



**PLANNING COMMISSION  
MINUTES  
March 8, 2023  
6:30 PM  
IN PERSON MEETING**

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/a5u3tuavtd>

The agenda, staff report and associated documents are also available on the Planning Commission page: <https://www.fredericksburgva.gov/241/Planning-Commission>

**MEMBERS**

David Durham, Chairman  
Adam Lynch, Vice-Chairman  
Mary-Margaret Marshall, Secretary  
Susanna Finn  
Kenneth Gantt  
Chris Hornung  
Tom O’Toole

**CITY STAFF**

Chuck Johnston, Director  
Mike Craig, Principal Planner  
Kelly Machen, Zoning Administrator  
Taylor Owen, Administrative Assistant

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**1. CALL TO ORDER**

Chairman Durham called the meeting to order at 6:30 p.m. in Council Chambers and explained meeting procedures for the public.

Members of the public were invited to attend with masks and social distancing or access this meeting by public access television Cox Channel 84, Verizon Channel 42, online at [www.regionalwebtv.com/fredcc](http://www.regionalwebtv.com/fredcc), or Facebook live at [www.facebook.com/FXBGgov](http://www.facebook.com/FXBGgov).

**2. PLEDGE OF ALLEGIANCE**

**3. DETERMINATION OF A QUORUM**

There were seven members in attendance of the meeting at the call to order.

**4. APPROVAL OF AGENDA**

There were no changes to the agenda. Mr. Hornung moved to approve the agenda, Mr. Gantt seconded. Motion passed 7-0.

**5. DISCUSSION OF POTENTIAL POLICIES, ORDINANCES, OR APPLICATIONS**

None.

**6. DECLARATION OF CONFLICT OF INTEREST AND DISCLOSURES OF CONTACT**

None.

## 7. OLD BUSINESS

### A. UDOTA FY23-01 Accessory Dwelling Units - The City of Fredericksburg

After introducing the item, Mr. Durham read a statement about the Unified Development Ordinance text amendment. "The Fredericksburg City Council has directed the Planning Commission to consider various amendments to the Unified Development Ordinance to establish regulations governing the use of accessory dwelling units associated with single-family detached dwelling units and directed the Planning Commission to develop a robust public information process on this topic. Per statutory requirements, within 100 days of our first public hearing on the matter, the Planning Commission must either make a recommendation to City Council or request additional review time. This means that no later than our May 10, 2023 public meeting we must take one of those two actions. For this agenda item, staff and the Planning Commission's UDO Text Amendment Committee will each provide a brief update on the topic. We will then continue the ongoing public hearing. I have asked the committee and individual commissioners to submit recommendations for modifications to the ADU text amendments no later than Thursday, March 16 so that staff may provide analysis of such recommendations at the March 22 Planning Commission supplementary meeting."

Mr. Johnston reviewed the staff report and gave an update on Community meetings regarding ADUs.

Mr. Durham opened the public comment and the following comments were received both in person and in writing:

- Ms. Sue Sergeant – 1318 William Street – spoke with concerns about the text amendment for ADUs.
- Mr. Raymond Herlong – 1009 Prince Edward Street – spoke with concerns about the text amendments for ADUs.
- Kim McLellan – 1509 Idlewild Boulevard – spoke in favor of the text amendment for ADUs

There were also 11 written public comments received on the item [Attachment 1]. Seven comments were in favor, four were comments with concerns or asked staff to review other jurisdictions with established ordinances regarding ADUs as guidelines for the City.

After all public comments, Mr. Durham opened floor to planning commissioners for comments or questions. Mr. Lynch addressed a specific comment from Mary Anne Wheeler that mentioned him by name. He stated: I attended the Rising Sun Tavern neighborhood meeting on February 15 where Ms. Wheeler stated that I disclosed that I hoped to build an ADU on my property for mortgage payment income. That is an incorrect statement. I did not make that claim. And, I am quite shocked to hear that read into the record when 15 or so other people were in the room and can attest that is not true. What I did say was that it is important that to understand that an ADU can be the difference between someone losing their home, making a mortgage payment, paying their property taxes. These are real issues that affect real property owners in the City. That should be the context through which the Commission looks at it this use. It's also important to remember that ADUs are legal to build now in the City if you have a lot of land, if you have the technical know-how and the financial ability to apply and win a special exception. That is an option for property owners. In fact, Ms. Wheeler is the owner of two accessory dwelling units on her property for these reasons. With this ordinance, I hope the Commission considers extending this ability to the broader mainstream of property owners in the City of Fredericksburg. I look forward to continuing that conversation.

Mr. Hornung asked if Norfolk's ordinance (mentioned in a public comment) was by right or not – and does having application requirements and notification made that not by right? Mr. Johnston explained that Norfolk's ordinance was very complex and depending on the zoning district, the ADU ordinance regulations varied as well as the application and notification requirements. He said ADUs are allowed by right (with applicable regulations) in less dense residential zoning districts and with a conditional use permit in denser residential districts.

