



City of Fredericksburg, Virginia

City Council

AGENDA

Council Chambers

715 Princess Anne Street

Fredericksburg, Virginia 22401

Jul 12, 2016

7:30 p.m.

Mayor Mary Katherine Greenlaw, Presiding

Hon. Mary Katherine Greenlaw, Mayor
Hon. William C. Withers, Jr., Vice-Mayor, Ward Two
Hon. Kerry P. Devine, At-Large
Hon. Matthew J. Kelly, At-Large
Hon. Bradford C. Ellis, Ward One
Hon. Timothy P. Duffy, Ph.D., Ward Three
Hon. Charlie L. Frye, Jr., Ward Four

1. **Call To Order**

2. **Invocation**

Councilor Bradford C. Ellis

3. **Pledge Of Allegiance**

Mayor Mary Katherine Greenlaw

4. **Presentations**

5. **Public Hearing**

- A. Resolution 16-___, Denying Special Exception Applications By Timbernest, LTD. For 506-516 Sophia Street And The Rear Of 525 Caroline Street

Documents:

[5A TIMBERNEST.PDF](#)

6. **Comments From The Public**

City Council provides this opportunity each regular meeting for comments from citizens who have signed up to speak before the start of the meeting. To be fair to everyone, please observe the five-minute time limit and yield the floor when the Clerk of Council indicates that your time has expired. Decorum in the Council Chambers will be maintained. Comments that are not relevant to City business and disruptive are inappropriate and out of order.

7. **Council Agenda**

- A. Permit Parking On College Avenue - Councilor Kelly

Documents:

8. Consent Agenda

A. Transmittal Of Report On Conflict Of Interest Act Opinions

Documents:

[8A COIA OPINIONS REPORT.PDF](#)

B. Resolution 16-57, Second Read, Amending The Fiscal Year 2017 Public Works Fund Budget And Increasing Appropriations By \$180,900 Reflecting An Increase In Funding From The Virginia Department Of Transportation (VDOT)

Documents:

[8B VDOT FUNDING.PDF](#)

C. Resolution 16-___, Appointing Christen Gallik To The Rappahannock Area Youth Services And Group Home Commission

Documents:

[8C GROUP HOME APPT.PDF](#)

D. Resolution 16-___, Amending The Fiscal Year 2017 Appropriation For The Rappahannock Area Office On Youth Fund By \$68,638

Documents:

[8D GROUP HOME APPROP.PDF](#)

E. Ordinance 16-___, First Read, Conforming The City Meals Tax To State Law, And Eliminating The Meals Tax Exemption For Meals Exempt From The Virginia Retail Sales And Use Tax In Response To Virginia Department Of Taxation Tax Bulletin 16-3

Documents:

[8E MEALS TAX AMEND.PDF](#)

F. Resolution 16-___, Amending The Rappahannock Area Law Enforcement Mutual Aid Agreement To Add Stafford County Sheriff David P. Decatur As A Party

Documents:

[8F MUTUAL AID AGREE.PDF](#)

G. Resolution 16-___, Authorizing The City Manager To Execute A Contract With Aegis ITS, Inc. For Provision Of Equipment And Services Associated With Enhancement And Upgrading Of The City's Advanced Traffic Signal Management System

Documents:

[8G TRAFFIC MGMT SYSTEM.PDF](#)

- H. Ordinance 16-___, First Read, Requiring Zoning And Building Official Approval Before A Business License Is Issued

Documents:

[8H BUSINESS LICENSE.PDF](#)

- I. Transmittal Of Boards And Commission Minutes

- I.i. Recreation Commission - April 21, 2016

Documents:

[8I1 REC_4-21-16.PDF](#)

- I.ii. Recreation Commission - May 19, 2016

Documents:

[8I2 REC_5-19-16.PDF](#)

9. Minutes

- A. None

10. Boards And Commission Appointments

- A. Council Appointments To Various Boards And Commissions

Documents:

[10A COUNCIL B-C.PDF](#)

11. City Manager Agenda

- A. Resolution 16,___ Recommending The Appointment Of Certain Persons By The Circuit Court To The Board Of Equalization And Setting The Compensation Of Board Members

Documents:

[11A BRD OF EQUALIZATION.PDF](#)

- B. Resolution 16-___, Amending The Fiscal Year 2017 Budget By Appropriating Fiscal Year 2016 Carryover Funds For Public Works Vehicles

Documents:

[11B PUB WRK VEHICLES.PDF](#)

- C. Resolution 16-___, Initiating Actions In Response To SB 549 Relating To Conditional Zoning For Residential Rezoning And Proffer Amendments

Documents:

[11C PROFFER BILL.PDF](#)

- D. Resolution 16-___, Adopting The List Of Streets To Be Improved During The Fiscal 2017 Asphalt Rehabilitation Program

Documents:

[11D LIST OF STREETS.PDF](#)

- E. Resolution 16-___, Approval Of The Washington Avenue Tree Task Force Majority Report And Recommendations For Tree Plantings On The Washington Avenue Mall

Documents:

[11E WASH AVE MALL TF RECOM.PDF](#)

- F. Transmittal Of Administrative Procedures For Planting Of Street Trees And Trees In Parks

Documents:

[11F TREE PLANTING PROCEDURES.PDF](#)

- G. City Manager's Update

Documents:

[11G CITY MANAGER UPDATE.PDF](#)

- H. Calendar

Documents:

[11H CALENDAR.PDF](#)

12. **Closed Session**

- A. To Convene In Closed Session Under Code Of Virginia 2.2-3711(A)(1) For Discussion Of The Assignment Of The City Manager

Documents:

[12A CLOSED MEETING.PDF](#)

