



**CITY OF FREDERICKSBURG
PLANNING COMMISSION MINUTES**

June 17, 2020

7:30 p.m.

ELECTRONIC MEETING / COUNCIL CHAMBERS, CITY HALL

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/lhna8qc4wq>

The Agenda, Staff Report, Applications and Supporting Documents are also available on the Planning Commission page.

MEMBERS

Rene Rodriguez, Chairman (live)
Steve Slominski, Vice-Chairman (electronic)
David Durham (electronic)
Kenneth Gantt (live)
Chris Hornung (live)
Tom O'Toole (electronic)
Jim Pates (electronic)

ALSO PRESENT

Bill Monteleone, GreenChip Applicant (electronic)
Maggie McDonald, GreenChip Attorney (electronic)
Charlie Payne, GreenChip Attorney (electronic)
Terry Coley, ADU Applicant (electronic)
Jeh Hicks, Jarrell Properties Representative (live)

CITY STAFF

Chuck Johnston, Director, (live)
Planning and Building Dept.
Mike Craig, Senior Planner (live)
James Newman, Zoning Administrator (live)
Marne Sherman, Development Administrator (electronic)
Erik Nelson, Transportation Administrator (live)
Cathy Eckles, Administrative Assistant (live)
Angela Freeman, City Economic Development (live)

1. CALL TO ORDER

This meeting was held live and electronically by "Go to Meeting" application, pursuant to City Council Ord. 20-05, An Ordinance to Address Continuity of City Government during the Pendency of a Pandemic Disaster.

Members of the public were invited to attend in person with social distancing practices and masks required 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.

Chairman Rodriguez called the meeting to order at 7:31 p.m. and explained electronic meeting procedures.

2. PLEDGE OF ALLEGIANCE

3. DETERMINATION OF A QUORUM

All members were present.

4. APPROVAL OF AGENDA

Mr. Gantt moved for approval of the agenda as submitted. Mr. Hornung seconded.

Motion passed 7-0

5. APPROVAL OF MINUTES

March 11, 2020

June 10, 2020

Mr. Hornung motioned to approve the minutes as submitted. Mr. Gantt seconded.

Motion passed 7-0

6. DECLARATION OF CONFLICT OF INTEREST

Mr. Gantt stated he had a conflict with 7A, Special Exception request regarding an Accessory Dwelling Unit at 1306 Graham Drive.

7. PUBLIC HEARING

A. Terry Coley requests a Special Exception from City Code §72-42.5, Table of Common Accessory Uses, for an 'Accessory Dwelling Unit' (ADU) at 1306 Graham Drive. SE2020-02

Mr. Newman reviewed the staff report with a power point presentation (Att. 1). Three public comments were received opposing the Special Exception. Mr. Newman reiterated that the public comment period would remain open until 4:30 June 24, 2020, with a vote scheduled for that date.

Mr. Hornung clarified that what defines an ADU is the addition of a cooking range. Mr. Newman agreed and noted that it is the addition of a 220V outlet (which supports ranges and larger refrigerators) that has been considered the indicator of a full kitchen.

Mr. Pates does not feel this Special Exception has any special circumstances that warrants going against or out of conformance with an ordinance. He does not feel this is special enough to go against the ordinances and a Special Exception should only be granted in rare circumstances. Mr. Pates further stated that too many Special Exceptions are being recommended for approval by staff and questioned why staff felt this should be recommended for approval. Mr. Newman stated that while there was nothing special about the property per se, the use is unusual and therefore valid for a Special Exception. Mr. Durham stated that he feels the staff report provides an extensive and valid analysis as to why the Special Exception should be recommended for approval.

Chairman Rodriguez discussed two previous situations, where accessory dwelling units (ADU) were approved, where staff used a case by case interpretation. Discussion ensued regarding the circumstances surrounding those two matters and the differences between those exceptions and the current proposal. Further discussion ensued regarding the current definition of family, and conformance with the Comprehensive Plan where the neighborhood quality is enhanced and affected by providing additional living space.

Applicant, Terry Coley, was available by telephone and stated that she had previously had renters but her decision to remodel her basement and apply for the Special Exception was based on her mother moving into the home and having her own independent living space. She wants to be in compliance and permitted to allow her mother to reside with her but independently. Ms. Coley stated her concern with the opposing views possibly being based on race. Chairman Rodriguez noted that the Commissioners do not discriminate and are not provided any demographic information.

Chairman Rodriguez opened the public hearing and Mr. Newman read in the three public comment letters received from the following, all opposing the Special Exception request:

Joanne M. James, First Service Residential, Managing Agent for Village of Idlewild HOA, (Att. 2);
Theron P. Keller, 1108 Winchester Street (Att. 3); and
Teri Hedrick, 1201 Ashford Circle (Att. 4).

In addition, the following members of the public spoke:

Laura Reed, 1307 Graham Drive, spoke in opposition of the request and stated that she feels the addition of an oven to the basement apartment just makes it a more attractive rental. Ms. Reed stated the notification letters were not received within the 14 days required. Additionally, the public notice was posted in the right-of-way and was blocked from view by parked cars.

Debra Jean Zbrzezny, 1403 Graham Drive, spoke in opposition of the request and also was unhappy with the public notice posting being barely visible. Ms. Zbrzezny is also concerned with the excessive amount of cars around the property due to the rentals happening and she had been informed by HOA when she was buying that this wouldn't happen.

Bryan Stelmok, 1117 Wright Court, spoke in opposition of the request and doesn't feel this is right for the neighborhood. The neighborhood is scaled and set for amenities for 750 units; by adding renters to the units it could potentially double the amount of people using the amenities. Mr. Stelmok believes that the definition of family is inadequate to prevent this unit from becoming a standalone unit and the HOA restrictions are set in place for a reason. He believes the City should not be overriding and granting a Special Exception to the restrictions. Mr. Stelmok further discussed fire and safety due to the addition of a second kitchen and whether the ingress/egress issue has been met. Mr. Stelmok believes that further restrictions should be added if this matter is recommended for approval in that the owner must live in the property and that inspections should be conducted by the City.

Chairman Rodriguez closed the public hearing.

Mr. Durham questioned the legal differences between leasing and subleasing. Mr. Newman stated that in terms of land use regulations, none. Mr. Newman also said that the City regulations and Home Owners Association rules operate independently. Mr. Craig confirmed that the ownership of the property is not considered by the City in their determination of land use regulations.

Mr. Pates agreed with Mr. Newman that the covenants of an HOA are totally separate from any zoning regulations. He asked about the differentiation between an ADU and a duplex. Mr. Craig stated that a duplex is two separate families where an ADU only allows one family as is defined in the Code. Recommending approval of this exception request will not change intensity of the use of this property. Mr. Craig noted that an ADU is a secondary use of the property, not equal size to the primary use of the property.

Mr. Hornung asked if building officials have looked into fire separation issues with the ADU. Mr. Newman said there are building code requirements and that the home will be inspected prior to final approval.

Mr. O'Toole still disagrees with the need for a Special Exception as to why the mother needs a separate area to cook. Ms. Coley stated that the basement is all one level, her mother wants to live independently and be able to live and cook on her own, while still being close enough to be helped if necessary. Ms. Coley stated it would be different if she lived in a rambler style home, but the request for the Special Exception allows her mother to have that type of living.

Chairman Rodriguez asked about the notification issue mentioned and if that affects the Commissioners from taking action during the meeting. Mr. Newman stated that this matter is recommended to be left open and voted on at the Commissioner's June 24, 2020 meeting. Mr. Newman noted that he will move the public notice hearing sign to a more prominent location.

Mr. Hornung asked if the HOA was notified by the adjoining property owner's letters. Mr. Newman stated the HOA were not sent a certified notice. Ms. Coley stated that she notified the HOA of her Special Exception request by email back in April, but she did not notify them specifically about this public hearing.

