



CITY OF FREDERICKSBURG, VIRGINIA  
CITY COUNCIL  
**MINUTES**  
Council Chambers, 715 Princess Anne Street  
Fredericksburg, Virginia 22401

HON. MARY KATHERINE GREENLAW, MAYOR  
HON. CHARLIE L. FRYE, JR., VICE -MAYOR, WARD FOUR  
HON. KERRY P. DEVINE, AT-LARGE  
HON. MATTHEW J. KELLY, AT-LARGE  
HON. JASON N. GRAHAM, WARD ONE  
HON. JONATHAN A. GERLACH, WARD TWO  
HON. DR. TIMOTHY P. DUFFY, WARD THREE

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**July 11, 2023**

**The Council** of the City of Fredericksburg, Virginia, held a regular session on Tuesday, July 11, 2023, beginning at 7:30 p.m. in the Council Chambers of City Hall.

**City Council Present.** Mayor Mary Katherine Greenlaw. Vice-Mayor Charlie L. Frye, Jr. Council members Kerry P. Devine, Dr. Timothy P. Duffy, Jonathan A. Gerlach, Jason N. Graham and Matthew J. Kelly.

**Others Present.** City Manager Timothy J. Barody, Assistant City Manager Mark Whitley, Assistant City Manager David Brown, City Attorney Kathleen Dooley, Police Chief Brian Layton, Planning and Building Services Director Charles Johnston, Principle Planner Michael Craig, Historic Resources Planner Kate Schwartz, Budget Analyst Donna Leahy and Clerk of Council Tonya B. Lacey.

**Opening Prayer and Pledge of Allegiance.** Council was led in prayer by Councilor Matthew J. Kelly followed by the Pledge of Allegiance led by Councilor Jason N. Graham.

**Officer Recognized.** Mayor Greenlaw recognized the presence of Officer Casey Cash at this evening's meeting.

**School Safety & Security Initiatives; Transmittal on Safety in Schools; Teen Violence (D23-281 & D23-308).** Dr. Eberhardt gave a brief update on safety and security in the schools. He stated that recent community events involving teenagers and young adult violence has caused heightened levels of concern. He said the schools continue to collectively reflect and plan with law enforcement and community partners. Dr. Eberhardt wanted to assure the community that the schools are safe.

Dr. Eberhardt reviewed a list of accomplishments in the last year such as: holding regular meetings with Police, the Sheriff's, emergency services and fire department; an addition of a school resource officer at Walker-Grant Middle School; a safety and operations coordinator was added in 2022; all division administrators took part in an incident command system training, digital maps of every school was created to provide to first responders and the 911/Communication Center; all Fredericksburg City public School (FCPS) families can request a free gun lock from the division; a division staff member attended the Virginia Department of Criminal Justice Services Annual Safety Forum in Hampton; school administrators toured a mobile command unit and a bearcat truck and in January 2023, all FCPS schools engaged in a multi-agency tabletop exercise training that dealt with how to react to crisis.

He expressed how grateful they were for the strong partnerships with the local law enforcement and other agencies. He said as they prepare for 2023-24 school year additional plans are in the works to keep improving safety and security in the schools. Dr. Eberhardt said as they continue to focus on safety and security they will take the

following steps: solicit input from the Superintendent's Parent Advisory Committee on common questions and concerns parents may have; collaborating with the City to develop a roadmap for regular communications; the schools will participate on the City's Steering Committee; they have additional funding for two school resource officers in the elementary schools; the School Board is planning to host two listen-and-learn events and the next Superintendent's Round table will focus on safety and addressing threats to Safety.

Dr. Eberhardt said safety and security was top priority for everyone and they want to assure the community that the schools are safe and they will take a layered approach to ensure a secure, positive and healthy environment.

Police Chief Layton expanded on what Dr. Eberhardt provided and he stated that the City has two of the best Student Resource Officers (SRO) in the Commonwealth, Officers Uyuree Brown-Kaleopaa at James Monroe High and Chris Florio at Walker Grant Middle. The Police Department applied for and was awarded two grant from Department of Criminal Justice Services the first grant was for a full-time SRO and the other is for a part-time SRO both are for the two elementary schools. Chief Layton said the relationship between the City Police and the schools have never been better. The schools proactive work has made schools safer than they have ever been. Chief Layton assured everyone that the schools SRO's are committed to safety, building lasting relationships with the youth, lowering crimes in the schools and ensuring the City has the best trained team in the Commonwealth. He said there will be four SROs and one supervisor this is the most that the City has ever had.

Councilor Devine asked if the grants were for one year and Chief Layton said they were for 12 months but they would be asking for an extension.

City Manager Baroody stated that he and Dr. Catlett speak on a daily basis and they are on the same page with safety in schools, as well as the City. They are crafting a community engagement roadmap. He stated that in July there would be a massive push of information such as news releases, school system messages to parents, social media posts by both the City and school system, creation of web content, fact sheets and infographics.