- B. Resolution 16-___, Approving Certification Of Closed Meeting

13. **Adjournment**



MEMORANDUM

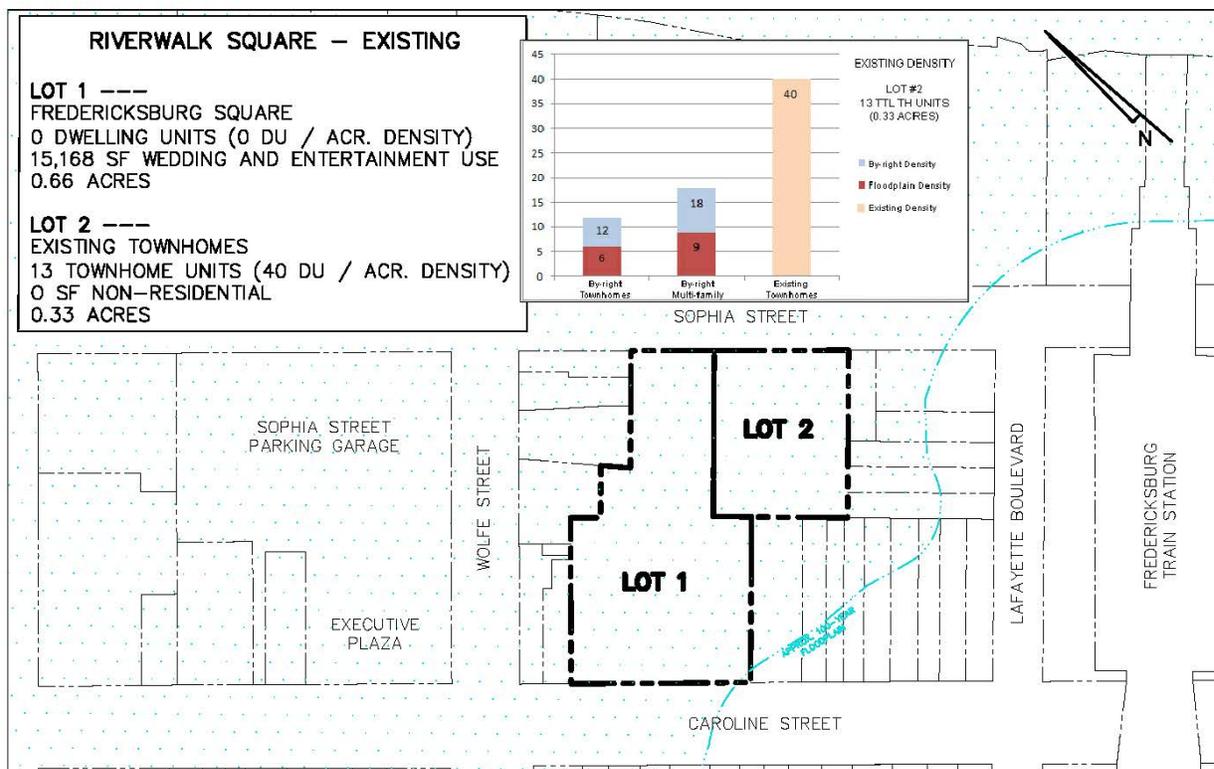
TO: Tim Baroody, City Manager
FROM: Mike Craig, Zoning Administrator
DATE: July 6, 2016 for the July 12 meeting
SUBJECT: SE2016-01 Timbernest, LTD requests Special Exceptions from general density and floodplain density to redevelop 506 – 512 Sophia Street (GPIN 7789-23-5802) and a portion of 525 Caroline Street (GPIN 7789-23-3825) in the Commercial-Downtown (CD) Zoning District.

ISSUE

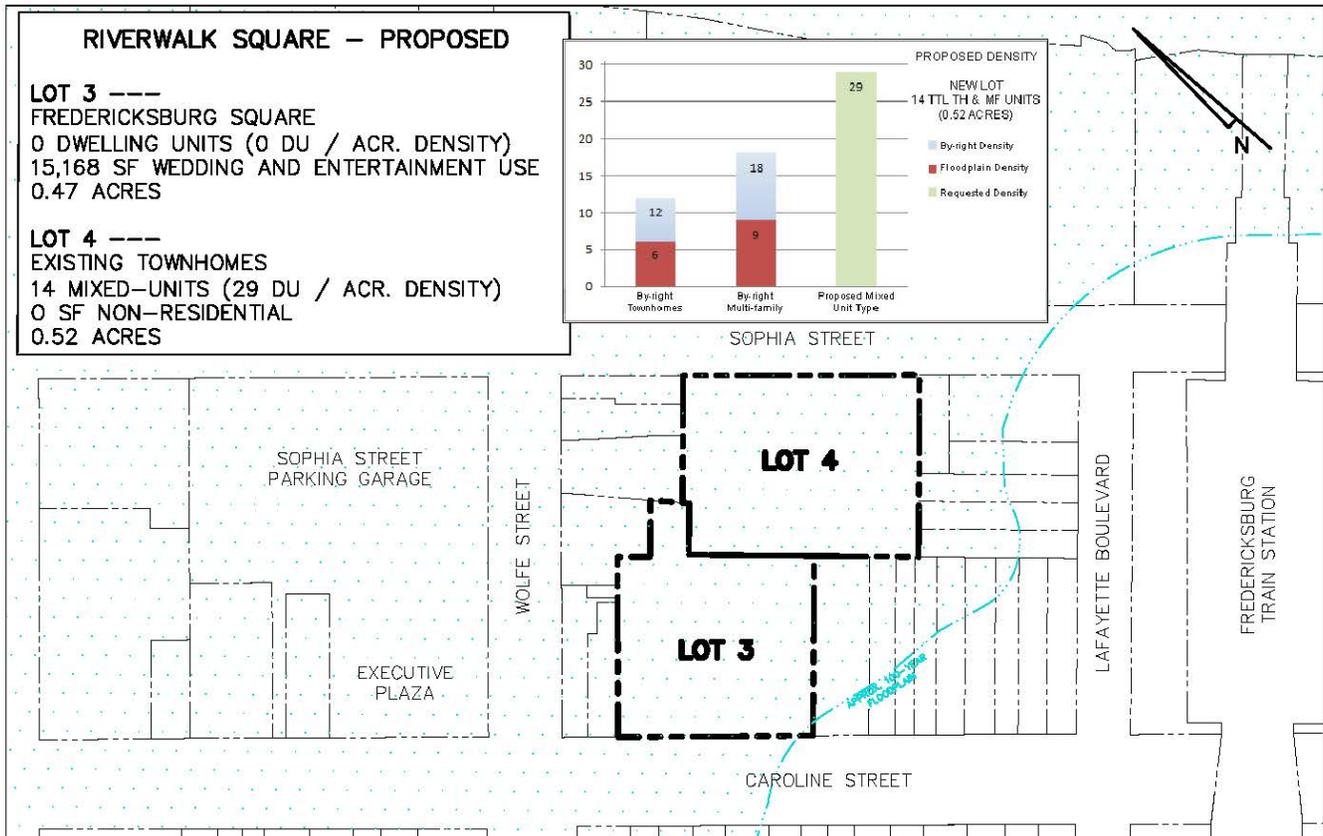
Should the City Council approve the Special Exceptions to increase the general permitted density and increase the density permitted in the 100 year floodplain for the proposed River Walk Square multi-family and townhome redevelopment?

