



**PLANNING COMMISSION  
MINUTES  
May 10, 2023  
6:30 PM  
Regular 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

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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 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. Lynch moved to approve the agenda, Mr. Hornung seconded. Motion passed 7-0.

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

None.

**6. DECLARATION OF CONFLICTS OF INTEREST OR DISCLOSURES OF CONTACT**

None.

**7. OLD BUSINESS**

- A. UDOTA FY23-01 Accessory Dwelling Units – The City of Fredericksburg – purposes 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. Craig presented a PowerPoint of a summary of the Accessory Dwelling Unit public outreach and resulting ADU analysis. [Attachment 1] After Mr. Craig completed his presentation, Mr. Durham polled the commissioners for questions about the presentation and ordinance.

Mr. Gantt asked for a refresher of what City Council asked the Commission to do in regard to the Accessory Dwelling Unit ordinance. Mr. Johnston responded that they were “to consider the proposed amendments that would enable accessory dwelling units”, and then asked if he was understanding Mr. Gantt’s question correctly. Mr. Gantt expounded by saying, is it mandatory that we approve something, with this type of language, or something at all. To which Mr. Johnston replied that the Council resolution was to initiate the public hearing process. It (the resolution) wasn’t taking a position on the proposed amendment, it simply said this is a topic worthy of a public hearing process and asked the Planning Commission for its recommendation, which could be either to endorse the language as set out with that resolution, or to modify it, or to recommend denial of any amendments to the code. Mr. Gantt then asked if the language from the resolution could also be utilized as a special use permit? Mr. Johnston replied that a Commissioner can suggest for consideration by the Commission, a modification that would stipulate that this use only be allowed by special use permit.

Mr. Lynch brought up reinstating the Rental Inspection program, a matter discussed at the previous meeting on April 26, 2023 and unanimously supported by all Commissioners as it would be a necessary tool that would allow the City heightened abilities and more aptitude to enforce existing laws regarding rental units. Mr. Lynch and Mr. O’Toole co-wrote a letter of support to City Council, intentionally without the input of City staff because they did not want to put staff in the position of having to lobby for staff or funding. Mr. Lynch distributed that letter to all members of the Planning Commission, and requested any feedback, and then suggested that it be transmitted to City Council. Mr. Lynch read the letter into the record. [Attachment 2] There were no changes or recommendations, by consensus the Commission agreed to transmit the letter to City Council.

Mr. Durham reopened the continued public hearing and the following public comments were received both in person and in writing.

- Mary Wheeler – 1201 Princess Anne Street – spoke in opposition to ADUs
- Jackie Emery – 605 Fauquier Street – spoke in opposition to ADUs
- Sue Sargeant – 1318 William Street – spoke in opposition to ADUs
- Ralph Joseph – 913 Cornell Street – spoke in opposition to ADUs
- Jim Pates – 2010 Fall Hill Avenue – spoke in opposition to ADUs
- Jack Cianciotto – 1406 Augustine Avenue – spoke in opposition to ADUs
- Jason Kunkler – 905 William Street – spoke in favor of ADUs
- Leslie Martin – 179 Longstreet Avenue – spoke in favor of ADUs
- Evan Lawson – 806 Daniel Street – spoke in favor of ADUs
- Seth Casana – 1305 Princess Anne Street – spoke in favor of ADUs
- Mo Deadman – 214 Princess Anne Street – spoke with concerns about ADUs
- Raymond Herlong – 1009 Prince Edward Street – spoke in opposition to ADUs
- Dana Herlong – 1009 Prince Edward Street – spoke in opposition to ADUs
- Jessica Green – 131 Princess Anne Street – spoke in favor of ADUs
- Tom Conway – 1400 Caroline Street – spoke in favor of personal property rights to have an ADU
- Sarah Dewees – 809 Marye Street – spoke in favor of ADUs
- Karen Vossenber – 609 Hawke Street – spoke in opposition to ADUs
- Robert Thomas – 809 Brompton Street – spoke in favor of ADUs
- Rene Rodriguez – 22 Pawnee Drive – spoke in opposition to ADUs
- Frans Vossenber – 609 Hawke Street – spoke in opposition to ADUs
- Rupert Farley – 1305 Caroline Street – spoke in favor of ADUs

- Kimberly Rudisill – 1316 Brent Street – spoke in favor of ADUs
- Will Dickinson – 606 Amelia Street – spoke in favor of ADUs
- Joe Hensley – 801 Mortimer Avenue – spoke in favor of ADUs

Mr. Johnston then read the following comments into the record.