Mr. Baroody said they plan to create a Steering Committee and they will tackle big national issues on gun violence, gangs in the community, community safety, school safety, mental health, family engagements, territorial conflicts, community resources and support among other things. The Police Chief is working with his counterparts in Stafford, Spotsylvania and King George to form a Regional Gang Taskforce. Mr. Baroody was hopeful to bring the draft to the Council for a more robust conversation in the next few weeks.

Dr. Catlett thanked everyone who has been involved in the process to ensure a smooth and safe opening of the Schools. She said it takes the community to do that. She said this is all needed to help redirect the students in the community. She was very thankful for the collaborative support from the City.

Vice-Mayor Frye stated that there was something going on in the community and it was not good. He said the Council has done things to reduce crime possibilities buy creating initiatives such as the Midnight Madness program, and for the last 7-8

years there were over 100 kids each year and this year there was only three kids registered.

Vice-Mayor Frye pleaded with parents to know what their kids are doing because there is an increase in crime. He said he would like to look at the possibility of a youth curfew which would hold adults responsible for the kids. He also reminded the public that the City has a gun giveback program.

Councilor Duffy thanked Vice-Mayor Frye for raising this point on the agenda and he was grateful for the way the schools and City Staff were working together to make safety a number one priority. He said the City must be creative to try to end this lethal violence and bridge the community together.

Mayor Greenlaw said it is the whole community's responsibility to pay attention to the youth and let them know that they are loved and appreciated. She thanked the City Manager and School Superintendent for working so closely together.

**Council Priorities.** Mayor Greenlaw noted that there were 30 priorities that the staff work through and report on the progress quarterly, but because of the heavy agenda they would not report on all the priorities. She said because of the interest in the priority regarding Clean and Green Environment staff would report on that priority.

Assistant City Manager Whitley reported on Priority 23, Moving Toward 100 Percent Renewable Energy and Improving Environmental Sustainability in City Facilities. The City has an energy performance contract with ABM and they will change the lights in City facilities to LED and provide engineering plans and specifications to possibly install solar panels at the Police Headquarters and Bass Ellison Building. He said they

have received 90 percent plans to install solar panels, and the next step is to review and develop cost estimates to consider in future budgets. He reported that an electric vehicle charging station has been installed at the Central Rappahannock Regional Library and with the partners of the Schools they are working on charging stations at James Monroe High School. The schools are also in the process of taking delivery of 10 electric school busses. He noted that one of the largest City fleets, the Police Department, has started to purchase hybrid vehicles. They currently have seven in use and eleven are on order.

Assistant City Manager Brown reported on Priority 24, Expand Conservation and Sustainability Efforts. Mr. Brown stated that in February 2023, the Environmental Sustainability Coordinator presented an update on the environmental sustainability plan and at the same time it was announced that Ms. Bellimam was leaving and she left while things were in process. He said they advertised for the position and received 14 applications and they selected five with an alternate, two of them decided not to participate in the interviews and the one candidate they decided to move forward with accepted another position. They have decided to re-advertise the position.

Mr. Brown said they were still working on development of a residential curbside electrical vehicle charging solutions program, evaluating facilities for individual residential charging conductors within the public right-of-way. He said they were also looking at the permitting process used by other communities. Another program that was in process before Ms. Bellimam left was the Sustainable Waste Management program, it included working with the R-Board on the development of composting and

recycling. Mr. Brown stated that another program they were looking at was solar energy on the old City landfill. Staff reported that Stafford had received a Public-Private Education Facilities and Infrastructure Act (PPEA) proposal for solar energy at the R-Board landfill.

**Consent Agenda Accepted for Transmittal as Recommended (D23-282 thru D23-283).** Councilor Kelly moved approval of the City Manager’s consent agenda; motion was seconded by Councilor Devine and passed by the following recorded votes. Ayes (7). Councilors Greenlaw, Frye, Devine, Duffy, Gerlach, Graham and Kelly. Nays (0).

- Acceptance of Wall of Honor Nominations: John M. Nolan, Gordon W. Shelton and George Van Sant (D23-282).
- Transmittal of the Board and Commission Minutes
  - Building Codes Appeals Board – June 15, 2023 (D23-283).

**Citizen Comment.** The following comments were given and/or submitted to be read during the citizen comment portion of this evening’s meeting.

**Kenneth Gantt**, 1204 Graham Street, spoke about the youth and teens and how there was a lot of interdiction going on. He said the schools and the police said what they were going to do to help with teen violence but he wanted to know how it would tie into the leadership (Council) getting involved. He said the teens are the most important asset. He wanted to know how the parents could also get involved and make the changes long lasting for the children.

**Melissa Schneider (D23-284)**, 400 Hanover Street, stated that she was not against Accessory Dwelling Units (ADUs) in principle but she said she had issues with the draft Revision 1, June 27, 2023 ordinance. She said over the past weeks she has heard several reason for ADUs: legacy AUDs, lack of housing, lack of affordable housing, equity, aging in pace and aging in place; dependent independence. She stated that the GIS system does not break down housing in the same way the zoning ordinance does and this is confusing some of the public.