EXECUTIVE SUMMARY

Timbernest, Ltd. owns two adjacent parcels at the heart of the historic block bounded by Caroline Street to the west, Wolfe Street to the north, Sophia Street to the east and Lafayette Boulevard to the south. Lot 1 is a 0.66 acre parcel that contains the Fredericksburg Square building and its parking and service facilities. Lot 2 is a 0.33 acre parcel containing 13 townhome units. The existing residential density on Lot 2 is 40 units per acre.



Timbernest, Ltd. proposes to realign the boundaries of Lot 1 and Lot 2 to create a 0.52 acre parcel fronting on Sophia Street (Lot 4), demolish the existing 13 townhome units, and build seven new townhome units and seven new multi-family units on the revised lot. The proposal would create a project with a mixed-unit density of 29 units per acre called Riverwalk Square¹.



Building at a 29 unit per acre density on Lot 4 (which is entirely within the 100-year floodplain) requires special exceptions from § 78-32.2 and § 72-51.1 as shown in the chart below:

Special exception request - Commercial Downtown Zoning		
§ 72-32.2	By-right density	18 du / acr (MF); 12 du / acr (TH)
§ 72-51.1	Floodplain density (1/2 by-right)	9 du / acr (MF); 6 du / acr (TH)
Proposed Density		29 units per acre

Unified Development Ordinance § 72-22.7 contains nine review criteria that the staff, Planning Commission, and City Council shall use when evaluating an application for a special exception². In general, this is a fairly debatable proposal. Portions of the proposal are in conformance with City vision and policy in that the City is planning a hard urban edge on the western side of Sophia Street, the project provides a mixture of housing types and the opportunity for homeownership within the

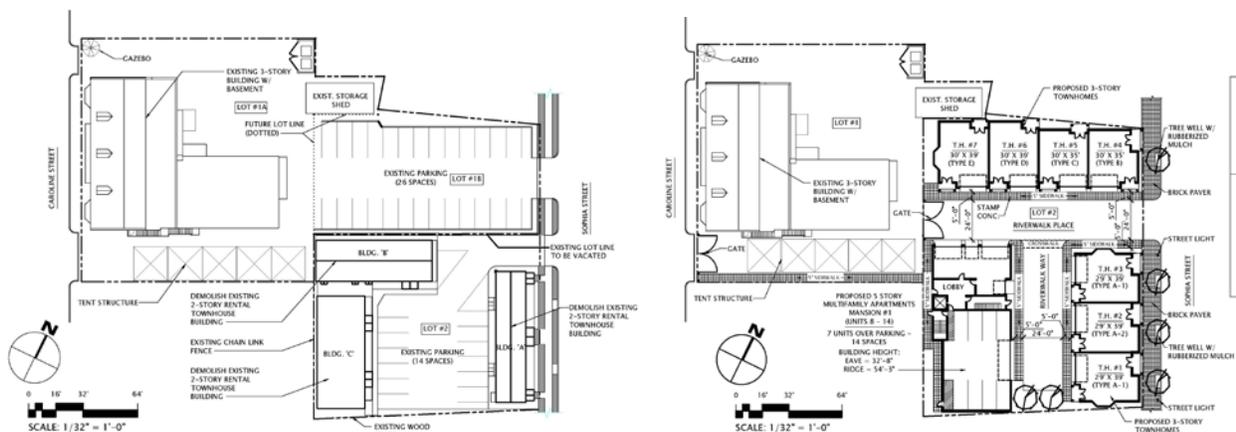
¹ For more general background information see Appendix A – General Background.

² For the complete staff analysis see Appendix B – Special Exception Analysis.

Downtown core and within walking range of the City's train station. However, the project is designed in a way that is not in conformance with City vision and policy in that the increase in density has unmitigated external impacts on surrounding land uses.

Lot 1 currently contains a significant service and parking area containing 26 parking spaces and also, room on either side of the existing Fredericksburg Square building to accommodate infill development. The Historic District Handbook, the purpose of the Commercial Downtown (CD) zoning district, and the policies in the Comprehensive Plan all state that new development should be built into the existing streetscape³. The Applicant has opted to build density into the interior of the block prior to infilling existing gaps in the Caroline Street block face.

The Comprehensive Plan states that in considering development in the Downtown land use planning area the City Council should evaluate parking needs and develop appropriate strategies (shared parking, off-site parking, or payment into the Downtown Parking Fund) that provide for the continued viability of downtown Fredericksburg as well as its further growth and development (Comprehensive Plan pg 156). Riverwalk Square's proposed site design eliminates valuable parking and service areas without mitigating the impact on, specifically, the Downtown public parking supply.