There being no further discussion, Chairman Rodriguez held this matter open until the June 24, 2020 meeting.

B. JFH - Fredericksburg II, LLC requests amendments to the Comprehensive Plan for sub-planning area 5B and the Future Land Use Map to permit a commercial office park on the eastern side of the intersection of U.S. Route 1 and Spotsylvania Avenue between Rappahannock Avenue to the east, U.S. Route 1 to the west, and the Brent Street right-of-way to the south. CPA2020-02

C. JFH – Fredericksburg II, LLC requests:

- a. A rezoning from Residential Mobile Home (R-MH), Residential 4 (R-4), and Commercial/Transitional-Office to Commercial Highway (C-H) with proffered conditions for 50 Geographic Parcel Identification Numbers (GPINs) generally located on the eastern side of the intersection of U.S. Route 1 and Spotsylvania Avenue between Rappahannock Avenue to the east, U.S. Route 1 to the west, and the Brent Street right-of-way to the south. RZ2020-03
- b. A determination that the vacation of a portion of the Spotsylvania Avenue and Dandridge Street rights-of-way and the rededication of new public right-of-way for a realigned Spotsylvania Avenue is in conformance with the Comprehensive Plan. VAC2020-01

Mr. Craig reviewed the staff report for Items 7B and 7C with a power point presentation (Att. 5) and noted that separate votes will be considered for both items at the June 24, 2020 meeting.

Mr. Durham noted that the City should consider zoning that would permit University housing type developments along Route 1 due to University students occupying neighboring areas. Mr. Durham further stated that the GDP is referred to as the governing document, but feels the GDP doesn't indicate how the applicant will maintain portions of the property not covered by elements of the development, specifically the portion not to be built out, the realignment of Spotsylvania Avenue, the RPA, and within the power line easement. Mr. Durham expressed concerns about the impacts of the Brent Street trail on existing tree canopy. Mr. Craig stated staff would look into the impact of the Brent Street trail and will have applicant respond to Mr. Durham's concerns about the GDP.

Mr. Pates stated his concerns about the tree canopy and believes the City should give serious consideration to a tree canopy ordinance as complete decimation of tree canopy is harmful to the City's environment and wildlife.

The Applicant, JFH Fredericksburg II, LLC, represented by its Director of Community Relations, Jeh Hicks, was present and spoke about the history of the project. The Applicant noted that the amenities and particulars of this project are governed by Dominion Power in this area, but the Applicant is willing to work with the City on the unmentioned areas in the GDP. The Applicant is mindful of the concerns about the tree canopy and of the 1.09 acres of woods in the RPA, 1.0 acres of it will not be disturbed. The Applicant noted that other areas will have replacement trees added along the trails, islands, and street borders.

Mr. Durham stated that the GDP should be in agreement with the Applicant's plan as discussed. Mr. Pates asked if it was possible to add in details on the GDP or proffers to ensure maximum tree canopy coverage Applicant is able to do. Mr. Craig recommended that the Applicant add indications to the GDP showing

the addition of tree canopy to the project, specifically where street trees, perimeter landscaping strips, the buffer area, and foundation plantings will be added. Applicant agreed to this addition to the GDP.

Chairman Rodriguez opened the public hearing and Mr. Craig read in the seven public comments received from the following:

Meredith Beckett, President, College Heights Civic Association (Att. 6);

Daniel Finn, 1514 Stafford Avenue (Att. 7);

Matt Haney, 1425 Brent Street (Att. 8);

Thomas Fines, 1300 Rappahannock Avenue (Att. 9);

E-mail Exchange (Atts. 10, 11 and 12)

- o Timothy Duffy, 1217 Brent Street;
- o Meredith Beckett, 1401 Brent Street; and
- o Susan Nelson-Sargeant, 812 Daniel Street.

In addition, the following members of the public spoke:

Dennis Lister, 1108 Rappahannock Avenue, spoke in favor of the project but expressed concerns about the Brent Street trail and proposed an alternate direction for the trail.

Meredith Beckett, 1401 Brent Street, spoke in favor of the project but against the proposed trails. She would like to keep the tree canopy but eliminate the Brent Street trail connection. If the Brent Street trail is not eliminated she proposed that it be diverted through the Dominion Power easement

Katherine Piper, 1018 Rappahannock Avenue, expressed concerns about the Brent Street trail.

Chairman Rodriguez noted that public comments will be received until June 24, 2020.

Mr. Hicks commented regarding the questions on the trails and stated the trails are not required but added to enhance. He agrees that the Payne Street connection is a better alternative and will consider the proposed alternatives. He noted that the proposed renaming of Spotsylvania Avenue for a long-time College Heights resident is a unique issue. He observed that there is a Spotsylvania Avenue in Spotsylvania County Lee's Hill area, so the Applicant can definitely consider renaming.

Chairman Rodriguez asked if the trails are a specific requirement of this project. Mr. Craig stated no and that staff would consider these comments and get back to the Commissioners about the trails.

Regarding the proposed right of way vacation, Mr. Hornung asked if the Commissioners can make recommendations to Council regarding payment for the abandonment of right of way as he believes it is punitive in this instance given the extent of street improvements the applicant is proposing to make. Mr. Craig noted that this could be added in as a bullet once the Commissioners make a determination if the street vacation is in conformance with the Comprehensive Plan.

Mr. Durham noted the right-of-ways are unused and unimproved by the City and vacation of them makes sense.

Mr. Pates asked why staff wants two connections to the trails. Mr. Craig said that staff will consider and evaluate this issue with an additional analysis at the next meeting.

8. OLD BUSINESS

A. GreenChip Inc. requests a Special Use Permit to operate a recycling center within an existing building at 10 Harkness Boulevard/GPIN 7778-78-5342, which is in the General Industrial (I2) Zoning District. SUP2020-03

B. GreenChip Inc. requests four Special Exceptions to permit development of a recycling center within an existing building at 10 Harkness Boulevard/GPIN 7778-78-5342, which is in the General Industrial (I2) Zoning District.

The applicant seeks exceptions to the following Code Sections:

- 72-41.4.E.1, requiring a recycling center to be on a parcel with an area of at least 5 acres.
 - The subject parcel contains 3.85 acres.
- 72-41.4.E.2, requiring a recycling center to be at least 250 feet from any residential zoning district.
 - The proposed recycling center is 30 feet from the closest residential zoning district.
- 72-41.4.E.3, requiring no part of a recycling center other than a free standing office be located within 50 feet of a lot line.
 - The proposed recycling center is 30 feet from a lot line.
- 72-41.4.E.9, requiring a recycling center within 500 feet of a property in a residential zoning district not be in operation between the hours of 7PM-7AM.
 - The proposed operating hours of the recycling center would be continuous with truck delivery limited to 7AM-7PM.

SE2020-01

Mr. Newman reviewed the staff report with one update regarding lead soldering and employee protection protocols.

Mr. Pates asked about the National Park Service comment and the City's response, specifically regarding the buffer. This was discussed on page 3 of the June 10, 2020 minutes. Discussion ensued regarding Cedar Lane, the appropriate land use category, and that all deliveries will only use the Battlefield Industrial Park roads. Mr. Durham noted it is important for the community to understand that in his opinion the term recycling center doesn't describe this project.

Mr. Hornung motioned to recommend approval of SUP2020-03 as submitted. Mr. Slominski seconded.
Motion passed 7-0.

Mr. Hornung motioned to recommend approval of SE2020-01 as submitted. Mr. Gantt seconded.
Motion passed 7-0.

C. The City of Fredericksburg proposes amendments to the Unified Development Ordinance, §72-59 Signage, to allow for:

- additional building signage for multi-story buildings of three or more stories in the Commercial (C) and Planned Development (PD) Districts,
- increase the proportion of signage permitted per building side in the C, Industrial, and PD Districts,
- differentiate building signage standards for non-residential and mixed-use buildings vs. residential buildings in the C and PD Districts, and
- update the freestanding sign standards in all PD Districts.

