s Business Roundtable, said text amendments are important because the zoning process

can be expensive and lengthy. A 2018 zoning update will not take effect for several years.

“No one agrees on everything, but most people now would say they are thrilled with National Harbor,” Estep said. “That and other signature projects were made possible because of these tools.”

Staff at the Prince George’s planning board, which sometimes reviews text amendments, have frequently opposed those that appear designed to make changes at specific properties.

“This process defeats the entire purpose of zoning by preventing uniform application of objective development standards,” read one letter last year by Legislative Coordinator Rana Hightower, about a bill sponsored by council member Mel Franklin (D-At Large) that would have allowed townhouses to be built in certain areas zoned rural-residential and did not initially have design standards.

Hightower wrote that townhouses were “incompatible” with the zone, and they would also be prohibited by the county’s new zoning ordinance.

Franklin, who at the time represented District 9, added design standards to the bill, which passed 8 to 1. Franklin said the bill related to a “unique circumstance,” but said he could not further discuss it because of a pending appeal.

The bill was one of several Franklin sponsored that allowed townhouses to be built on land where such a use had not previously been permitted, upsetting some residents who say they do not want suburban sprawl without a clear vision. One of the bills allowed smaller townhouses more closely together in mixed-use zones.

Franklin said the current zoning ordinance “does not sufficiently embrace residential density, which is why we have struggled to attract quality retail.”

Daniel Donohue, a farmer in Accokeek, said he has closely watched zoning changes and is “very concerned about the whole rural tier,” and especially whether local roads can handle the new residents.

“We just can’t support it,” he said.

Although council members typically defer to the member whose district is affected by the project, some newly elected lawmakers, including Thomas E. Dernoga (D-District 1), Jolene Ivey (D-District 5) and Monique Anderson-Walker (D-District 8) have raised concerns about the text amendment process in committee hearings this year.

Dernoga, a lawyer who spent his early career fighting development projects and previously served two terms on the council, has abstained from voting on site-specific

text amendments and vocally criticized the process for its lack of transparency.

After Amazon announced its decision to pull back from the Westphalia project, Dernoga said in a statement that he congratulated “the residents who, against long odds, demonstrated the ability of positive civic engagement to protect their community from unplanned incompatible development.”

Ivey, a former state delegate, said she only sponsors text amendments after she has heard from residents in the area that would be affected. In one case, she submitted a text amendment after speaking with members of First Baptist Church of Highland Park, which needed the change to build housing for seniors.

“What I think needs to be reformed is that we have so many cases where we need text amendments,” Ivey said, adding that she is not yet confident that the zoning rewrite passed last year will address the issues. “And there should be a formalized process for holding public hearings for these changes.”

Council member Dannielle M. Glaros (D-District 3), who chairs the planning, housing and economic development committee, said the council last year increased the interval between when zoning bills are presented and go to committee, allowing planning staff more time to analyze the impact of the bills.

“We have just done an update to the process, but it is good to continually look at our legislative processes and consider if improvements are needed,” Glaros said.

Corryne Carter, who lives directly across the road from where the warehouse facility would have been built, said she received two letters from the Walton Development Group, the developer of Westphalia, informing her of possible changes at the property.

But she said the first official public meeting she heard about was a planning board hearing on June 27 — after the council had approved the legislative change.

The amendment’s lead sponsor was council member Derrick Leon Davis (D-District 6), whose district includes Westphalia. He declined an interview, citing the ongoing case.

But Davis has said in public hearings that he consulted with residents before introducing the amendments that would have paved the way for the warehouse, which he thought would be a catalyst for development.

He also said residents would have an opportunity to weigh in at a planning board hearing to review the “detailed site plan” — which includes information about the size of the facility, the number of parking spaces and the appearance of the facility.

At that July 17 hearing, which lasted for nine hours, planning board chair Elizabeth M. “Betty” Hewlett said it was not the board’s role to approve or disapprove the warehouse,

since the law permitting its use was approved by the council 10 to 1 on June 18.

Hewlett said in an interview that the planning board is “not thrilled about text amendments that are site specific, but there are times when they are warranted,” citing a bill this year to add urban farming as an approved use in a variety of zones.

Carter described it like this: “In the text amendment process, you’re not being asked whether you want a car. You’re being told that you’re getting a car, and being asked what color you want it to be.”

She and other Westphalia residents are working with residents in Bowie, about 15 miles north, who have been fighting a text amendment that would allow townhouses to be built on the site of tiny Freeway Airport. The Westphalia residents said they would continue to work with those fighting the Bowie project.

That amendment, also sponsored by Davis, was opposed by the planning board, which said it thought the bill “was drafted for a specific parcel.” It has not yet been voted on by the full council.

Eric Afoakwah, a scientist who moved with his young family to a house across from the airport two years ago, said the area does not have the capacity for townhouses, citing already overcrowded schools and concerns about traffic in the area.

“I know about the dynamics of city life and needing housing,” said Afoakwah, 37, who moved from downtown Silver Spring. “But it feels as though the county council is working for developers, not the residents.”