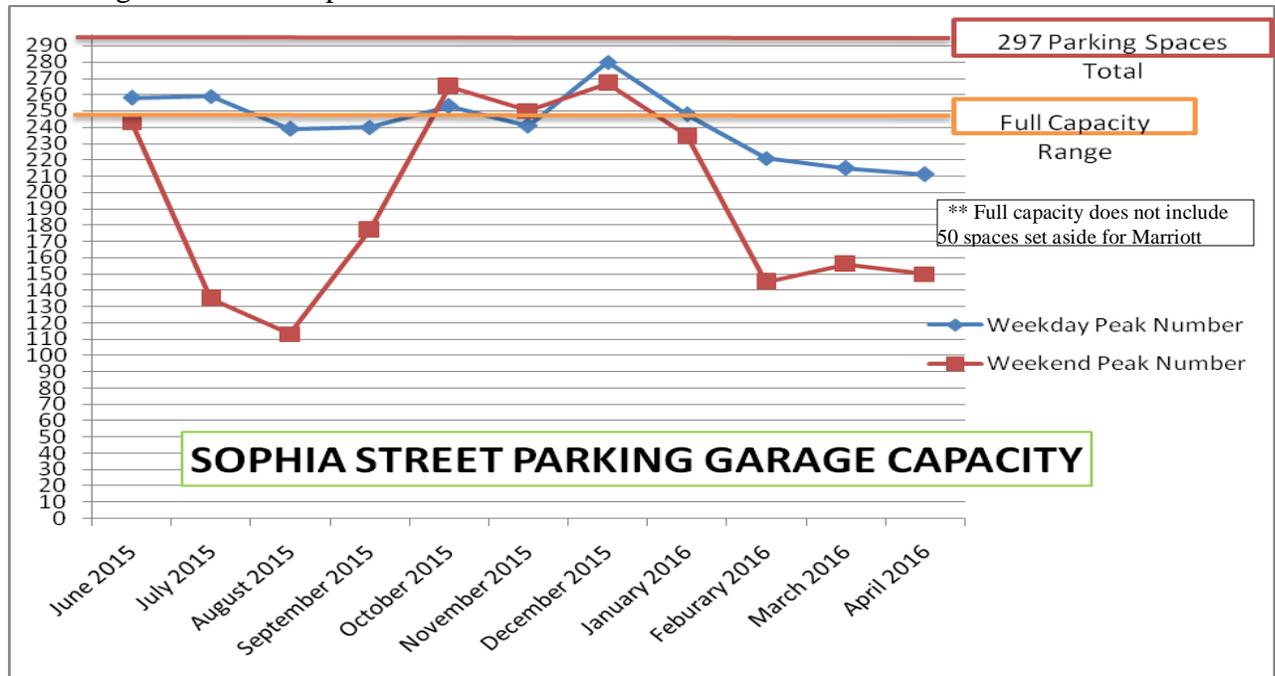


During the review process, members of both the Planning Commission and the Architectural Review Board reacted positively to Riverwalk Square plan and stated that building internal to the block is a good way to incorporate density into an existing Downtown core. However, the Planning Commission also recognized that the impact on public parking needed to be mitigated by the Applicant⁴. Their motion was to recommend approval of the application under the condition that the Applicant proposes a viable alternative to off-set the impact of eliminating 26 on-site spaces currently used by the Fredericksburg Square building.

³ For a conceptualization of City visioning documents see the Consistency with the Comprehensive Plan section of Appendix B.

⁴ See Appendix A – General Background for the full Planning Commission recommendation.

In response, the Applicant proposed that prior to any wedding held at the square building, he will purchase 26 temporary passes in the City's parking garage. However, the Sophia Street parking garage already hits capacity on both weekdays and weekends throughout the year (see chart below). The City is preparing to redevelop 38 public parking spaces into the Riverfront Park. Public parking will be necessary to accommodate parking demand from any events held in the Riverfront Park, after its development. The condition, as proposed by the applicant, would be unenforceable from a zoning standpoint because it would require City staff to track when a wedding was being held at Fredericksburg Square and make sure that temporary passes were purchased prior to letting the wedding or other event proceed.



Finally, as discussed below, the City has already committed 100% of the private use of the parking garage. There are several other viable options to offset the impact of pushing private site parking demand into the public realm. The Applicant could redesign the project to build density into the existing streetscape along Caroline Street and preserve the existing parking and service area, he could remove the defunct entrances along Caroline Street and restripe the on-street parking in the area to add four spaces immediately adjacent to his building, he could enter into a shared parking agreement with a neighboring landowner, and/or he could pay into the City's Downtown Parking Fund for half of the spaces being eliminated. Unless and until the Applicant proposes a viable solution to the parking problem, City Council should deny the application.

RECOMMENDATION

Deny the requested Special Exceptions.

ATTACHMENTS

1. Appendix A – General Background
2. Appendix B – Special Exception Analysis
3. Proposed Resolution Denying Special Exceptions Request
4. Application and Supporting Materials
5. Planning Commission Meeting minutes – May 11 as approved and June 8 (DRAFT)

APPENDIX A – GENERAL BACKGROUND

GENERAL BACKGROUND

GPIN 7789-23-5802 is 0.33 acres zoned CD and contains 13 multi-family units addressed as 506-512 Sophia Street and 1-9 Ashby Court. The existing density on-site is 40 units per acre. The buildings on this parcel were built circa 1940 as warehouse space and were subsequently redeveloped into residential units. The building fronting on Sophia Street is considered a contributing structure in the historic district. The other two behind the front building are not considered contributing. The three buildings are served by their own access off of Sophia Street and have surface parking. These buildings and their parking generally fill the entire lot.

GPIN 7789-23-3825 is 0.66 acres zoned CD and contains the 15,168⁵ square foot Fredericksburg Square building fronting on Caroline Street. The Square building is part of a key historical streetscape along Caroline Street. Between Wolfe and Lafayette the only two gaps in the block face are on either side of the Square building. The two gaps are paved areas that are now fenced off from the street and used as open space for a wedding tent and a luncheon gazebo. Behind the Square building and stretching all the way to Sophia Street is a parking lot containing 26 parking spaces.

Both properties are completely within the 100 year floodplain.

SPECIAL EXCEPTION REQUEST BACKGROUND

Timbernest LTD proposes to reconfigure its two properties as shown on the “Proposed Site Plan sheet A2” to create a 0.52 acre parcel on which seven townhomes and seven multi-family dwelling units would be built. The density for the enlarged parcel would be 29 units per acre. The CD zoning district generally permits multi-family units at 18 units per acre and townhomes at 12 units per acre. § 72-51.1 requires that the generally permitted density be cut in half for properties where more than 25% of the land is in one hundred-year frequency floodplains, which would limit density on the property to 9 and 6 units per acre respectively.