Mr. Durham observed that the City currently has other processes, such as the Homestay, Non-Conforming Use, etc, that include the public notification procedures.

Mr. Durham then clarified his previous requests for revisions of the draft ordinance being submitted to staff by March 16 for analysis, to then be discussed at the March 22 meeting. He also stated that no vote will be taken until May 10 on the ordinance text amendment.

**B. RZ FY22-01 Ideal Realty Group, Inc.**

Mr. Craig presented a PowerPoint [Attachment 2] and reviewed the updated information received on the 1500 Gateway project. Mr. Craig suggested that the public hearing stay open until the April 12 meeting and that the Commission consider a work session for March 22.

Mr. O’Toole asked for a review of the timeline and the deadlines to be met. Mr. Craig stated that the project was received in November and that the 100 days would lead them through April – both the regular meeting April 12, and the supplementary meeting April 26, if needed. Mr. O’Toole thought it might be appropriate to ask for an increase in time in case the commission needs it for review with a short time frame to review the detailed analysis, however Mr. Craig suggested that they see the status at the March 22 meeting and then determine if there is a need to extend their time frame then.

Mr. Charles Payne was present representing the applicant and made a PowerPoint presentation. [Attachment #?] After Mr. Payne’s presentation, the floor was opened for questions from the Commissioners.

Mr. Lynch asked if the two over two townhouses were going to be owner occupied or rentals typically? Mr. Payne stated that they were to be owner occupied. Mr. Lynch asked if there were any thoughts to merging some of the commercial and residential, in putting the apartments over shops, trying to embody the spirit of the mixed use moniker. Mr. Payne responded that it is really a byproduct of the market, and it’s difficult to create that type of market. He continued in stating that people, especially families, young couples, etc., want to be away from the commercial use, but close enough that they can walk to it. Mr. Lynch also asked if the multi-family residential will include underground parking, and the applicant responded that it would not. Mr. Lynch’s final question was about the stormwater for the project and if the existing culvert would be sufficient for the area still with the changes to the area and impact of this project. Mr. Samer Shalaby, developer with the project, said that the culvert should be sufficient but until the plan has its final designs, they can’t be positive. Their engineers feel that the culvert will be ok.

Ms. Finn noted that in the proffer statement the applicant had the two over two’s calculated at a multifamily rate. She asked if that was a consensus or is that a continued point of discussion [between staff and the applicant], and if the two over two is seen and treated more as a multifamily, is that appropriate in the T4 to the East of Gateway? Mr. Craig responded that the two over two would function as single-family attached (townhouse) and should be evaluated as a townhouse. Mr. Payne responded that the applicant considers the use as multifamily more because of its two separate units, and in looking at each unit, it has likely the same number of residents as an apartment. Mr. Johnston stated that staff had researched the use since two over twos is not currently defined in the City ordinance, and that an upcoming text amendment would define two over twos as single family attached. Ms. Finn then reiterated that if two over twos are considered single-family attached, it would be part of the T4 standard accepted use type.

This item will be discussed at the March 22 supplementary meeting and continued until the April 12 regular meeting.

**8. PUBLIC HEARING**

**A. UDOTA FY23-03 Planned Development – Residential – The City of Fredericksburg**

Mr. Craig presented a PowerPoint [Attachment 3]

Mr. Durham opened the floor for questions.

Mr. Hornung asked if the proposed changes would have an adverse impact on existing PD-R districts. Mr. Craig responded that only one neighborhood, the Village of Idlewild, currently had this zoning designation. Nothing in terms of what is permitted and allowed in the Village of Idlewild would be affected because it has a general development plan that governs the use of the property.

Mr. Hornung moved to recommend to Council approval of the modifications to the PD-R district in accordance with staff's recommendations. Mr. Lynch seconded the motion.

Mr. Durham asked if there was any discussion.

Mr. O'Toole asked why the units per acre went from 6 to 24 with this text amendment, recalling that there had been conversation about 18 units per acre. Mr. Craig explained that staff had prepared a comparative table of the different zoning districts that is in the staff report and what they permit. Twenty-four units per acre is a number that is comparable to some the regulations for areas under similar transect designations in the western portion of the City. Mr. O'Toole asked if this would impact the proposal just heard for the Hilton Track [1500 Gateway project]. Mr. Craig stated that it would not, that is a PD-MU (mixed use) request, so this is no applicable.

Mr. Hornung stated that he made the recommendation to support the text amendment because it allows staff and applicants flexibility to come in with different residential projects where they would have to apply for rezoning and address all their impacts. Twenty-four units per acre is the upper cap, but it does not mean that the City can't receive proposals for other density levels. It would allow the City to use the district for multiple types of projects in that area – so it's a tool, but the City can still assess impacts with each project as they come forward.

