



**PLANNING COMMISSION
MINUTES
April 26, 2023
6:30 PM
Supplementary 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
Taylor Owen, Administrative Assistant

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 or access this meeting by public access television Cox Channel 84, Verizon Channel 42, online at www.regionalwebtv.com/fredcc, or Facebook live at 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

A. Potential New Bridge River Crossing – Ian Ollis, George Washington Regional Commission Transportation Planning Director and FAMPO Administrator (Fredericksburg Area Metropolitan Planning Organization)

Mr. Johnston introduced Mr. Ian Ollis to present options for a new bridge over the Rappahannock River, connecting Stafford County and the City of Fredericksburg, as well as the East-West Mobility Study. Mr. Ollis presented a brief portion of the findings thus far. [Attachment 1]

6. DECLARATION OF CONFLICTS OF INTEREST OR DISCLOSURES OF CONTACT

None

7. OLD BUSINESS

A. UDOTAFY23-01 Accessory Dwelling Units - The City of Fredericksburg - proposes amendments to the Unified Development Ordinance to permit and to establish regulations governing the use of Accessory Dwelling Units (ADU) associated with single-family detached dwelling units.

Mr. Durham explained that Fredericksburg City Council 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 dwellings and directed the Planning Commission to develop a robust public information process on this topic. Mr. Durham went on to explain that staff will provide a brief update on the topic including an overview of potential modifications to the draft text amendments, then as a continuation of the ongoing public hearing, he would ask for public comments. Following the public hearing, he would call for motions from commissioners regarding the potential draft text amendments modifications. After votes on any motions made, he would reopen the public hearing to obtain further public comment on the modified draft text amendments. After this meeting, staff will incorporate any changes into an updated version of the amendments to be distributed and the public hearing will be continued until the May 10, 2023 regular meeting of the Planning Commission.

Mr. Johnston reviewed a matrix that summarized and outlined the proposed changes that had been discussed in previous meetings by the public, commissions, and staff throughout the public hearing process. [Attachment 2]

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

- Sue Sargeant – 1318 William Street – spoke with concerns with ADUs
- Debra Fults – 3200 Linden Avenue – spoke about ADA accommodations and support for ADUs
- Raymond Herlong – 1009 Prince Edward Street – spoke with concerns with ADUs
- Hamilton Palmer – 1500 Caroline Street – expressed support for ADUs but only if they require a special use permit
- Dana Herlong – 1009 Prince Edward Street – spoke about concerns with ADUs

There were also two written public comments received, from Clay Murray, 2217 Princess Anne Street and Sean Kline, 1501 Caroline Street, both supporting ADUs. [Attachment 3]

Mr. Durham then asked for Commissioner motions for modifications to the proposed text amendments.

Mr. O'Toole made a motion to not allow ADUs in accessory structures. Mr. Gantt seconded.

Motion failed 3 Yes - 4 No.

Mr. Lynch made a motion to amend the draft text amendment to increase the maximum size from 400 square feet of heated area for an ADU is located in an accessory structure to 600 square feet of heated area if the ADU is located in an accessory structure. Mr. Hornung seconded.

Motion passed 4 Yes - 3 No.

Ms. Finn made a motion to amend the draft ordinance to state that existing accessory structures, as of the ordinance adoption date, be allowed to be greater than 600 square feet on one floor. Mr. Hornung seconded.

In the discussion on this motion, Mr. Durham asked what would the structure be in this scenario: an existing ADU or an existing accessory structure; an existing accessory structure that could be fitted an as ADU or an existing ADUs, that have kitchens that meet the requirements.

Ms. Finn clarified that she was referring to an existing accessory structure that could be larger than 600 square feet today that could be converted to an ADU.

Ms. Marshall asked if that meant already existing structures, but not new accessory structures.

Ms. Finn replied yes, currently existing structures.

Mr. Gantt asked if this was in conjunction with a part of the (potential) administrative process outline that would identify existing accessory structures.

Mr. Durham stated that the current motion was a narrower topic of discussion than Mr. Gantt's question.

Mr. Gantt asked that if he were to have an accessory structure with a kitchen, 600 feet or more, that should be allowed to be classified as an ADU.

Mr. Durham stated that was incorrect. Ms. Finn elaborated on her original intention of the motion. She stated that if a person had an existing accessory structure in excess of 600 feet, that they would be able to convert the full space into an accessory dwelling unit and not be limited to converting to only 600 feet of the space.

Ms. Finn went on to say that her intention was to allow people the flexibility to reuse what already exists and fits within the neighborhoods and what's already part of the character, rather than tear it down and build something new.

Mr. Gantt then asked if he had a building on his property that is 1000 square feet, no kitchen and he decides he wanted to add a kitchen, can it now be classified as an ADU?

Ms. Finn replied that yes, it would have to go through the proper permitting to be classified as an accessory dwelling unit.

Motion passed 4 Yes - 3 No.

Mr. Lynch made a motion to amend the draft ordinance as follows: the accessory structure with an ADU shall occupy no more than 30% of the rear yard or the accessory structure must be located at least 24 feet from the primary dwelling. Mr. Hornung seconded.

In the discussion on this motion, Mr. Lynch explained that currently in the code it calls for no more than occupying 30% of the rear yard, which is qualified as all of the area within 24 feet of the rear property line. By limiting the amount of square footage one could put in that back section of the yard, an applicant is incentivized to locate accessory, detached structures in the center of their yard, which defeated the purpose of the provision, which was to encourage people to preserve the rear yard behind the house. Adding an alternative calculation, to require 24 feet of space, would allow an applicant people to put the accessory dwelling unit structure at the back of their yard and have that center area as their yard open, would be appropriate.