Ms. Schneider explained that the backlog deficit for the number of units needed for the population expected in 2030 is approximately 625 units over the next six and a half years. She said there was a new development that was approved and it should fill the gap and there is not a lack of housing at this time. She also noted that there was affordable housing in the City at this time.

Ms. Schneider also stated that ADUs are being touted as a means to provide affordable housing to the missing middle but in reality ADU ordinances are being used to eliminate single family dwelling zoning.

**Raymond Herlong (D23-285)**, 1009 Prince Edward Street, stated that the Planning Director first stated there would be no more than 10 ADUs per year and that number slowly rose to 10-15. He said there was a fear that this number could be wrong since it is based on Northern Virginia and He said their ordinance is nothing like the City's ordinance. Mr. Herlong said he asked the Planning Commission and Council to place safeguards in the ordinance to ensure that number stays as predicted but he felt as though both bodies have resisted. Those safeguards were: discourage developers



and foster granny suites; perpetual owner-occupancy requirement; not by-right; requires licensing of new and existing ADUs; annual inspections and preserves habitat.

Mr. Herlong said the City's ordinance was sounding a lot like Arlington's and the first day Arlington's law took effect they had 9 applications and by Wednesday they had 12 and 7 more in process. He was concerned that the City may have the same response.

**Chuck Koch**, 3108 Normandy Avenue, rented a home that had an ADU in the back yard in addition to a storage shed. He then moved to an ADU as he developed his career and later lived in two others. He said the ADUs afforded him to be able to live near his work as a recent college graduate. He said he learned to be a good neighbor by living in ADUs. He said his impression of an ADU is positive.

Mr. Koch said he has settled and bought a house in Normandy village but would one day like to build a guest house and as they age it would be a place family could live or even a caregiver. He was supportive of the Planning Commission's recommendation and he urged the Council to support the recommendation.

**Amber Peebles**, 400 Hanover Street, picked up the presentation where Melissa Schneider left off on equity. She said the Urban Institute says that owning a home should no longer be tied to the American Dream and they say that financial gains from US homeownership are generally based on an individual's efforts but often arise simply from having enough resources to access homeownership, which is often the result of intergenerational advantage. She said intergenerational privilege was not true and disadvantages do not always equal failure.

Ms. Peebles noted that Mayfield is not similarly situated as Hanover Heights or Old Mill or Lower Caroline and she said the by-right ADU benefits the wealthy because they either already have a readymade ADU or can get a loan to build one. She said the disparate impact and gentrification potential is real.

Ms. Peebles stated that compromised or disabled family members don't necessarily need an ADU. Dependent independence is a wide spectrum and not all will be able to be independent and elderly isolation is a real problem.

In summary, she said the actual number of ADUs in the City is unknown because the spreadsheet was inaccurate. The City has enough planned development to handle the projected population increase up to 2030. She said ADUs are not more affordable when you look at what the square footage would cost. Ms. Peebles said ADUs are being promoted as one tool in the toolkit to increase affordable housing but it has no proven statistical correlation and the real reason for ADUs was for downtowners to make money and to eliminate single family dwellings.

Ms. Peebles asked the Council to vote no on the proposed ADU ordinance.

**Robert Thomas**, 809 Brompton Street, stated that he intended to speak in favor of ADUs but he felt most of Council had already made up their minds. He asked the Council to consider the many people who are not represented like the young people who will need housing and smaller apartments.

Mr. Thomas also asked how well prepared the City was if eight inches of rain fell particularly on Kenmore Street where the old canal used to run. He stated that the Front Street Foundation gives Kenmore street severe risk of flooding in the next 20

years. He asked the City to consider whether the canal that goes under Kenmore Street adequately draining the area. He said Sophia Street was not in danger.

**Sue Sargeant (D23-286)**, 1318 William Street, spoke about the City of Alexandria's extensive planning process in adopting the ADU text amendment and she highlighted that they wanted an initial owner occupancy at the time of construction, rather than at the time of permit. They also incorporated a tiered approach to setbacks. Other issues that arose in Alexandria's discussions were consistency in accessory dwellings in the residential zones and those zoned Commercial-Transitional or Commercial District, planned development mixed use and planned development residential.

Ms. Sargeant questioned whether the definition for accessory was strong enough. She said in order to be consistent Alexandria suggested that units over retail became a new classification called auxiliary apartments. Auxiliary dwelling within commercial buildings can be located on floors above, below, and behind retail or commercial uses, as well as other conditions such as: continuing to be classified as non-residential and ground floor auxiliary dwellings would be permitted only beyond the first 50 feet of a front building wall.

Ms. Sargeant also asked the Council to consider mentioning design features of ADUs, maintain the architectural design, style, appearance and character of the principle dwelling. She also asked that if the ADU is an interior unit not to take away from the house design with the possibility of two flights of stairs.