UDOTA 2020-05

Ms. Sherman noted that no further public comments have been received and no changes have been made to the draft ordinance.

Mr. Hornung asked if pole-mounted signs were still permitted in the draft and questioned why the City was reverting back to allow pole-mounted signs. Ms. Sherman noted that it was originally drafted to remove the monument sign standard in the PD-C to provide more flexibility, but the Commissioners can remove that recommendation. Mr. Hornung noted that he is opposed to this type of signage and sees no need for it in the PD-C, but questioned the other Commissioners. Mr. Pates and Mr. Slominski said they are also not in favor of pole signage and believe there should be less signage in the City. Discussion ensued

regarding possibly withdrawing the pole-mounted sign recommendation or doing further research on it. Mr. Gantt is concerned if the ordinance is too prescriptive and limits some businesses.

Mr. Durham asked if the ordinance could move forward with deleting amendment language regarding pole-mounted signage, and if any sign applications were currently being held pending the approval of this ordinance. Ms. Sherman noted that three sign applications by Wegmans and Walmart are currently pending. Mr. Pates asked if the Commissioners could amend the ordinance to deal with total signage only. He also asked current pole signs that have been abandoned and what could be done about it. Ms. Sherman stated that those are structures that are approved and building permits issued and when a business leaves they are required to remove their sign, but it does not state that the pole has to be removed. Mr. Johnston asked Mr. Pates for clarification as to what would he would like left in the ordinance. Mr. Pates stated he did not have the ordinance, but thought there were several issues covered in the proposed sign ordinance. Mr. Johnston clarified that Mr. Pates wants to just move forward with sign area standard changes, but not with the three story building signage change. Mr. Pates was unsure on that provision. Mr. Durham noted that the last item in the list of changes was to "Update the freestanding sign standards in all Planned Development Districts" and feels that is the issue Mr. Pates is questioning. Mr. Durham noted that Mr. Hornung's desire to make a motion to not allow pole signs could address Mr. Pates' concern.

Ms. Sherman clarified that currently monument signs are specific to individual parcels and their freestanding signs. In the PDC district there are allowances for larger signs, but do not have to be monument style. Ms. Sherman also addressed Mr. Pates' questioning changing the existing regulations, there was one change to reduce the height of PD-C development project signs from 175 ft. maximum to 150 ft.

Mr. Hornung motioned to recommend approval of the draft ordinance, eliminating the inclusion of pole-mounted signs in the individual tenant mounted signage provisions. Mr. Durham seconded.

Motion passed 7-0

D. The City of Fredericksburg proposes amendments to Chapter 3 of the Comprehensive Plan, to support the submittal of five transportation funding requests to VDOT. Tables 3-2 and 3-3 will be updated and consolidated into a single table of City Street Projects. The five projects include:

- o construction of Gateway Blvd.,
- o intersection improvements at U.S. Route 1/Augustine Ave.
- o intersection improvements at U.S. Route 1/State Route 3 and Spotsylvania Avenue,
- o a bicycle-pedestrian route on the west side of U.S. Route 1 from Idlewild Boulevard to the VCR Trail, and
- o an interjurisdictional project for sidewalks and transit improvements on Lafayette Boulevard.

CPA 2020-01

Mr. Nelson stated he had received no public comments and had no further changes.

Mr. Durham motioned to recommend approval as submitted. Mr. Hornung seconded.

Motion passed 7-0

9. GENERAL PUBLIC COMMENT

None.

10. OTHER BUSINESS

A. Planning Commissioner Comments

None.

B. Planning Director Comments

Mr. Johnston reminded the Commissioners there will be another in-person and electronic Planning Commission meeting next week, June 24, 2020, where the Commissioners will vote on the public hearing items heard tonight. In addition, on July 8, 2020, there will be another in-person and electronic Planning Commission meeting with business items, no public hearings.

Mr. Durham asked about when the height restrictions would be taken back up. Mr. Johnston noted that possibly with no August agenda, staff will be able to address this topic.

8. ADJOURNMENT

There being no further items to be discussed, the Planning Commission meeting adjourned at 10:10 p.m.

Next meeting is June 24, 2020.



Rene Rodriguez, Chairman

Terry Coley
Special Exceptions for an Accessory
Dwelling Unit
SE 2020-02

Fredericksburg

Overview

Issue– Request for a Special Exception at 1306 Graham Drive, zoned PDR.

Accessory Dwelling Unit

A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot.

- Use not listed on the 'Table of Common Accessory Uses'
- Use request is frequent enough that a Special Exception, rather than Zoning Administrator review, is the appropriate path
- Subject to conditions

Recommendation: Approval

Overview

- Single family detached dwelling
- Applicant wants to add living space for her mother
- ADU would be located in the basement, with living, eating, sleeping, bathing, and cooking space all inside the house
- Use is not listed in Table of Common Accessory Uses.

Public Comment

- Received 3 comments via email on June 17, 2020
- All opposed to ADU
- Common themes:
 - SE is for unique/non-recurring uses,
 - Use not allowed at all in Code
 - Change character of neighborhood: more renters, vehicles and impact on neighborhood

Definitions

Family, as defined in the UDO:

One person or two or more persons related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, with no more than two boarders; or a group of not more than three unrelated persons living together as a single housekeeping unit.

Dwelling Unit, as defined by The Virginia State Building Code;

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Approval Criteria

- 1. Consistency with the Unified Development Ordinance**
- 2. Conformance with the Comprehensive Plan**
- 3. Whether there has been a sufficient period of time for investigation and community planning with respect to the application.**
- 4. Whether the special exception is consistent with the principles of good zoning practice, including the purposes of the district in which the special exception would be located, existing and planned uses of surrounding land, and the characteristics of the property involved.**
- 5. Whether the proposed use or aspect of the development requiring the special exception is special, extraordinary or unusual.**
- 6. Whether the proposed exception potentially results in any adverse impacts on the surrounding neighborhood, or the community in general; and if so, whether there are any reasonable conditions of approval that would satisfactorily mitigate such impacts.**

1. Consistency with UDO

1. Use is not listed in the *Table of Common Accessory Uses*

2. Use is defined in the UDO as:

A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot.

3. Purpose of the PD-R Zoning District;

“To encourage innovative and creative design, to facilitate use of the most advantageous construction techniques, and to protect watercourses, stream valleys, forest cover in watersheds, and areas with scenic vistas. The district is designed to permit a greater degree of flexibility in terms of layout, design and construction of planned development than is found in conventional zoning classifications. It will permit planned mixed use communities comprising residential, commercial, office and service uses...”

2. Conformance with the Comprehensive Plan

1. The property lies within Land Use Planning Area 3: Plank Road/Route 3. The Future Land Use map identifies this area as Transect-3 (Sub-Urban). This category states: *“The Idlewild neighborhood is designated as a T-3. It contains a mix of house types and scales including both attached and detached single-family housing. The neighborhood has a strong inclusion of public shared open space and values their connection to the designated trails as part of the T-1 space surrounding the neighborhood.”*
2. Supports environmental protection goals, residential neighborhood goals, and affordable housing goals:
 - Compact development
 - Provide a sense of community with a variety of housing choices
 - Support inclusive neighborhoods for the elderly
 - Provide affordable housing

3. Whether there has been a sufficient period of time for investigation and community planning with respect to the application.

Applicant applied for a building permit who then brought it to attention of Planning Dept. Application has been through staff review process.

4. Whether the special exception is consistent with the principles of good zoning practice, including the purposes of the district in which the special exception would be located, existing and planned uses of surrounding land, and the characteristics of the property involved.

1. PD-R is a planned residential zoning district, specifically made for planned neighborhoods. Proposed Use is residential and accessory to a primary dwelling unit.
2. Property is a typical residential lot. Proposed use would occur inside existing structure, not expand footprint
3. Would not block light, air, or add to flood hazard
4. Will permit a mother to move in with her daughter while allowing independence

5. Whether the proposed use or aspect of the development requiring the special exception is special, extraordinary or unusual.