Special exception request - Commercial Downtown Zoning		
§ 72-32.2	By-right density	18 du / acr (MF); 12 du / acr (TH)
§ 72-51.1	Floodplain density (1/2 by-right)	9 du / acr (MF); 6 du / acr (TH)
Proposed Density		29 units per acre

The proposal does not qualify for an administrative change in non-conforming use, though the project is a similar density and use to what is proposed. The request does not meet the criteria for the continuation of a nonconforming use in § 72-61.1 because the buildings or structures containing the non-conforming use (density) are being demolished.

It would require 1.16 acres to build seven town home units and an additional 0.78 acres to build seven multi-family units on property completely within the 100 year flood plain under by-right CD zoning.

⁵ Square footage taken from the Fredericksburg GIS system.

PLANNING COMMISSION ACTION

The Planning Commission held a public hearing on this item on May 11, 2016 at which two people spoke in favor of the project. After discussion, the Planning Commission deferred the application until June 8 so that the Applicant could respond to comments from the Commission and the Technical Review Committee. On June 8, the Planning Commission voted 5-2 to recommend that the City Council approve the application on the condition that the Applicant proposes a viable alternative to off-set the impact of eliminating 26 on-site spaces currently used by the Fredericksburg Square building. The recommendation also included the following proposed conditions:

1. The project shall be developed in substantial accordance with the General Development Plan entitled "Townhomes at Riverwalk Square" by Commonwealth Architects dated May 31, 2016 (the "GDP"). The GDP may be modified by the City's Architectural Review Board during the Certificate of Appropriateness Process.
2. A direct pedestrian access from Riverwalk Square to Caroline Street as generally shown on the GDP shall be constructed by the developer prior to the first issuance of the first Occupancy Permit in Riverwalk Square. A wall or other separation approved by the City's Architectural Review Board shall separate the walkway from any private event space.
3. Pedestrian and vehicular access between Riverwalk Square and Fredericksburg Square along Riverwalk Square shall be maintained in perpetuity as generally shown on the GDP.
4. The developer shall construct the Sophia Street streetscape as generally shown on the GDP and in accordance with Public Works comments prior to the issuance of the first Occupancy Permit in Riverwalk Square.

The Applicant proposes that whenever there is an event at the Fredericksburg Square building then they will obtain 26 temporary parking passes from the City Parking Deck. As discussed in the Executive Summary and in Appendix B below, staff does not consider this a viable alternative.

APPENDIX B – SPECIAL EXCEPTION ANALYSIS

Unified Development Ordinance (UDO) § 72-22.7 contains review criteria that the Planning Commission and City Council shall use when evaluating an application for a Special Exception. These criteria are:

1. Consistency with the UDO:

a. The CD Zoning District

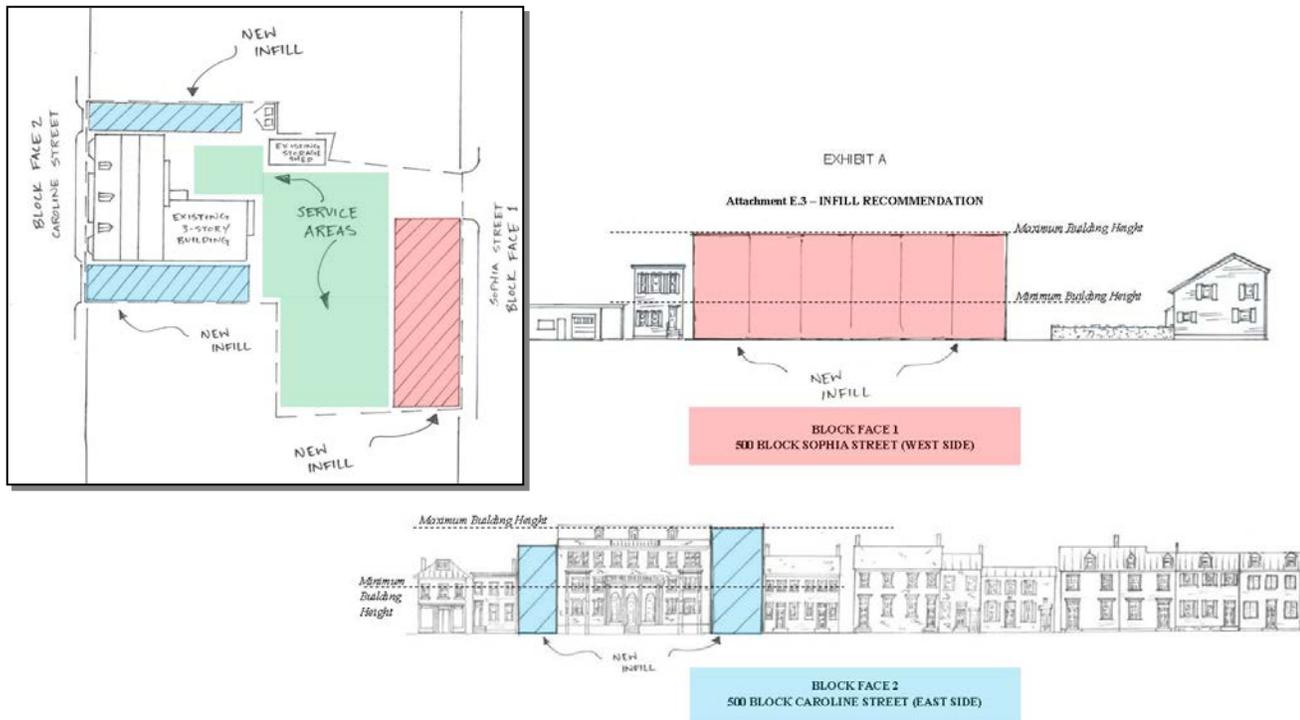
§ 72-32.2.A states that the purpose of the CD Zoning District is “*to promote harmonious development, redevelopment, and rehabilitation of uses in the commercial areas of the Old and Historic Fredericksburg (HFD) Overlay District. The regulations of this district are intended to implement the goals of the Comprehensive Plan for historic district development while encouraging mixed uses in the downtown area. The emphasis in site planning is to be placed upon enhancing pedestrian circulation, minimizing vehicular and pedestrian access conflicts among uses, respecting the geometry of the downtown streetscape, and maintaining continuity with the architectural precedents of the historic area.*”

There are elements of the request that are in accordance with the purpose of the CD zoning district:

- The request is to redevelop an existing permitted use (single family attached and multi-family dwelling units) at a density that is lower and closer to the by-right permitted density on-site (existing 13 units on 0.33 acres @ 40 units per acre vs. proposed 14 units on 0.52 acres @ 29 units per acre).
- Proposed townhomes 1-4 conform to the general setback pattern of adjacent structures on the block.
- Townhomes 1-4 are oriented toward Sophia Street in a way that:
 - o Respects the geometry of the downtown streetscape;
 - o Enhances pedestrian circulation; and
 - o Minimizes vehicular and pedestrian access conflicts among uses;
- Riverwalk Square will have a pedestrian access from the site through the Fredericksburg Square property to Caroline Street.
- The Fredericksburg Square property will retain alley / service access through the Riverwalk Square.