**Jannette Martin (D23-287)**, 3 Browns Lane, said she initially supported ADUs but she is now concerned that they will be a means of skirting residential zoning and contributing to the already overcrowded city.

**Daria Christian (D23-288)**, 713 Littlepage Street, said the Friends of the Rappahannock commended City Council and staff for their ongoing efforts to promote river friendly reforms through the Comprehensive Plan and the Small Area Planning process, including encouraging redevelopment and preservation of considerable amounts of greenspaces

Ms. Christian spoke about how the region will see the fastest growth and development in the nation but there are tools to manage the growth and development while protecting the environment and watershed. She said the proposed recommended ordinance on ADUs would provide another tool to managing growth through promotion of redevelopment in built-out urban areas inside existing structures. She stated that this type of redevelopment does not add new impervious surfaces that generate stormwater runoff, it reduces the removal of mature trees and reduces the pressure of suburban sprawl.

**Quincy Crecelius Click (D23-289)**, 713 Littlepage Street, spoke in support of ADUs as outlined in Option 1. She said this was one tool to access a variety of housing options. She said not addressing this through an amendment would result in shotty, hidden construction without dignity for some users. She also stated that she did not think ADUs would affect education and parking as some has expressed concern. She asked Council to allow ADUs as in Option 1.

**Meghan Colon (D23-290)**, 112 Kinloch Drive, spoke in support of Option 1 of the ADU proposal without additional amendments. She said this will offer a wonderful opportunity for the Fredericksburg community.

**Andreina Verdesoto (D23-291)**, 3006 Linden Avenue, spoke in support of ADUs because it would allow for multigenerational housing.

**Kimberly Bastress (D23-292)**, 1001 Kenmore Avenue, spoke in support of ADUs Option 1. Ms. Bastress explained that she grew up living in ADUs and she spoke of how she benefitted from this because she lived next door to doctors, college professors, and teachers. She said she was in support because she can see how the community changed in the last few years where homes have become unaffordable for many. She was in support because she believes the ADUs are the key to a diverse and vibrant City.

**Mary Beth Rich (D23-293)**, 1609 Augustine Avenue, asked for the consideration of the extreme need for affordable housing in the City. She said new construction of homes and those for sale or lease are becoming increasingly unaffordable. She stated that studies indicate a probability of 10 ADUs over the course of five years which is far less of a footprint than that of a newly constructed home or impact of permitting ADUs. She asked to Council to honor the legacy of Fredericksburg with its, uniqueness, charm and diversity by embracing all who wish to reside in the City.

**Ron Smith (D23-294)**, 1318 William Street, said he supports the ADU Text Amendment conditions from the Charlottesville Text Amendment which varied slightly from the Fredericksburg Text Amendment. He was supportive of the Charlottesville amendment because it is a college town and they have had years of experience in

dealing with ADUs. He stated that Charlottesville does not have by-right but they have a provisional use permit (PUP). The PUP process provides a means for the City to approve specific use with certain restrictions or conditions as needed to minimize impacts on neighboring properties. Other items he discussed for consideration were, for the exterior the total of the areas of the footprints of the ADU and all other accessory structures in the rear yard cannot exceed thirty (30) percent of the area of the rear yard; the maximum height permitted for an exterior accessory apartment/ADU is the lesser of: 1. Twenty-five (25) feet; OR 2. The height of the primary residence and external (detached) accessory apartments can be built within the rear yard of a property.

**Rachael Sargeant (D23-295)**, 812 Daniel Street, stated that ADUs especially the new builds, should have universal design features. She said there are misconceptions that American with Disabilities Act and the Fair Housing act does not apply to AUDs but they do.

Ms. Sargeant listed several requirements for ADU owners: owners should be able to request a variance in order to save an existing tree if it is located within the setback of the detached unit; applicants who wish to build ADUs should have their taxes paid in full; they should be a full-time resident of Virginia; the owner must reside on the premises for at least 9 calendar months cumulatively in a calendar year; the owner should sign an affidavit stating they occupy either the primary dwelling or the ADU. She also provided a definition for Owner. See D23-295 for more information.

**Julie Lee Kay (D23-296)**, 1616 Franklin Street, spoke in favor of ADU's but homeownership should be required once the ADU was approved. She also suggested

there needed to be monitoring of the ADUs by the City and if the City could not commit to that, they should not approve the ordinance.

**Sarah Dewees (D23-297)**, 809 Marye Street, stated that she was in favor of the new guidelines for ADUs in Option 1 and full-time owner-occupancy versus only at the time of ADU application and she did not see the need to specify off-street parking requirements. She said there was great value in being able to build ADUs in the City guided by City Code. Ms. Dewees was hopeful the City Council would pass the ADU guidelines to continue to support homeowners in Fredericksburg.

**Debby & Ross Girvan (D23-298)**, 612 Hawke Street, spoke in opposition to the legalization of ADUs in the City. They said they degrade the character and quality of life of single-family neighborhoods by overpopulating city lots. They were concerned because the City does not have the resources, infrastructure or capacity to manage, monitor and enforce the ordinance.