1. Special Exceptions are for uses that are unique/unlikely to recur or not otherwise permitted by the Code

2. Requests are common and use is defined in UDO, but this is the first Special Exception Application for an Accessory Dwelling Unit in at least 2 years

6. Whether the proposed exception potentially results in any adverse impacts on the surrounding neighborhood, or the community in general; and if so, whether there are any reasonable conditions of approval that would satisfactorily mitigate such impacts.

Proposed conditions would limit occupancy of house to one family, and would require the ADU be placed within the existing footprint of the house.

Conditions:

1. Together, the occupancy of the principal dwelling unit and the accessory dwelling unit shall not exceed the definition of a 'family', as defined in City Code.
2. The Accessory Dwelling Unit shall be located entirely within the existing square footage of the house.

Conclusion

1. Accessory dwelling unit would allow for extra kitchen in basement
2. Use requests are frequent but applications are rare
3. Conditions would limit home occupancy to one family
4. Meets goals of Comprehensive Plan, UDO, and Special Exception Criteria

Staff Recommendation

Recommend approval to the City Council, with conditions

Recommend approval, denial, or defer to late date

June 17, 2020

City Hall
Planning Commission
715 Princess Anne St
Fredericksburg, VA 22401

Re: 1306 Graham Special Exception Permit for Accessory Dwelling Unit

Dear Planning Commission Members:

On behalf of the Board of Directors of Village of Idlewild, I am writing to you to provide the Homeowners position on the application of Special Exception from Terry Coley of 1306 Idlewild Blvd, Fredericksburg VA 22401.

The homeowners of the Village of Idlewild are against this request until a further understanding of how such a special use for accessory dwelling can be monitored, reviewed, and enforced within the confines of the city's ordinance. Please see below for specific points on this matter.

1. An acceptance of modifying a home meant for a family with only a singular kitchen space is what was designed and purchased, generally when a family outgrows or has a life-changing event as this is becoming the case they search for another type of dwelling to accommodate their change. There are instances where a home modification may be possible to address their needs but this is not one of them as it violates the intent for the home was built and community established upon.

2. The Village of Idlewild was granted for development of 785 homes in a number of different configurations, the establishment of apartment like areas within homes was not one of options as approved by the city council. Therefore, it would be prudent to maintain the city's intent for its communities.

3. The amenities within the Village of Idlewild were set for a projected number of families and family members. Even understand the current ordinance for "family" this approval would certainly open an array of living arrangements which would not be in-line with the city's present ordinance unless there was some level of established oversight and enforcement which quite frankly does not exist today. Principally because it's built upon a reporting process that leads to neighbors intervening in each other's affairs which leads to unfortunate consequences and again violates the city's good neighbor culture.

4. In this particular matter, it is for a family member, what necessary stipulations can or should be emplaced if this went forward to ensure that only another family member could occupy this space in the unfortunate circumstances that the current family member decides to leave or is no longer occupying the premises?

Sincerely,

Joanne James

Joanne M James

FirstService Residential, Inc.

Managing Agent for Village of Idlewild Home Owner's Association

From the desk of:
Theron P. Keller
1108 Winchester Street
Fredericksburg, VA 22401
June 17, 2020

Fredericksburg Planning Commission
715 Princess Anne St., Room 209
Fredericksburg, VA 22401

Re: Meeting, June 17, 2020; Public Hearing: Agenda Item 7a-Coley ADU

Chair Rodriguez, and Members of the Planning Commission,

There are several concerns with Special Exception request 7a-Coley ADU.

1. The Zoning Administrator disqualifies the use of a Special Exception right in the General Background section of the agenda item.

Page 2: "In the past year there have been several requests for Accessory Dwelling Units. So far in 2020 alone there have been 4 requests for accessory dwelling units. Using this code section to approve them would no longer be a case-by-case review but rather a **frequent review**. This issue of a recurring request for a use not listed in the Ordinance is best addressed by City Council through a text amendment. In the interim, Special Exceptions are the process to use." [Emphasis added.]

However, City Code section 72-22.7 Special exceptions states:

72-22.7 (A.) "The granting of a special exception for a use not otherwise permitted by the zoning regulations may be appropriate for uses which are **unique and unlikely of recurrence**." [Emphasis added.]

Staff offers no explanation for this contradiction.

2. The "special, extraordinary or unusual" requirement for a Special Exception is not met, or even addressed in the application.

In another manifestation of the conflict between the "frequent" nature of these kinds of requests and the requirement that Special Exceptions be reserved for - well - the "exception" rather than the "rule," we find that in the Special Exceptions Analysis section of the application, Section 5, which asks for a response to this requirement, the answer provided is quite sparse, and in no way answers the requirement:

Page 4: "**5. Whether the proposed use or aspect of the development requiring the special exception is special, extraordinary or unusual.**

The applicant wants to provide independent living space for her mother within the confines of the existing home."

As clearly stated by staff in the General Background section, this application is neither special, extraordinary, nor unusual, and this answer does nothing to support such a finding.

By its literal definition in the city ordinance cited above, the use of a Special Exception to grant a "frequent" request is not appropriate.

And perhaps the most important:

3. A bit of hand-waiving with the definition of "Family"

Much use is made of the term "Family" in the application, despite its somewhat misleading legal definition in the City Ordinance. The entire definition from the city's code is provided, but nowhere does the package discuss or highlight that "Family" includes any number of ("two or more") persons "related by blood, adoption or marriage," **plus** "with no more than two boarders."

The application goes to great length to describe a mother with no car. But here's the question that demands an answer:

One day after a Special Exception is granted, what is there to stop the applicant from moving the mother upstairs into one of the other four bedrooms, and then renting out the basement as an entirely self-contained apartment to two borders, who might have **two** cars? As best I can tell, even though this Special Exception would have been granted based on the assurance it was for mom, with no car, they would be in full compliance from Day 2 forward with mom shuffled to a small bedroom, and two unrelated borders living in the basement apartment.

There is an even greater risk of this higher impact should the current owner decide to move. The application tries to assure us that there would be no adverse impact. Page 5: "Even if the applicant were to move and a new owner to take occupancy, the limit of the accessory dwelling unit to a "family" would ensure no impacts beyond what is typical of a family," but again, without addressing the fact that the legal definition of "family" includes any number of actual family members **plus** two additional borders.

This application appears to be little more than an attempt to circumvent existing zoning restrictions that preclude homes in PD-R zoned areas from having an Accessory Dwelling Unit located within. Out of the 109 pages which make up the package, roughly **half** of them are unrelated to the particulars of this application, but instead attempt to support allowing ADUs and other non-conventional zoning designations in general. Such lobbying material has no place in the process to determine the suitability of a Special Exception – the merit of ADUs is not in question here, and should play no role in evaluating this application. Instead, such material would more appropriate for use at some future time, should the Planning Commission be tasked with evaluating such changes to the Unified Development Ordinance.

Let's stick with the process here. If allowed uses in PD-R or other zoning designations need to be changed, then let's do it the right way, by following the well-defined procedures to initiate, evaluate, and approve changes to the UDO.

Thank you for your time.