- Aaron Frank - 2634 Caroline Street – wrote a letter in support of ADUs
- Ann & Ted Sniffin - 1323 Caroline Street – wrote a letter in opposition of ADUs
- Bea Paolucci - 1500 Caroline Street – wrote a letter in opposition of ADUs
- Brenna Erford - 705 Lee Avenue – wrote a letter in support of ADUs
- Brett Bearce - 301 Falling Creek Road – wrote a letter in support of ADUs
- Christi Carver - 111 Caroline Street – wrote a letter in support of ADUs
- Claire Huie - 1515 Caroline Street – wrote a letter in opposition of ADUs
- Dolores Lecky - 1205 Charles Street – wrote a letter in support of ADUs
- Elizabeth Safley Griffey - 1231 Hanover Street – wrote a letter in support of ADUs
- Ernest Ackermann - 1300 College Avenue – wrote a letter in support of ADUs
- Janet Watkins - 1206 Walker Drive – wrote a letter in support of ADUs
- Jennifer Petitt - 416 Bunker Hill Street – wrote a letter in support of ADUs
- Louise Morton - 101 Fauquier Street – wrote a letter in opposition of ADUs
- Lucy Harman - 102 Fauquier Street – wrote a letter in opposition of ADUs
- Mark and Joan Olson - 1225 Dandridge Street – wrote a letter in support of ADUs
- Rachel Sargeant - 812 Daniel Street – wrote a letter in opposition of ADUs
- Rebecca Light - 207 Pitt Street – wrote a letter in opposition of ADUs
- Ronald Smith - 1318 William Street – wrote a letter in opposition of ADUs
- Rupert Farley - 7900 Chancellor Road – wrote a letter in support of ADUs
- Thomas Fines - 1300 Rappahannock Avenue – wrote a letter in opposition of ADUs
- Tom Conway - 1400 Caroline Street – wrote a letter in favor of the personal property rights to have an ADU
- Tory Coghill and Sarah Perry - 618 Maury Street - wrote a letter in support of ADUs
- Wallace King - 1806 College Avenue – wrote a letter in opposition of ADUs

Mr. Durham closed the public hearing, and called on Mr. Johnston to review a document [Attachment 3] that had been shared regarding the process regarding permitting for ADUs in Alexandria, prepared by the Urban Institute. Mr. Johnston indicated that these were not points he was advocating for, but to address concerns heard during public comments about wanting input from consultants or wanting to follow to process of Alexandria. Mr. Johnston highlighted the following points that were recommended: ADUs are to be permitted by-right, do not impose owner occupancy for the main dwelling or the ADU, do not require off street parking, adopt a tiered approach to setbacks, impose size limits on ADUs to ensure units are not too large nor too small, do not provide any minimum lot size restriction on the lots with ADUs, adopt the same restrictions around short-term rentals, consider developing innovative financing mechanisms, support programs to incentivize rather than require affordability and lastly, consider both resident input and equity implications.

Mr. Durham then opened the floor for discussion and questions for staff.

MS. Finn said she hoped to address some concerns brought up through public comments with a few questions to review with staff. Ms. Finn first asked about the safety inspections that would be in place for ADUs. Mr. Johnston answered that the full building code standards would be applicable and all customary building inspections would still take place. Ms. Finn asked what options do neighborhoods have to implement its own regulations about change and development? Mr. Johnston responded that if a neighborhood has the mechanism of a homeowners' association that would have covenants, some may or may not have regulations already stipulating on ADUs, or they could be amended. He said covenants are independent of any local regulatory functions. Ms. Finn next asked staff to review the City

Attorney's advice regarding owner occupancy requirements. Mr. Johnston said that it was the City Attorney's opinion that the charge of the state code is for localities to regulate land use, not users. So, a land use regulation that focuses on who is present on a property or who is held responsible beyond the property owner, exceeds this charge.

Mr. Gantt expressed concern about pitting neighbor against neighbor, and the challenge becomes finding the happy median. Mr. Gantt went on to say that he was concerned hearing that the process is being rushed, and that there hasn't been enough engagement. Mr. Gantt thanked Mr. Johnston for reading the consultants document, hearing from a third party. At this point, there is too much concern from both sides – but no language that would bring both sides together to give to Council. Mr. Gantt stated he is not comfortable with where the process stands and the lack of consensus, pitting neighbor against neighbor.

Mr. Hornung asked if there was already a process in place to obtain an ADU, as mentioned in a few public comments, such as the special use permit. Mr. Hornung stated that is was his understanding that an ADU is not allowed by special use but that it has been considered as part of a special exception in the past inside an existing structure. Mr. Johnston confirmed that that was correct, and that there is no process to allow ADUs today.