The Ross' spoke about the many issues that occur in the city because of not having adequate planning, services, infrastructure and other critical resources and they feel that ADUs would further stress the City services in the downtown. The City is increasing its population density and taxes faster than the City can adjust to the growth and its associated costs. ADU's create unnecessary financial and lifestyle consequences for existing and future businesses and property owners.

**Kyle Drebes (D23-299)**, 709 Weedon Street, spoke in support of ADUs. He stated that Fredericksburg's housing costs have skyrocketed and current residents were being displaced as homes are being flipped for higher cost housing. Mr. Drebes said

there needed to be more housing options to make sure residents can remain in the City and he would like to see the ADUs by-right.

**Rebecca Light (D23-300)**, 207 Pitt Street, stated that if it was the Council's intentions to follow the George Washington Regional Commission's roadmap to expand accessory dwelling units in residential districts then it should be required to have a special use permit or special exception permit. She said the draft ADU Ordinance Version 2 interior only, requiring owner occupancy will save some grief.

**Carey Whitehead (D23-301)**, 709 Weedon Street, spoke of how a ADU would have helped a neighbor of hers who had to move out the City because the place where she was living was sold and renovated for high end single-family housing. Ms. Whitehead was in favor of ADUs because they include maintaining a walkable community, which is great for the climate, the health of the residents and the ability of household to age in place in units close to amenities.

Ms. Whitehead urge the City Council to adopt the mother-in-law unit ordinance proposed by City Staff and recommended by the Planning Commission.

**Eric Bonds (D23-302)**, 437 Hansen Avenue, requested the Council approve the ordinance recommended by the Planning Commission. He spoke of how he had the opportunity to live in an ADU when he was as graduate student and he would love for other young people to be able to take advantage of this housing option. He was also supportive of ADUs because it is a good climate adaption policy.

**Ralph Joseph (D23-303)**, 913 Cornell Street, stated that he has heard proponents use the terms fairness and equitable when advocating for ADU and he said currently all



homeowners live by the same rules and that is fair and equitable. Mr. Joseph said the Council should not approve ADUs by-right, they should require owner occupied and there should be an inspection program.

**Debra Zbrzezni (D23-304)**, 1403 Graham Drive, spoke about the crime rate in Fredericksburg and she asked what will happen once there is an increase in density. She said there will be an increase in electricity, water, sewer, traffic and it would create congested housing and reduce the values of single-family homes. She also expressed concern for the impact on first responders.

Ms. Zbrzezni said property changes occur when people buy for investments and rent spaces out and the City would need to hire more than one code enforcer to enforce the ADU codes.

**Darin Alleman (D23-305)**, 702 Hanson Avenue, spoke in support of Option 1 of the proposed ADU ordinance. He said Option 1 aligns most with the direction that the City is moving towards. ADUs will provide opportunities for more people of various income levels and walks of life.

**Elizabeth Safley Griffey (D23-306)**, 1231 Hanover Street, was not in support of the ADU implementation. She said excluding detached ADUs in the proposed ordinance does not meet the objective of maximizing the Housing Stock and Option 2 is not equitable for all homeowners. She noted that the benefit of a detached ADU would allow the occupant privacy while living in a detached dwelling setting surrounded by their own green space offering an independent feeling.

Ms. Griffey also said requiring the owner occupancy was unreasonable because if the homeowner moved it would displace the tenant, therefore she said detached ADUs must be allowed to make it fair and equitable to all homeowners in the City. She was in support of Option 1 with the owner occupancy removed.

**Council Agenda Presented.** The following items were presented to Council for discussion.

8A. Comprehensive Plan Amendment Request from Downtown Greens –  
Councilor Devine

**Comprehensive Plan Amendment Request from Downtown Greens**

– Councilor Devine said there was very strong support from the community with the purchase of the 56 acres of land in the industrial park, but in order for them to proceed with recreational/educational use of the property they requested an amendment to the Comprehensive Plan. They requested an easement with the Virginia Outdoors Foundation and this will enable them to secure a grant and move forward with the recreational/educational use that is planned for the property. Councilor Devine requested that the process get started.

City Manager Baroody said he would work with the City Attorney Dooley to bring it to the August 8 meeting.

**Appointment to the Economic Development Authority – Frank Cirioni, Daniel Clendenin, Anita Crossfield, Maurice Smith, Theodosius Zotos (D23-307).** After the recorded vote was taken, Anita Crossfield was appointed

to serve on the Economic Development Authority with a vote resulting between applicants Frank Cirioni, Daniel Clendenin, Anita Crossfield, Maurice Smith, Theodosius Zotos. Cirioni (0); Clendenin (3) Greenlaw, Duffy, Graham; Crossfield (4) Frye, Devine, Gerlach, Kelly; Smith (0); Zotos (0).