Mr. Lynch also shared support for the 24 unit per acre level, in that it allows property owners to economically build things like structured underground parking, to use land a little more sparingly, and encourages affordable construction because the land cost can be spread among more units. Mr. Lynch also said that there is a challenge in redeveloping legacy strip mall commercial space that would be benefitted by a higher unit per acre density.

Mr. Durham poled the commissioners, and the motion carried 7-0.

#### **B. RZ FY23-01 The Neon at Celebrate Virginia South**

Mr. Craig presented a PowerPoint [Attachment 4]

Mr. Durham asked about the height of the buildings, and if they would be visible from the Rappahannock River. Mr. Craig confirmed that the buildings were three and/or four story buildings and not be within the view shed of the river.

Mr. Charlie Payne presented for the applicant. [Attachment 5] During his presentation, Mr. Payne pointed out to Mr. Lynch that this project did have the residential above retail that he had inquired about with the previous project of the evening.

Mr. Durham asked Mr. Johnston when PD-R would go before City Council, and Mr. Johnston thought it would be able to be on a Council agenda in April. Mr. Durham then asked the applicant if they would be interested in separating the commercial and residential elements of the project should the PD-R amendment be adopted by City Council.

Mr. Payne reviewed a brief history of the project, and that PD-R had not been available, but that the applicant would be willing to look into it and review that as an option.

Mr. Silver, applicant of the project, spoke about the nature of the project and the inspiration for the design. He was also open to the idea exploring the option of PD-R. Mr. Johnston confirmed that the key elements of the design, such as the clubhouse and shared work space, would still be able to be incorporated under PD-R as it allowed 15% of the project to be commercial use.

The item was continued until April 12 meeting, and a possible discussion at the March 22 supplementary meeting if there was updated materials submitted by the applicant in time for that meeting.

## **9. OTHER BUSINESS**

A. Transmittal of a variance request for 1403 Franklin Street (BZA – VAR FY22-01)

Ms. Machen presented a PowerPoint [Attachment 6]

There were two public comments received on the item providing background or historical context of the properties being discussed. [Attachment 7]

- Martin Hogan – 4101 Chain Bridge Road, Suite 300
- Susan Pates – 2010 Fall Hill Ave

Ms. Finn asked what for the set back of 1407 Franklin Street, and Ms. Machen responded that it was 18 feet.

Mr. Durham review the three options that the Commission had after reviewing and discussing the Board of Zoning Appeals item: The Commission could recommend support of the variance request, make a recommendation against the variance, or remain silent and give no recommendation. Mr. O’Toole suggested that the Planning Commission should remain silent on the matter and let the Board of Zoning Appeals handle the matter. Mr. Lynch stated that he felt the Planning Commission did not have enough time to properly review and discuss the application. Mr. Hornung stated that he personally had no problem supporting the request, but at the same time, the Commission does not need to. Mr. Durham felt that if the Commission said nothing, and the Board of Zoning Appeals denied the application, then the lots may not be developed. This would be in conflict with the Comprehensive Plan and its support of a development plan for infill/conversion of nonconforming uses.

Mr. Hornung moved to recommend to the Board of Zoning Appeals approval of the proposed variance (VAR FY22-01) because of its consistency with the Comprehensive Plan and infill development, should the Board find the application appropriate. Mr. Gantt seconded the motion.

Mr. Lynch commented that the creation of this building is in many ways impeded the by 2020 reforms to the setback requirements.

Mr. O’Toole stated that he would be voting against the motion issue, not because he is opposed to the discussion or motion itself, but that the recommendation from the staff is sufficient for him to feel confident.

Mr. Durham polled the commissioners for their votes, and the motion carried (5-2; nay: O’Toole, Marshall)

## **10. GENERAL PUBLIC COMMENT**

None.

## **11. ADOPTION OF MINUTES**

A. January 12, 2022 – Regular Meeting

Mr. Lynch asked for the first paragraph under '9. OTHER BUSINESS – New' from the January 12, 2022 minutes to read as follows:

Mr. Johnston discussed the RFP for a consultant firm for the next three small area plans: South Lafayette area, Mayfield area, and College Heights areas. Two commissioners would make up the team to help review and score the applicants, and sit in on interviews, etc. Mr. Gantt and Mr. Lynch responded positively to Mr. Durham's request that they serve as the Small Area Plan Request for Proposal review team and they were subsequently appointed.

**12. PLANNING COMMISSIONER COMMENTS**

None.

**13. PLANNING DIRECTOR COMMENTS**

Mr. Johnston reminded the commissioners that the Capital Improvements Plan will be discussed at the March 22<sup>nd</sup> supplementary meeting.

**14. ADJOURNMENT**

There being no further items to be discussed, the Planning Commission meeting adjourned at 9:45 p.m.

**Next meeting: March 15, 2023 (Community Meeting – Accessory Dwelling Units Discussion)  
March 22, 2023 (Regular Planning Commission Meeting)**



David B. Durham, Chairman