Mr. Durham asked if Mr. Gantt wanted to make a motion on special use permits since he had brought them up earlier in the meeting. Mr. Gantt made a motion to amend the draft text amendment to include a special use permit instead of the by-right authorization. Mr. O'Toole seconded.

Ms. Finn asked for a definition of a special use permit, and Mr. Johnston responded that zoning regulations recognize basically three types of uses in any given zoning district: first, uses that you can simply do by right; second uses that some jurisdictions call subject to a conditional use permit – in Fredericksburg, it's called a special use permit. When considering Special Use Permit applications there are specific criteria listed: the use's impact on adjacent properties, its impact on services, etc. The final category are all things that are not permitted, uses that you cannot do. Mr. Lynch felt that the special use process would heighten Mr. Gantt's previous concern of pitting neighbor against neighbor, by requiring a public hearing every time someone wants to put a second kitchen on their property. Mr. Lynch went on to explain that that would mean someone would have to stand before a room of people, disparaging their own neighbors for a public hearing at the Planning Commission and at City Council.

Ms. Marshall asked why the Commission didn't discuss the special use permit at the beginning of the process. Mr. Johnston responded that all the documentation strongly urges that it not be a decision that is made on a political basis, that the larger inherent process of the special use permit becomes a political process.

Motion failed 3-4.

Mr. Lynch made a motion that UDOTA FY23-01 Accessory Dwelling Units, with the proposed amendments, be recommended to the Council so that the UDO permit and contain regulations governing the use of accessory dwelling units associated with single family detached dwelling units. Ms. Finn seconded. Mr. O'Toole asked for an amendment to the motion that provisions for detached ADUS be eliminated. Mr. Lynch did not accept the amendment to the motion. Motion passed 4-3.

## **8. PUBLIC HEARING – New**

None.

## **9. OTHER BUSINESS**

None.

**10. GENERAL PUBLIC COMMENT**

None.

**11. ADOPTION OF MINUTES**

A. April 26, 2023 – Regular Minutes

Mr. Hornung made a motion to approve the minutes as submitted, Mr. Lynch seconded. Motion passed 7-0.

**12. PLANNING COMMISSIONER COMMENTS**

A. Chairman Comments

Mr. Durham informed the commission that there Mr. Lynch had served a year on the Parking Advisory Committee, his term was up, and he was seeking a new volunteer. Without anyone volunteering, Mr. Durham volunteered for the position himself.

B. Commissioner Comments

**13. PLANNING DIRECTOR COMMENTS**

Mr. Johnston reviewed text amendments that will be coming before the Planning Commission, dealing with matters such as residential use and density, density requirements regarding Resource Protection Area, and density credits for smaller multi-family and single family attached (townhouse) dwellings, etc.

**14. ADJOURNMENT**

There being no further items to be discussed, the Planning Commission meeting adjourned at 9:59 p.m.



**David B. Durham, Chairman**

**Fredericksburg Planning Commission**

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Adam Lynch, Vice-Chair

Mary-Margaret Marshall, Secretary

Susanna Finn

Kenneth Gantt

Chris Hornung

Tom O'Toole

May 10, 2023

Mayor Greenlaw, Vice Mayor Frye, and City Council Members:

As directed by City Council in January, 2023, the Planning Commission conducted a robust community listening period regarding the draft UDO amendments concerning Accessory Dwelling Units (ADUs).

During our three month hearing, a number of residents expressed apprehension about the City's capacity to oversee the additional rental units that would be created through an ADU program. Some residents believe that enforcement of Code of Ordinances requirements is currently lacking, and that this ordinance, if approved, could degrade the condition of the City's rental stock and negatively affect tenant and neighbor quality-of-life.

The City of Fredericksburg Code of Ordinances, Chapter 18 Buildings and Building Regulations, Article V Rental Housing Inspections describes a robust Rental Inspection Program. Unfortunately, since 2008 the budget of the Planning and Building Department (the Department) has not included funding for a full-time Rental Inspection Program Official to execute the program. Instead, the Department operates a complaint-based system to address potential Code of Ordinances violations.

The City's comprehensive plan references the dormant Rental Inspection program in two instances:

- Chapter 11: Neighborhood Residential Reinvestment - "Consider reestablishing and applying the Rental Inspection Program to address housing quality" (11(2)-5)
- Chapter 11: Historic Resources - "Re-staffing the City's Rental Inspection Program will also counteract demolition by neglect" (11(7)-15)

As such, Council has already recognized that an effective Rental Inspection Program would serve to address a myriad of issues associated with the City's rental housing stock. The potential legalization of approximately 90 existing ADUs makes this reality all the more stark. Given this, the Commission unanimously recommends that Council fund the Rental Inspection Program at the next appropriate point in the budget process.

Sincerely,

David B. Durham, Chairman