Theron P. Keller

From: [REDACTED]
To: [Planning](#)
Subject: [EXTERNAL] GPIN Number 7768-97-1948 for Property Address 1306 Graham Drive Fredericksburg Va 22401
Date: Wednesday, June 17, 2020 12:48:43 PM
Attachments: [image001.png](#)

To Whom it may concern,

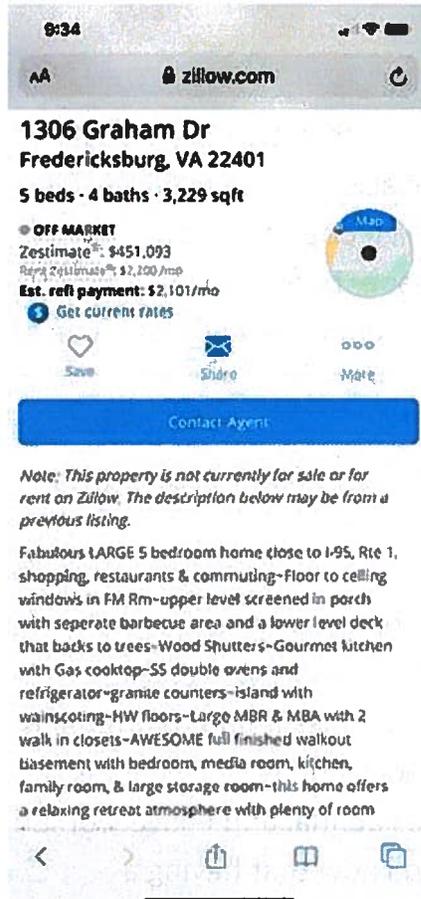
It was brought to my attention through a certified letter that my neighbor at 1306 Graham Drive in Idlewild was looking for a Special Exception from the City Code 72-42.5, Table of Common Accessory Uses, which does not list an "Accessory Dwelling Unit" as an allowed use. "Accessory Dwelling Unit" is defined in 72-84, Definitions. Granting this Special Exception would permit an accessory dwelling unit at 1306 Graham Drive.

After carefully reading the Issue Description from Ms. Terry Coley I come with the following rebuttal.

I have lived at 1401 Graham Drive for the past 15 years with my husband Charles S Hedrick which is directly across the street from 1306 Graham Drive. We originally moved to this community because of the amenities it had to offer and the fact that it was Governed by an Homeowners Association with FirstService Residential. I have been employed by FirstService Residential and I have worked in the Management industry for many years now and know that having a Homeowners Association is a benefit to a community of this size and caliber to maintain our property values and keep our residents in line with the HOA bylaws and guidelines.

With that being said, when Ryland built that home across the street it had an unfinished basement, the Taylor's, Jeff and Tonya bought that home and finished the basement with an office (not a bedroom) it has no egress window, a common area, a wet bar with a sink because Tonya was a hair dresser and wanted a space for her parents when they came to visit from Roanoke. The basement already had an exit door when it was built to follow the City Guidelines. When the house went on the market a Real Estate Agent marketed the home with a full finished walk out basement with a bedroom and a kitchen etc. as you can see in my attachment. In the other section of the listing it states:

Mother-in-Law Apartment. When prospected buyers were looking at the home of course they saw this as an opportunity to rent this out which is what Terry Coley has done from day one (1).



I have watched people come and go from that home for the past 7 years that Ms. Coley has owned it. How do I know this you are probably wondering because I can see everything that happens across the street. This home has a front loading garage and my home has a rear loading garage in the alleyway. Because of the way the homes sit on our street the parking has been an issue since day one. In front of my home is a fire hydrant and a mailbox (no one can park there) and across the street at 1306 Graham and 1400 Graham there is a small street area for extra cars. For almost 2 years a gentleman had 3 cars that he parked along the street and lived in Ms. Coley's basement. I met him doing yardwork, he would stop and talk as he walked to his 1 of 3 cars in front of my home and would share how his family that lived out of state. Well he moved out and then another couple moved in. This couple owned 2 vehicles and had a small daughter that lived in the basement. They would come from the rear of

the home and walk through the side yard to the vehicles that were parked along the road in front of Ms. Coley's house. They then moved out and then another woman moved in named Lisa Warren. This was the wife of Rodney Warren who lived down the street. Mr. Warren was renting a home at 1205 Graham Drive down the street with his wife Lisa Warren. He was my mechanic I knew him well. His landlord wanted to sell, so The Warrens had to move. They were having some marital issues and decided to split, so Lisa the wife moved into Terry Coley's home at 1306 Graham Drive and rented her basement. As you will see with another attachment, a Death Certificate of Ms. Lisa Warren who passed away while living in my Coley's basement a year ago in May. I am sorry for the loss.

Since then, I have watched cars come and go, different people all the time walking up the side yard of this home into the basement. I have watched cars pull into the driveway and unpack suitcases and clothing and boxes, I have seen U hauls pull out front and unload beds and furniture on many occasions. It has been a revolving cycle since day 1 of people coming and going into this home.

COMMONWEALTH OF VIRGINIA - CERTIFICATE OF DEATH
DEPARTMENT OF HEALTH - DIVISION OF VITAL RECORDS - RECORDS

129 01855

DECEASED
NAME: MARY ANN SCOTT
SEX: FEMALE
DATE OF BIRTH: MAY 20, 1919
PLACE OF BIRTH: ALBERTA, CANADA

DECEASED
DATE OF DEATH: 06-13-2019
PLACE OF DEATH: 300 GALLERIA DR, FALLS CHURCH, VA 22042

DECEASED
MARRIAGE: MARY ANN SCOTT & ROBERT FRENCH

DECEASED
OCCUPATION: N/A

DECEASED
CAUSE OF DEATH: Myocardial Infarction
Cardiac Arrest
Pulmonary Hypertension

DECEASED
MANNER OF DEATH: Natural

DECEASED
SIGNATURE: [Signature]
DATE: 2/11/19

DECEASED
REGISTRATION NUMBER: 06-13-2019

I have not seen an elderly woman (the 76 year-old mother) at all. As per Ms. Coley's description for this Accessory Dwelling Unit and wanting to change the kitchenette into a kitchen by adding a range/oven I feel is a bold misrepresentation of what is really going on over there. She has never had her mother living in this home and has had nothing but multiple people subletting constantly in this home. I am sure by adding this range/oven would make it more convenient for whomever lives in the basement a more private dwelling unit and Ms. Coley would not have strangers constantly using the appliances in her SINGLE FAMILY DWELLING, which is what our HOA bylaws and governing

documents describe this home to be.

I sent a complaint to our Property Manager on June 5th, 2020 about the parking on the street prior to knowing anything about this Hearing for Ms. Coley and her basement exception. My concern is if every home who has this so-called basement apartment has a sublease then this adds more vehicles to our roads, more wear and tear on our streets. Our bylaws state in Section 11 under leases which is for Owners to rent their homes, not owners to sublease space in there Single Family Dwelling the following:

Section 11. Leases. No Owner of a Lot or Dwelling Unit shall lease to another any such Lot or part thereof or any such Dwelling Unit unless such lease shall be in writing for an initial term of not less than twelve (12) months and shall expressly provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration and

Page 18

1. 33

the Articles of Incorporation, Bylaws and rules and regulations of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under such lease.

If the exception is granted to Ms. Coley, that means she can sublease her basement, rent rooms in her 5 bedroom home and maybe even make her home an Air BNB. If you allow Ms. Coley an exception to add a range/oven in her basement so called kitchenette then all homes in this community will be doing the same.

Say that the basement is for her so-called 76 year old mother, what happens when she is deceased and the exception is in place she can then rent to whomever she pleases?

This is not what we people who bought our homes in Idlewild signed up for. We do not want owners renting out rooms like a boarding house. We do not want our basements rented out to perfect strangers, the in-law suites were meant for family members and family members only who share the common areas of the

home like your kitchen and not have your own range/oven in the basement. I would think that this would also be a fire hazard.

Will an Insurance company even cover this situation in a single family dwelling unit? We need to hold our homeowners accountable to the rules and regulations set in place by a Homeowners Association and an elected Board representing our communities.

Why does a homeowner have the right to ask our City for an Exception to rules put in place by governing HOA documents?