**Ordinance 23-15, First Read, Amending the Unified Development Ordinance §72-84, Definitions, and Article 72-4, Use Standards, to Establish Regulations Governing the Use of Accessory Dwelling Units (ADU) (Version 2 Interior Only) (D23-309 thru D23-310).** Principal Planner

Craig presented a PowerPoint presentation and he presented the option that were available. The Planning Commission recommendation (Option 1) allows only one single family detached dwelling unit, maximum of 1 ADU per lot, one kitchen in the ADU, no increase in maximum occupancy, it must be the owner's primary residence at the time of zoning permit, no short-term residential rental use and applications require notice to neighbors.

The Planning Commission's version (Option 1) also had general design parameter associated with internal units: the maximum size would be the greater of 40 percent of the gross floor area or 600 square feet; the exterior entrance is permitted only on the side or rear of the principal dwelling and addressing policy applies to separate entrances. The Planning Commission recommendation also included detached ADU's with the following regulations: maximum size is 600 square feet, the height may be up to 25 feet with reduced setbacks if on a corner lot or lot abutting an alley, the rear yard

may cover more than 30% of the rear yard if a 24 foot offset is included between ADU and primary structure, exception: in an existing accessory structure if all on one floor (and no expansion of structure) and the addressing policy applies.

Mr. Craig explained the Internal ADU (Option 2) would have the same provisions as Option 1 without the detached ADUs. Based off public hearing dialog they added additional menu items. The menu items are as follows: Menu Item A: clarifying the definition of an owner; Menu Item B: Change in the owner occupancy requirement; Menu Item C: Prohibit exterior stairs on the side of a principal dwelling unit, when that side faces a public right-of-way and Menu Item D: Amend the ordinance to require off-street parking on City streets with limited parking supply.

Mayor Greenlaw commended the staff and Planning Commission on the work they have done with reaching out to the community answering the many questions, holding public meetings and navigating this complex issue. She also thanked the citizens for coming out getting engaged and informing themselves and assisting the Council on this complicated decision.

Councilor Graham was appreciative for all the citizens that sent in feedback. He said it was a testament to the civic character of the City of Fredericksburg. He was strongly in support of Option 1 because the opportunity for housing was not sufficient and there needs to be more ADUs and missing middle housing. He stated that he realized he was in the minority in supporting Option 1 and he would rather have something rather than nothing. He asked the Council to discuss Option 2, with Menu

Items A and D and a new Menu Item F: Bringing back the Rental Inspection Program in Fiscal Year 2025.

Councilor Graham moved to approve Ordinance 23-15, amending the Unified Development Ordinance §72-84, Definitions, and Article 72-4, Use Standards, to Establish Regulations Governing the Use of Accessory Dwelling Units (Version 2 Interior Only) with Menu Items A, D and F; motion was seconded by Councilor Gerlach.

Councilor Devine thanked everyone who contributed and she stated that she would prefer Option 2 and she would like Menu B.

Councilor Duffy said he liked Menu Item B as well because with Item B there would not be an emergency to add a rental inspection program.

Councilor Kelly expressed his concerns with incremental changes without looking at the bigger housing picture. He recently saw a map of the region and it included the Comp Plans of Fredericksburg, Stafford and Spotsylvania and he said you could not find Fredericksburg because it was swallowed up by residential development. Councilor Kelly stated that housing would always be more in the City and more density would not change that. He said the Community would have to agree to investment resources to make housing affordable, such as tax breaks and other aspects.

Councilor Kelly also said that the planning district could not provide the transportation infrastructure to support the level of construction that is planned. He said the HUD standard says the City has all the affordable housing it needs.

Councilor Kelly said the things he brought up, were the things most people said and they were: owner occupancy, special use permit, provisional use and rental

maintenance program. He said a rental maintenance program is needed before this is approved. He said this was not ready to move forward but to move forward it would have to be within the confines of the house, owner, occupied in perpetuity but there needs to be an enforcement component before moving forward.

Councilor Gerlach asked what the downside was for having permanent owner occupancy and Ms. Dooley explained that the concerns with owner occupancy as a requirement center around the implementation of it. She said as long as there was an ADU the owner would have to occupy and if there was a sale and the new owners decided not to reside at the home, it would discourage people from buying the house. She also noted the implementation would require a lot of continuous enforcement work to determine who resides at the property. She said it would create complications down the road.

Councilor Graham stated that he was strongly against Menu Item B because a person could get kicked out if the home was sold to a person who plans to rent the house out.

Councilor Kelly added that there were many things to look at such as provisional use, reapplying every year to help make this process better and he would like the opportunity to discuss these more.

Councilor Duffy stated the biggest impact that could be made with enforcement would be to have owner occupied and he proposed a substitute motion adopting Version 2 to include Menu Items B-owner occupied, D-parking, F-future consideration of the rental inspection program; motion was seconded by Councilor Devine.

Mr. Johnston reminded Councilor Duffy that Menu Item A was a very technical component to define what an owner is and it would be helpful to include it in the motion.

Councilor Duffy added Menu Item A-definition of an owner, to the substitute motion; Councilor Devine seconded that addition.