Motion passed 4 Yes - 3 No.

Mr. Hornung made a motion that if exterior access to an ADU within a principal dwelling or an external ADU is provided that the addressing shall be provided in accordance with the City's addressing policy. Mr. Lynch seconded.

Motion passed 5 Yes - 2 No.

Mr. Lynch made a motion regarding maximum height requirements for an accessory structure allowing a height up to 25 feet with a 5-foot rear setback if there was a public alley along the rear of the property or if site of the ADU was a corner lot. Mr. Hornung seconded.

In the discussion on this motion, Mr. Lynch explained that currently the ordinance requires five-foot rear setbacks for structures up to 12 feet in height. Where the revision to the text amendment comes in is currently you can have an accessory structure of up to 24 feet. However, in order to do that, one has to have the expansive standard rear setbacks, roughly equivalent if not exactly equivalent to the height of the structure. This can preclude the construction of a two story accessory structure. Functionally in order to provide a framework for second story ADUs over garages typically, or over some other non-occupied space, it would make sense to allow those only on lots that have a secondary access, whether that be a rear alley or on a corner. This would have the two-story accessory structure front onto a public right of way instead of peering into adjacent yards. Mr. Lynch concluded by saying that this was an attempt to try to limit the use of two-story structures for privacy reasons.

Ms. Finn asked staff for a refresher about the setbacks for corner lots.

Mr. Craig explained that corner lots used to get leeway because the rear was the side and would be only a 6-foot setback in your rear that was changed recently. When the infill calculations were recently redone, the rear yard

setbacks now apply on corner lots. Mr. Craig explained that in some instances in downtown that the secondary front yard is relatively narrow and your setback is set by the structure limit. What is found almost as frequently, if not more frequently, is the secondary front yard is larger and there are a lot of reasons and a lot of rules that keep secondary structures from going into that area at all. For example, the secondary structure cannot go in front of that primary building, closer to the to a road. This would provide some relief in that case.

Motion passed 4 Yes - 3 No.

Mr. Hornung made a motion that the property owner shall reside on the property as primary residence at the time of the zoning permit application and a Landlord License from the Commissioner of Revenue shall be required if either the principal dwelling or ADU is rented. Mr. Lynch seconded.

In the discussion on this motion, Mr. Hornung started by explaining the second portion of his motion by stating that it is already a requirement that if you are renting your house, you have to get a landlord's license. Mr. Hornung stated we that need to build in a situation where someone lives in a house and then decides to rent their house and live in an ADU. We need to make it clear that if they do that, they have to get a landlord's license for the primary structure. Mr. Hornung felt that it needed to be clear in the ordinance that the expectation is that you will be required to get a landlord's license that it's repeated, anyone who's applying for use of an ADU knows they have to get that license.

Ms. Marshall stated that the motion stated that the motion was 'at the time of zoning permit application', so once its permitted, the applicant can get out of there and they can do whatever they want.

Mr. Hornung replied, right, and the thought is if I'm a corporation, the idea of having an empire of ADUs, am I going to systematically buy houses, live in them, build the ADU, then sell, then rent them, then move to another unit, build another ADU, and do that. He said he didn't think that something that is realistic. It does build in the flexibility for those who are in the military for example, and have an ADU and move for two years that they can continue to rent the ADU if your no longer that primary residence.

Mr. O'Toole asked for specifics or details about the Landlord License: what does the license mean?

Mr. Johnston explained that it was similar the business license issued from the Commissioner of the Revenue, and does amount to a modest amount of income is provided. He went on to explain that it also gives the Commissioner an authority under state code, which if needed could be used to file suit in extreme circumstances if needed.

Motion passed 4 Yes - 3 No.

Mr. O'Toole made a motion to stipulate that an ADU cannot be used as a "Home Stay"/"Bed & Breakfast"; ADU kitchen will need to be removed for those uses. Mr. Hornung seconded.

Motion passed 7 Yes - 0 No.

Mr. Hornung made a motion to require notification of adjacent property owners of an ADU zoning permit application in writing, by posted sign, and on City website. Ms. Marshall seconded.

In the discussion on this motion, Mr. Hornung expressed that notifying the adjacent neighbors they have an idea of what's happening, they have an opportunity to talk with staff about it, and potentially raise concerns that staff may address as part of that permit.

Motion passed 7 Yes - 0 No.

Then the Commission discussed establishing a process to categorize existing accessory structures as accessory structure with and without ADUs. Mr. O'Toole asked that there be a timeline, whatever staff determines is reasonable, on the project to categorize the accessory structures.

Mr. Durham said the final matter discussed relating to the ADU ordinance was a rental inspection program. Mr. Durham, Mr. Hornung, and Mr. Lynch all vocalized the necessity of rental inspection program, that was suspended in 2008, to be reinstated should the ADU ordinance be passed and to enable the regulation of rental properties in the

City of Fredericksburg. Mr. Lynch felt that it would be appropriate for the Commission to draft a letter of support to City Council.

Mr. Durham reopened the public hearing for comments, but no citizens commented.

8. PUBLIC HEARING – New

None.

9. OTHER BUSINESS

None.

10. GENERAL PUBLIC COMMENT

None.

11. PLANNING COMMISSIONER COMMENTS

A. Chairman Comments

None.

B. Commissioner Comments

None.

12. PLANNING DIRECTOR COMMENTS

None.

13. ADJOURNMENT

There being no further items to be discussed, the Planning Commission meeting adjourned at 9:20 p.m.

Next meeting: May 10, 2023



David B. Durham, Chairman