Kindly,

Teri Hedrick

ACTIVITIES DIRECTOR & RESIDENT LIFESTYLE COORDINATOR

1201 Ashford Circle Fredericksburg, VA 22401

540.370.1000 | silvercollection.com | [REDACTED]

PEGASUS RESIDENTIAL | *we help people find* **HOME**



Cowan Station – Commercial / Office Park CPA2020-02, RZ2020-03, VAC2020-01

Introduction:

1. Existing Conditions.
2. Comprehensive Plan Amendment
3. Proposed Zoning Map Amendment:
 - a. Existing and Proposed Zoning
 - b. General Development Plan
 - c. Proffer Statement
 - d. Vacation of Right-of-Way
4. Potential impacts / mitigation
5. Next Steps / Recommendation

1. Existing Conditions –



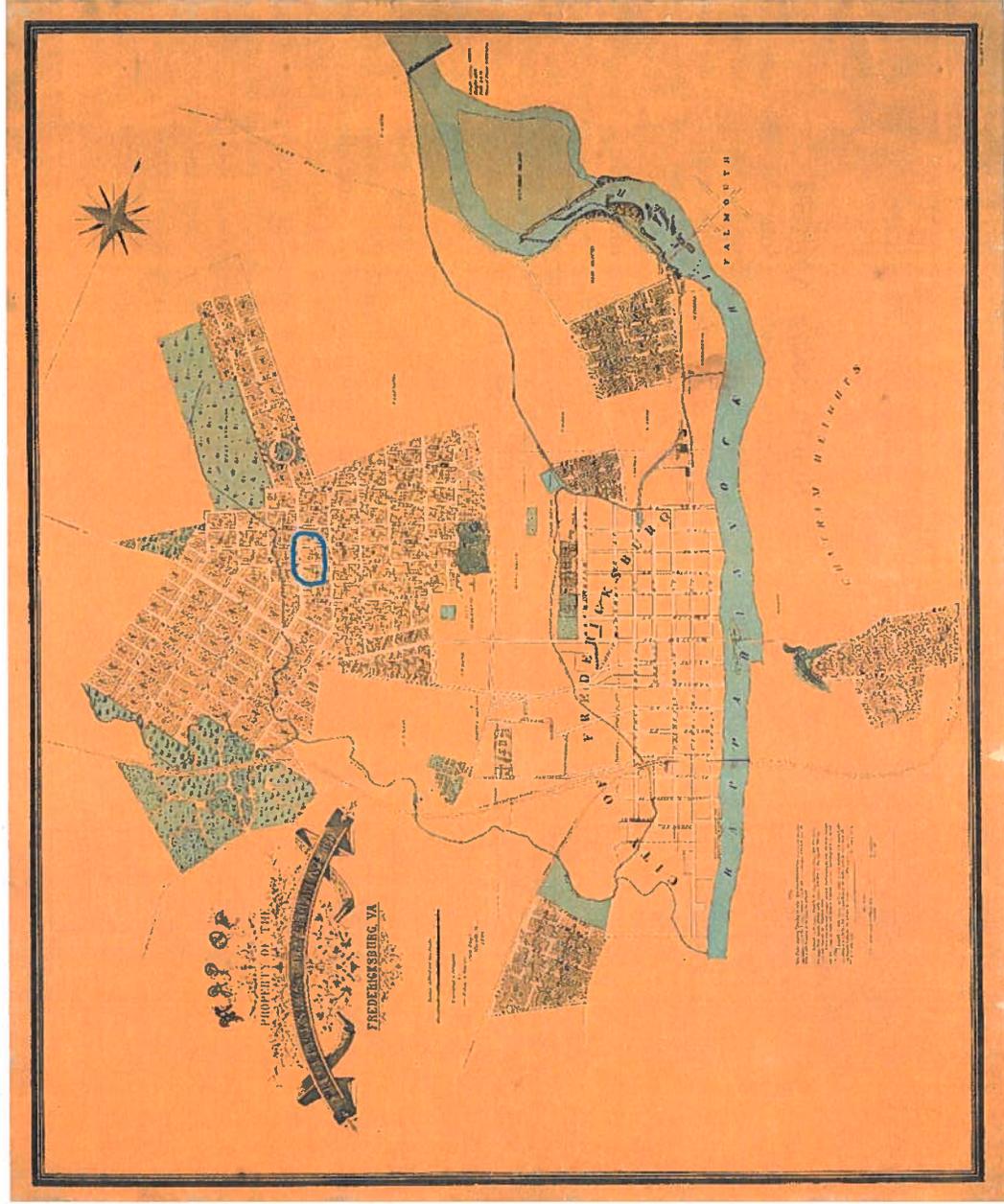
- 50 GPINs totaling 9.37 acres.
- Includes vacant mobile home park and adjacent areas.
- Access by Spotsylvania Avenue. Spotsylvania Avenue is a substandard roadway.
- Dandridge Street is an existing substandard access serving vacant mobile homes.

1. Existing Conditions –

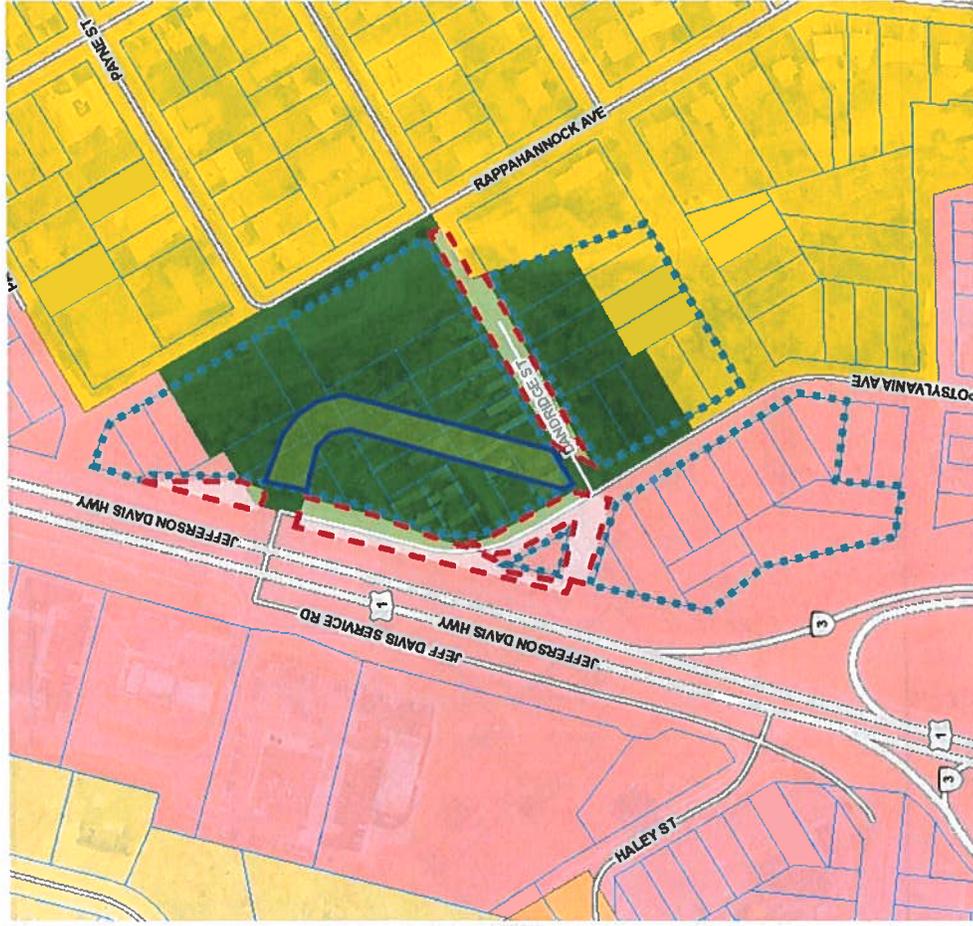


- Smith Run and associated RPA borders the site to the south west.
- Eastern stream and impacted RPA borders the site to the east. Impacts to the existing RPA include existing pavement and mobile homes and the Dominion Power transmission Easement.
- 180 foot wide Dominion Power Transmission Easement separates the site from College Heights.