Councilor Kelly suggested waiting on making a motion and having a work session to narrow things down to what the Council wants.

Mayor Greenlaw explained that if this passes it would be a first read and the ordinance would adopt the changes into the new ordinance and these changes would be advertised for a public hearing. Mayor Greenlaw said she did not think this item was ready for prime time and she was not comfortable approving it.

The substitute motion passed by the following recorded votes. Ayes (4). Councilors Frye, Devine, Duffy and Gerlach. Nays (3). Greenlaw, Graham, Kelly.

The Council then voted on the substitute motion, as the main motion, to adopt the ordinance on first read and the motion passed by the following recorded votes. Ayes (4). Councilors Frye, Devine, Duffy and Gerlach. Nays (3). Greenlaw, Graham, Kelly.

**Resolution 23-50, Affirming the Architectural Review Board's Approval of Site Planning, Mass and Scale for 400 Princess Anne Street**

**(D23-311 thru D23-313).** Historic Resources Planner Schwartz presented a PowerPoint presentation and she explained how a development process of this type goes through the City review processes. This project is a new construction of five new residential units in the historic district. The first step would be to have the Architectural

Review Board (ARB) looking at the site scale and massing once that is approved it would proceed through other legislative processes, in this case a rezoning and special use permit consideration, major site plan application, send it back to the ARB for a public hearing on detailed architectural design and building permit.

Ms. Schwartz explained that at the site planning stage the ARB approve a Certificate of Appropriateness (COA) for the setbacks, the building footprint, overall building height (34 feet 6 inches), the flat roof and the orientation of the façade to Frederick Street. The COA was issued on April 10, 2023 for site planning, scale and massing of one of the two buildings proposed, the block of four residential townhomes. The fifth unit, an infill building fronting Princess Anne Street was reviewed and received site planning, scale and massing approval on July 10, 2023.

Ms. Schwartz explained that all other detailed architectural designs including material specifications, window and door types/locations, roof detailing and site appurtenances would be reviewed at the second public hearing.

Two letters of appeal have been filed by neighboring property owners with interrelated complaints to include aspects of the ARB process, conflict with other City Code sections, and conflict with new construction guidelines in the Historic District Design Guidelines.

Ms. Schawrtz stated that in general they did not identify any defects in the process or notice although it was a complex application. There was an ARB work session scheduled for January 23, 2023, which was properly notice but later cancelled due to staff illness. The applicant also provided certified mail receipts for notices mailed to



adjacent property owners prior to the December 12, 2022 public hearing and all were verified as delivered. There were also complaints regarding the distribution of revised drawings during meetings and access of those revisions to the members of the public. Ms. Schwartz said corrected or updated documentation may be distributed in person at ARB meeting for discussion; however, all documentation that formed the basis of the ARB's April 20 vote was distributed in the meeting packet and provided on the City website in advance of the meeting.

The question about irregular voting procedures and issuance of a partial approval, Ms. Schwartz said the Boards voting and review procedures were in accordance with Robert's Rules of Order and the ARB's adopted bylaws. She said it was common for the ARB to address complicated applications in parts to help keep an applicant moving forward and to focus the discussion on elements of most concern.

There was a complaint about the distinction between consideration of site planning/layout and technical review of a major site plan application by City staff. Ms. Scwhartz explained that the ARB's consideration of site planning, scale and massing does not negate any technical review requirements for a land development project in the City. She said any changes that are made during subsequent reviews must be brought back to the ARB for final approval before the review of the building permits.

Ms. Schwartz stated that the complaints in regards to the conflict with other City Codes were technical elements that were not in the ARB purview and would be addressed though the technical reviews.

In regards to the quality of parking, it is determined through the Major Site Plan review process. The right-of-way lines and the vehicle ingress/egress are technical elements that are not in the ARB purview and would be addressed later on. The effect on new construction and the reference to more restrictive site planning requirements in the Unified Development Ordinance (UDO) are also not within the ARB purview and there is a process to address them later.

The last category of complaints regarding the Historic District Design Guidelines in reference to building height, Ms. Schwartz determined the building fit within the surrounding neighborhood context. The ARB would later review the details of the roof and mechanical elements but flat roof buildings were common in the neighborhood. There was also a concern that height diagrams provided by the applicant did not accurately depict the character of the neighborhood. Ms. Schwartz said no one drawing provided the basis for the ARB approval. She said they rely on their expertise and they conduct site visits and review their entire package of materials when making their decisions.

It was staff's opinion that the ARB's review was thorough and comprehensive taking place over more than five months. There were many opportunities for the public review and comments and the ARB was careful to distinguish which areas were within their purview.

Hamilton Palmer, the appellant, presented his appeal which he said he revised after hearing the work session and reading the staff report. He said he requested the appeal be heard in August for several reasons: as a courtesy to the other appellant who

was out of the country. He requested information from the ARB members on June 12 and they had not replied and Ms. Schwartz let them believe they did not have to respond because it was not a formal request. Mr. Palmer said the ARB members did not respond within five days and he wanted that information prior to the Council hearing his appeal. He said he requested public information from Ms. Schwartz and she did not provide some of the information requested.