There are elements of the request that are not in accordance with the purpose of the CD zoning district:

- Ten out of 14 units are not oriented towards the geometry of the downtown streetscape.
- Redeveloping GPIN 7789-23-3825 (the Square property) in a way that respects the geometry of the downtown streetscape and maintains continuity with the architectural precedents of the historic area would be phased in a way that redevelopment filled in the gaps in the historic streetscape first and then potentially developed on the service areas of the site if possible second (see figure below excerpted from Historic Resource Planner Kate Schwartz’s ARB attached to this memo as Exhibit A).



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b. Old and Historic Fredericksburg Overlay District

In accordance with § 72-21.7, the Applicant's request was presented to the City's Architectural Review Board (ARB) on April 25 and again on May 9 for a review.

After discussion, the ARB members stated that:

- The membership was generally in favor of the density special exception as long as the architecture could be made to fit into the surrounding context.
- The main architectural concern was about the mass and scale of the townhomes along Sophia. The Applicant has changed his architectural design in response, but the ARB has not evaluated the new proposal.
- The site layout is generally acceptable. Adding units mid-block is an accepted way to add density in the downtown.
- Two members were not in favor of permitting the demolition of the existing apartment buildings. However, it was noted that the ARB previously approved demolition of the buildings in 2009.

The Historic District Handbook (HDH) contains Site Planning criteria including continuity of street edge, spacing between buildings, fences and walls, and parking (HDH pg 68-73). Along Sophia Street, Townhomes 1-3 reinforce the existing street edge, have a comparable spacing between buildings to the existing development, and are served by parking that is to the rear of the building. Seven multi-family units are proposed in the area of GPIN 7789-23-5802 that currently contains multi-family units.

The remaining four units, however, are built on the existing service and parking area of the Square building. As a result, the service functions associated with the Square building are proposed to be eliminated.

c. The Floodplain Overlay District

§72-34.3A states that “*the Floodplain Overlay (FPO) District shall be established to protect those portions of the City that are subject to periodic inundation from floodwaters. The district provides development regulations with the objectives of maintaining community safety from floods and related dangers, protecting against loss of life, health, and property from floods and related dangers, preserving and protecting floodplains, and requiring appropriate construction practices to minimize flood damage.*”

The site is within the flood fringe (the 100 year flood plain) and not within the floodway (the conveyance channel for a flood). The Overlay district requires that the construction of the units meet appropriate standards to protect neighboring properties from increased flood heights and to ensure the proper drainage of the floodplain. The development will have to comply with these standards prior to permitting.

The development is proposed completely within the 100 year flood-plain. The base flood elevation is 38 feet and the general elevation of the site is 36 feet. The development would double the footprint of development in the floodplain. The footprint of the existing development on-site is 4,343 square feet. The footprint of the proposed Riverwalk Square development is roughly 11,520 square feet. Development in the floodplain will be subject to the City’s Floodplain Overlay District requirements and the flood-proofing requirements in the Building Code.

The City Council has approved similar floodplain density requests over the last three years at Hanover One and on lower Charles Street. However, the Council may determine that the increase in building footprint in this area and the extra unit in the floodplain does not protect the community against loss of life, health, and property and is therefore not consistent with the purpose of the Floodplain Overlay District. The general policy in the Floodplain Overlay District is to reduce residential density below the density permitted by right. This special exception application is to increase residential density above the density permitted in the underlying zoning district, though it would be closer to what is permitted than what exists on the Sophia Street site today.

d. Development Standard Exceptions and Exemptions

As submitted the development proposal would require administrative exceptions from the Development Standards in § 72-5 of the City Code. § 72-25.3 authorizes the Development Administrator to approve these exceptions in “unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship”:

- §72-51.3 Lots. This section requires that lots in the CD Zoning District either front on public streets, private streets, or a driveway meeting the standards in § 72-52.4. The seven multi-family building and Townhomes 5-7 (potentially equating to a total of four lots housing a total of 10 units) will be located mid-block and will be primarily accessed by an alley. Alleys are meant to provide vehicular access behind buildings in tandem with a complete street with unbroken pedestrian access. The Applicant has added a pedestrian connection to Caroline Street in order to provide for a better, more diverse access plan than previously submitted.
- § 72-53.1.D(1)(d)[1][a] Off-street parking; configuration; arrangement. This section requires that all off-street parking and circulation areas be arranged to facilitate access by and safety of both pedestrians and vehicles. Pedestrian access to Townhome 5-7 is

deficient. The majority of the “sidewalk” will be comprised of driveway entrances and will put pedestrians and vehicles in conflict with one another. To address this deficiency, the Applicant added stamped concrete sidewalks to the Riverwalk Square plan. While this change of materials does make the pedestrian area more visible, the conflict between the pedestrian and vehicles using Townhome 5-7 remains.

Conclusion --- Overall Consistency with the UDO

During the ARB and Planning Commission review of this application, the Applicant has responded to public comment to bring his proposal more in-line with the UDO. The Applicant has added pedestrian access to the Caroline Street block face, added a complete Sophia Street streetscape in accordance with Public Works’ planning, added alley access through the Riverwalk site to the Fredericksburg Square building, and is continuing to work through architectural issues with the ARB.