1. Existing Conditions –

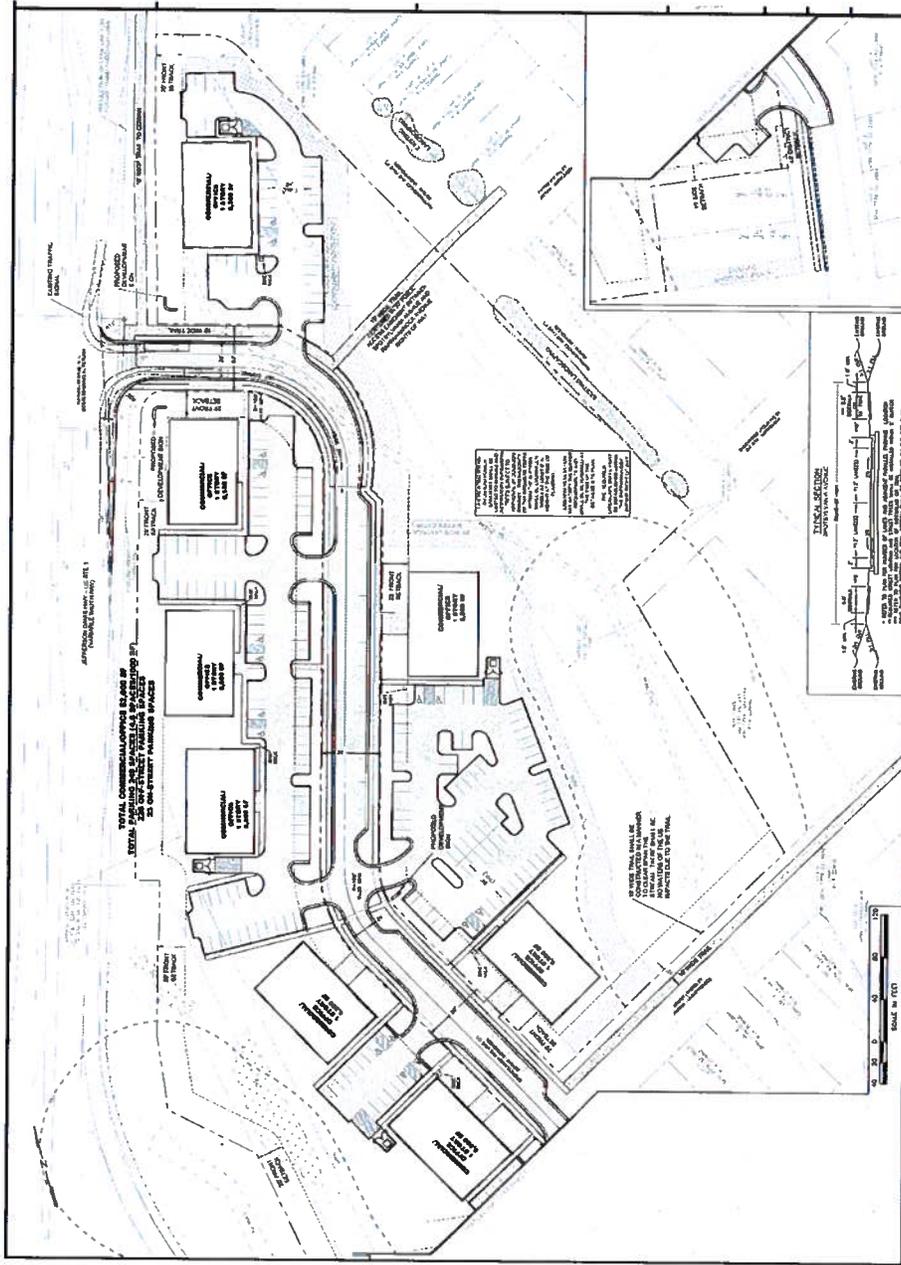


3. Proposed Zoning Map Amendment – Existing and Proposed Zoning



- Existing zoning consists of:
 - Residential-Mobile Home (Green);
 - Commercial Transitional / Office (Pink);
 - Residential – 4 (Yellow).
- Proposed zoning is Commercial – Highway with proffered conditions.

3. Proposed Zoning Map Amendment – General Development Plan

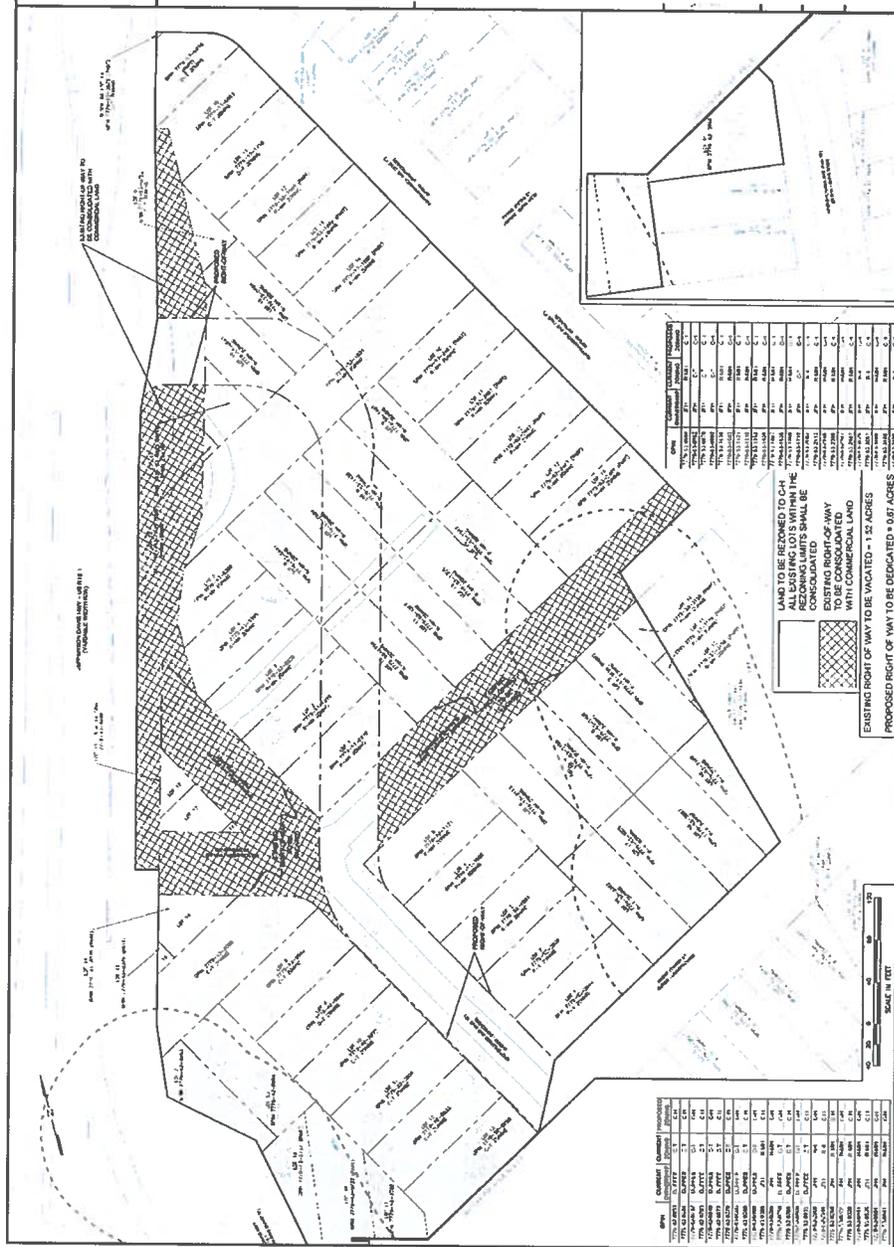


- 52,000 square feet of commercial / office space.
- 8 – 1 story 6,500 square foot buildings.
- No residential.
- Re-alignment and reconstruction of Spotsylvania Avenue.
- Construction of sidewalk network and off-site trails to connect project into the remainder of the network.