Mr. Palmer played a video of the ARB meeting where he made his Freedom of Information Act (FOIA) request to the ARB.

Mr. Palmer handed out his amended appeal (D23-313). He listed reasons why his appeal should be granted and the first was that he did not receive the required notice. He said there was misinformation provided by staff and the applicant see D23-313 for the list. In Mr. Palmer's document D23-313 he also addressed the height and trees. He said the height of the proposed structure would be two stories taller than the neighboring historic building as well as to the adjacent building. Mr. Palmer said that staff advised the ARB that the neighboring buildings ranged from two to two and a half stories.

Mr. Palmer stated that the staff told the ARB that the trees were not to be considered as part of the site planning and that there were three criteria and trees were only considered for alterations to existing building. He said the townhomes would kill the trees.

Mr. Palmer states that the April 10 staff memo showing the adjacent building height comparisons was false and misleading and does not depict any of the adjacent

buildings. Mr. Palmer expressed that he was upset for the following reasons: because the applicant was planning to build townhomes 5 feet from his property lines, likely killing trees he planted 23 years ago; the applicant and staff provided misinformation; staff was given the opportunity to present at the work session but the appellants did not have the same opportunity to rebut any misinformation and staff only included a resolution to deny but did not include a resolution to approve the appeal.

**Motion to Suspend the Rules.** Mr. Gerlach moved to suspend the rule in order to meet passed 11:00 p.m.; motion was seconded by Councilor Kelly and passed by the following recorded votes. Ayes (7). Councilors Greenlaw, Frye, Devine, Duffy, Gerlach, Graham and Kelly. Nays (0).

Mr. Palmer gave seven reasons the appeal should be upheld and they were because no notice was given to adjoining landowner, a new public hearing was not clearly announced, substantial changes to the plans and lack of advertising the March Public Hearing, misinformation provided by City staff, misinformation provided by the applicant, the project does not meet the applicable Historic District Design Standards and Guidelines provided in the staff report and specifically the height issue and the site planning addresses building setbacks but does not consider existing trees and probable damage to trees.

Mr. Palmer asked the City Council to revoke the COA and have the applicant return to the ARB for further review to address the standards misapplied or violated including a plan showing the buildings and impacts on the existing trees.

Mr. Mike Adams, the owner, commended staff on the thoroughness of their report. He said this has been a very exhaustive process. He said it has been nine months and they just received their second scale and massing approval. He said there were countless public hearings, countless requests for more information, they also held meetings in the community. He said the order they followed for approval was the most prudent. He said they are committed to doing this project and doing it the right way.

Karen Irvin, ARB Chair, said the staff report was clear and detailed when responding to the appeal. She assured the Council that the process by which the ARB came to its conclusion was correct. It was in compliance with the by-laws and it complied with the publicly posted rules of procedure. She said the by-laws have a specific provision in the outlining the option of considering projects in a two-step review, with the first step being site planning, massing and scale. Finally, she said when the ARB review applications they base their reviews on submittals, the drawings and they do site visits and frequently they find things that contradict to materials and they were aware of the heights of the buildings. She said the review was standard and she was not aware of ever receiving misleading information from staff.

Councilor Kelly stated that he could not understand how they could use the Purina Building and the Loft, which is new construction, for height comparison. He said the project should be compared to the historic residential properties when comparing heights. He said the City is not supposed to base decisions on what's best for the developer but what is best for the historic character of the City.

Councilor Kelly expressed his concern that the historic district was not the priority.

Councilor Gerlach said as a past chair of the ARB he was looking for a reason to reverse the decision but he could not find any.

Councilor Gerlach moved to approve Resolution 23-50, affirming the Architectural Review Board's approval of site planning, mass and scale for 400 Princess Anne Street; motion was seconded by Councilor Graham and passed by the following recorded votes. Ayes (6). Councilors Greenlaw, Frye, Devine, Duffy, Gerlach and Graham. Nays (1). Councilor Kelly.

**City Manager's Report and Council Calendar (D23-314 thru D23-315).** City Manager Baroody directed the Council's attention to the Manager's Update: Summer Restaurant Week, James Monroe High School, School Resource Officer has been awarded Department of Criminal Justice Services Officer of the Quarter, FXBG Peeps Diorama Show and Exhibition, Around the Town Trolley, Join Team FXBG, Hydrant Maintenance Flushing Program, Farmers Market, Traffic Safety Initiative, Water Bill Assistance, Happy Summer, The Parks, Recreation, and Events Summer Catalog and Fred Focus.

**Adjournment.** There being no further business to come before the Council at this time, Mayor Greenlaw declared the meeting officially adjourned at 11:21 p.m.

*Mary Katherine Greenlaw*  
Mary Katherine Greenlaw, Mayor

*Tonya B. Lacey*

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Tonya B. Lacey, Clerk of Council

**APPROVED**

**08-08-23**

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