Opting to build internal to the block rather than infilling development along Caroline Street is still a fundamental design issue that will require two administrative exceptions to the UDO’s development standards. However, the Applicant has provided connective infrastructure in the plan that will minimize pedestrian and vehicular conflicts. While the project is generally consistent with the UDO, the need to obtain two administrative exceptions makes the project’s consistency a fairly debatable question to be evaluated by the City Council.

2. Consistency with the Comprehensive Plan (CP)

a. *The Applicant’s proposal is within Land Use Planning Area 7, Downtown.* The Land Use Planning Area 7 Opportunities relevant to this proposal are:

Consistencies

- Promote residential and mixed-use development.
- Support redevelopment that respects historic structure, but without dictating architectural style or limiting creativity.
- The Future Land Use Map calls for this area to be Commercial-Downtown and sub planning area 7B states that the west side of Sophia Street constitutes an urban edge (as does the Urban Riverfront Corridor on page 117).
- The Commercial-Downtown Land Use Category calls for a relatively dense urban setting.

The proposal promotes residential redevelopment in a way that members of both the ARB and Planning Commission have stated creatively adds density into the Downtown. The Sophia Street block face and streetscape (comprised of a full brick sidewalk public streetscape with colonial street lights and street trees) matches Public Works’ visioning and planning for Sophia Street. The Applicant still must work with the ARB on the mass and scale of their project.

Inconsistencies

- Evaluate parking needs and develop appropriate strategies (shared parking, structures, etc.) that provide for the continued viability of downtown Fredericksburg as well as its further growth and development. There are 26 off-street spaces serving the Fredericksburg Square building as well as 3 spaces adjacent to the property on-street. The 26 off-street spaces are proposed to be eliminated for the new residential use.
- Protect the historic aspects of the downtown business district, through careful adaptive reuse of existing buildings and appropriate new construction on infill sites.
- The Commercial-Downtown Land Use Category calls for development that “promotes continued harmonious development and redevelopment, with an emphasis on maintaining

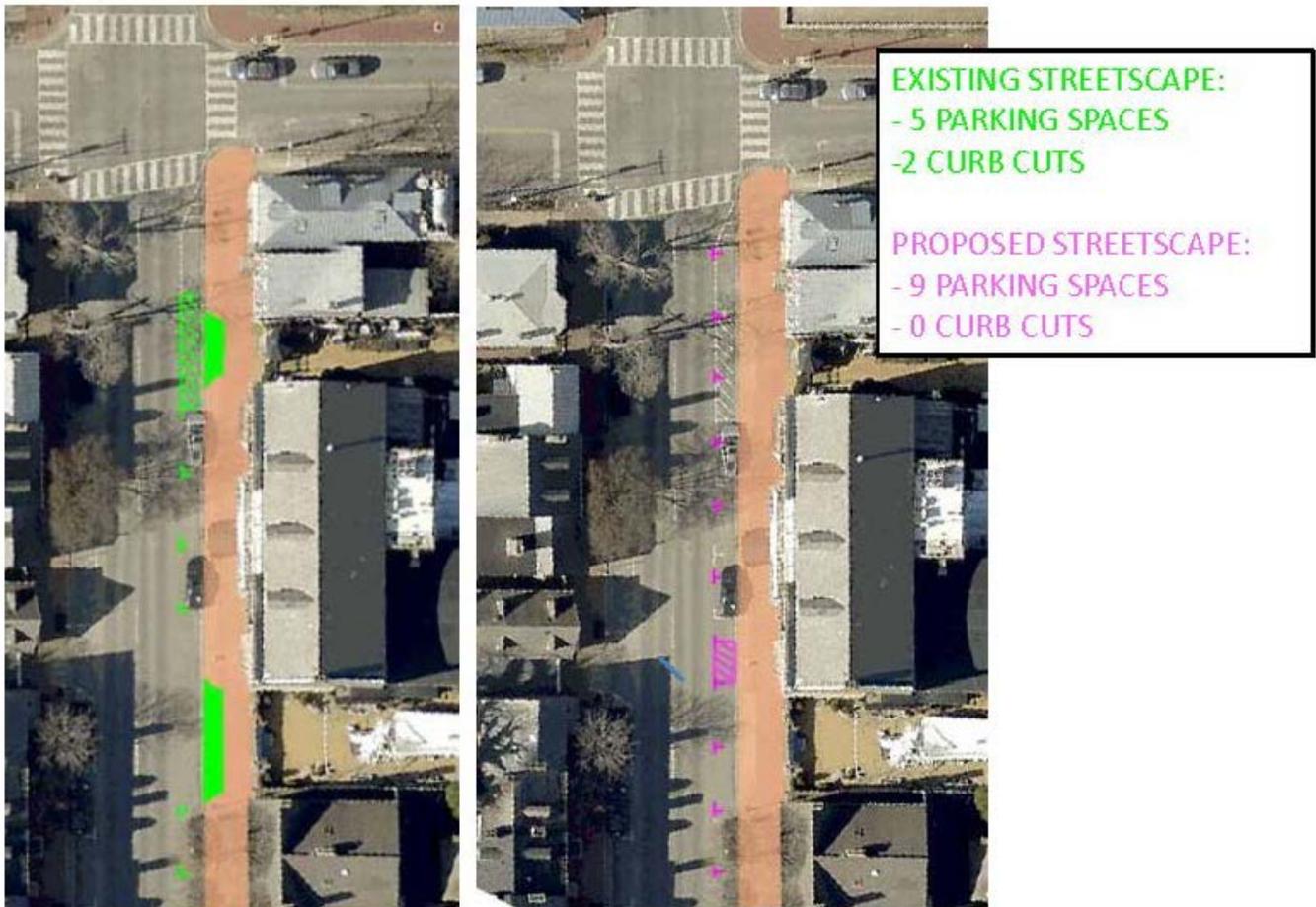
pedestrian circulation, the integrity of the street grid, and continuity with the historic character of the community.”

The layout of the site is inverted. Development is proposed on the interior of the block at the expense of parking and service areas despite there being room for redevelopment along Caroline Street. The major implication of this design is that it removes 26 parking spaces currently on the site. The resulting impact on the public parking supply has not been mitigated.