3. Proposed Zoning Map Amendment – Proffer Statement

- **Proffer 1:** Conformance with the General Development Plan.
- **Proffer 2:** Prohibition of establishments, automotive sales and rental (both small and large), automotive service, automobile towing and impoundment, and fast food restaurants.
- **Proffer 3:** Requires a special use permit for any future drive-through.
- **Proffer 4:** Motor vehicle access to College Heights residential neighborhood prohibited.
- **Proffer 5:** Applicant to construct off-site trails from Payne Street, Brent Street, and the Cowan Trail along US Route 1.
- **Proffer 6:** Enhanced Type D Buffer separating the neighborhood from the project.
- **Proffer 7:** Screening of service utilities from US Route 1 and building material standards.

3. Proposed Zoning Map Amendment – Vacation of Right-of-Way



- 0.85 acre net vacation of right-of-way.
- 1.52 acre vacation.
- 0.65 acre rededication of Spotsylvania Avenue right-of-way.

4. Potential Impacts and Proposed Mitigation

- **Access and mobility:**
 - No automobile connection to College Heights.
 - Reconstruction of Spotsylvania Avenue.
 - Pedestrian network – creation and linkages.
- **Environmental:**
 - Previously proposed encroachment into Resource Protection Area --- REMOVED after discussion with the Applicant.
 - Impacts to existing tree canopy.
- **Intensity of Use:**
 - Proffer statement prohibits high impact uses.
 - Proffer statement provides for enhanced buffering.
 - Proffer statement requires building material standards.

5. Next Steps / Recommendation

In accordance with the established e-meeting policies, the Planning Commission continue this item until the June 24th meeting. At that meeting, the Planning Commission should:

- Recommend to the City Council that the Comprehensive Plan be amended to reflect this change in land use vision.
- Determine that the vacation of portions of Spotsylvania Avenue and Dandridge Street right-of-ways are in conformance with the Comprehensive Plan in accordance with Virginia Code § 15.2-2232.
- Recommend approval of the proposed zoning map amendment of 50 GPINs from Residential Mobile Home, Residential 4, and Commercial / Transitional Office to Commercial Highway in accordance with the General Development Plan and Proffer Statement.

Planning Commission Meeting
Wednesday, June 17, 2020

ATT. 6

Cowan Station Rezoning

The Board of Directors of the College Heights Civic Association (CHCA) met with Mr. Jeh Hicks of J Jarrell Properties at its July 17, 2019, board meeting. At that meeting, Mr. Hicks provided us with his company's initial proposal, with artist renderings, of what the Cowan Station project would entail and he carefully listened to the concerns of the board as to what types of businesses would be allowed to operate in the development and to the board's adamant objection to allowing any vehicular traffic from Rte 1 and/or the development to be directed into the College Heights neighborhood.

Since that meeting, it is our understanding that Jarrell Properties has been working with the city's Planning Department to come up with the plan currently proposed and now under discussion.

The CHCA Board of Directors has reviewed the current proffers and maps of the proposed Cowan Station project and has some questions and concerns about the project. While it is very similar to the initial proposal, there are some differences.

The initial proposal showed 6 separate buildings in the office park complex along Spotsylvania Ave. with 227 parking spaces. The current proposal shows that Spotsylvania Ave will be repositioned for better traffic flow through the development and for better alignment where it intersects with Rte 1. While we have no concerns about the road realignment, there are now 2 additional buildings proposed, bringing the total to 8, with 228 off-street and 23 on-street parking spaces. Are an additional net total of 24 spaces adequate for the extra 2 buildings?

Proffers #4 states "there will be no direct motor vehicle access from Cowan Station to the College Heights residential neighborhood". We need to have clarification that there will be no motor vehicle traffic, direct or indirect, from Cowan Station and/or Rte 1 into the College Heights neighborhood, now or in the future, especially if the property north or south of Cowan Station were to be developed.

The initial proposal showed one walking trail from Spotsylvania Ave. through the office complex and into the neighborhood, emerging on Dandridge St. The current proposal shows 2 walking trails, one emerging at Payne St. and the other at Brent St. Why the need for 2 trails? There is concern that, should the parking lots become full, patrons of the office complex could park along Rappahannock Ave., where there is currently no Residential Permit Parking, and utilize the walking trail to access the parking lots. In addition, a trail emerging at Brent St. has the potential of adversely affecting the owners of 1212 and 1300 Rappahannock Ave with the trail being basically in their side yards. The trail emerging at Payne St., should there be a need for a trail at all, makes more sense as there are no houses to be impacted on the west side of Rappahannock Ave. at that intersection.

Have the owners of 1212 and 1300 Rappahannock Ave. been notified of the proposed trail that would run between their two properties and what are their responses?

Will the trails be maintained by the city? What assurances are there that trash and waste that could be generated by users would be promptly removed?

Proffer 6 states that a buffer of evergreen trees will be planted between the complex and the neighborhood. Who would be responsible for maintaining the buffer, the city, the developer or Dominion Power, especially since there is a Dominion Power easement nearby?

The CHCA Board appreciates the efforts of the Jarrell Companies and the city's Planning Department to minimize the impact of the development on the College Heights neighborhood and we look forward to having our neighborhood's concerns and questions addressed.

Submitted respectfully on behalf of the CHCA Board of Directors,

Meredith Beckett
President, College Heights Civic Association

Cathryn A. Eckles

ATT. 11

From: Meredith Beckett [REDACTED]
Sent: Wednesday, June 10, 2020 2:07 PM
To: Timothy P. Duffy
Cc: Planning; Diane Clark; Ted Clark; John Nere; Dennis Lister; Cat Paccasassi; Ellen Brown; Sue Sargeant; Rachel Sargeant
Subject: [EXTERNAL] Re: Cowan Station

CHCA would definitely support the renaming of Spotsylvania Ave. to a road named in honor of Clyde Matthews. It would be a great tribute to a man who did so much for College Heights and for the entire city. I'm not sure who would have the authority to approve the renaming, should it be considered. Council, Planning Commission, VDOT?

That being said, would a renaming affect some of the businesses along that road? To the best of my knowledge, they all currently have Olde William St. addresses so I'm assuming that the current Spotsylvania Ave. is only that portion of the road that runs along where the office park will be located and only that portion would be in consideration for a name change?

Thanks,

Meredith

On Tue, Jun 9, 2020 at 4:51 PM Timothy P. Duffy <tpduffy@fredericksburgva.gov> wrote:

Regarding the Cowan Station development, I note that early on in discussions with Mr. Hicks, he seemed supportive of the plan to rename Spotsylvania Ave. after a long-time neighborhood resident and civic leader, Clyde Matthews. During my most recent conversation with Mr. Hicks several months ago, he seemed unenthusiastic about the idea. I hope that this proposal can be a part of the plan.

Tim

Tim Duffy
Fredericksburg City Council, Ward 3
571-402-9485

From: nelson Sargeant [REDACTED]
Sent: Wednesday, June 10, 2020 3:14 PM
To: Timothy P. Duffy; Meredith Beckett
Cc: Planning; Diane Clark; Ted Clark; John Nere; Dennis Lister; Cat Paccasassi; Ellen Brown; Rachel Sargeant
Subject: [EXTERNAL] Re: Cowan Station

Renaming Spotsy Ave for Clyde is awesome. wow!

On Wednesday, June 10, 2020, 02:07:34 PM EDT, Meredith Beckett <mbeckett492@gmail.com> wrote:

CHCA would definitely support the renaming of Spotsylvania Ave. to a road named in honor of Clyde Matthews. It would be a great tribute to a man who did so much for College Heights and for the entire city. I'm not sure who would have the authority to approve the renaming, should it be considered. Council, Planning Commission, VDOT?

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