The Applicant has proposed that on the day of events he will secure 26 temporary parking spaces in the City Parking Deck. This proposal is problematic. A chart showing the peak parking demand in the City Parking Deck on weekdays and weekends between June 2015 and April 2016 is included in the Executive Summary. Most weeks the Sophia Street Parking Deck is at or near capacity. A little less than half the weekends the Parking Deck is at or near capacity. Additionally, according to the Riverfront Park Study, the City is getting ready to lose 38 parking spaces within the immediate vicinity of the Parking Deck. Finally, it would be impossible to effectively enforce this provision if made a condition of approval.

The Sophia Street parking deck was financed with tax exempt bonds, which are issued for public projects. Tax exempt bonds bring restrictions on “private use” of the public facility. Limited private use is permitted. In the case of the Sophia Street parking deck, the private use was committed to the Marriott Hotel by the 2006 lease of spaces to the hotel. Eighty spaces is the most Council may lease from the parking deck, due to restrictions associated with the public financing for the facility. All 80 spaces were leased to the Marriott Hotel. An additional 20 surface lot spaces were leased to the Marriott in order to meet its parking requirements. The 2006 lease term was for 20 years. The City Council built the parking deck in part as an economic incentive to attract a downtown hotel. That purpose was realized with the construction of the Courtyard Marriott. Staff informed the applicant that the City could not commit spaces in the City Parking Deck, in April 2016.

The Applicant has not many other viable solutions available to him to address the parking. The Applicant should revise his plan to move the proposed density to the portion of the lot fronting Caroline Street thus preserving the service area interior to the block. Without doing so, at a minimum the applicant should eliminate the defunct curb cuts along Caroline Street and restripe the parking lane so that the public parking supply would gain four additional on-street spaces (see figure below). The Applicant could also offset the loss of usable spaces by paying into the Downtown Parking Fund or creating an off-site shared parking agreement.



b. Chapter 7 Residential Housing and Neighborhood contains several goals relevant to this application including:

(Consistent)

- Goal 1: Neighborhood Character;
- Goal 3: Distinct and Attractive Neighborhoods;
- Goal 8: Variety of Housing;
- Goal 9: Homeownership;

The proposal provides for new homeownership opportunities in the historic downtown and provides a variety of housing on-site. The ARB members stated they were comfortable with the proposed quality of the architectural elements, but did have issues with the mass and scale which the Applicant is continuing to work on.

(Inconsistencies)

- Goal 2: Neighborhood Quality;
- Goal 4: Adequate Public Services and Facilities;

The proposal will eliminate 26 off-street spaces. As discussed above, this would shift parking off-site into the City's public parking network.

- c. *Chapter 5 Environmental Protection states that, “development within the floodway fringe is allowed as long as it will not adversely impact the environment or cause a hazard to human safety, as controlled through Building Codes and other applicable regulations.” The proposal is entirely within the 100 year-floodplain.*

See the above analysis for the Floodplain Overlay District.

Conclusion, Overall consistency with the Comprehensive Plan:

Since the Public Hearing on May 11, the Applicant has added both automobile and pedestrian connectivity into the plan, has provided a full public streetscape along Sophia Street, and has revised the architectural elevations in order to address the ARB’s concerns. The density request meets a significant portion of the goals and policies in the Comprehensive Plan.

The density request, however, still contradicts the Comprehensive Plan in two ways. First, the Applicant has opted to build density into the interior of the block prior to infilling existing gaps in the Caroline Street block face. Second, and as a result of number one, the site design eliminates valuable parking and service areas without mitigating the impact on, specifically, the Downtown public parking supply. While the project is generally consistent with portions of the Comprehensive Plan, the lack of adequate public facilities and the negative impact on public parking makes the project’s consistency with the Comprehensive Plan a fairly debatable question to be evaluated by the City Council.

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

The ARB has completed a preliminary review of this request. The Technical Review Committee has completed their review and the Applicant has responded to comments made. The Planning Commission held a public hearing on this item on May 11 and deferred the project until June 8 to continue working on 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.*

As described in Section 1 and Section 2 above, the current proposal is not completely in line with the UDO and Comprehensive Plan. The major issue is that a significant portion of the project is proposed to be built on an internal service area which will have external effects on the public parking supply. The Council may also determine that the increase in building footprint in this area is not consistent with the purpose of the Floodplain Overlay District.

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

The request for density Special Exceptions is an unusual request. GPIN 7789-23-5802 currently contains 13 dwelling units that are approaching the end of their usable life. The Applicant’s proposal is to redevelop the site with one additional unit at a lower density for the total site. The request is also within a block of the City’s train station and within the Commercial Downtown Future Land Use Map designation where the City vision is for denser transit oriented development.

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.*

The major potential adverse impact of the proposed residential density on the community and surrounding neighborhood is the removal of 26 off-street parking spaces from the Square site. The elimination of the spaces will have an impact on parking supply in the Downtown as discussed in the Comprehensive Plan compliance section.

The proposal will have a net addition of one residential unit to the site. Outside of the impact to the Downtown parking supply, the additional unit will not have a substantial impact on public school system, public utilities, public parks, or the overall transportation network.

Conclusion, Special Exception Analysis

The Applicant has made changes to their application that bring their proposal more in-line with the UDO and the Comprehensive Plan. The Applicant has added pedestrian connectivity to Caroline Street, alley access for the Fredericksburg Square building through Riverwalk, a full streetscape along Sophia Street, and has altered their architectural elevations in response to ARB comments.

On-balance, the request conforms to a significant amount of the policies and visions in the City's UDO and Comprehensive Plan. However, the project has an important drawback created by the decision to develop internal to the site before infilling the existing Caroline Street block face. This design does not conform to the purpose of the zoning district or the Comprehensive Plan and has a material impact in that private parking will be pushed into the public parking network.

There are two ways to mitigate this impact – either the Applicant should redesign their site as described in the body of this report or should propose a viable alternative to off-set the impact of eliminating 26 on-site spaces currently used by the Fredericksburg Square building. If the Applicant proposes an alternative parking plan that does not rely on shifting parking from the inside of the site into the historic Caroline Street block face then staff would recommend approval.

As proposed, the City Council could reasonably approve the project. If that is the will of the commission then staff recommends that the Commission consider at a minimum the conditions included in the Planning Commission's recommendation in Appendix A – General Background page 6.



July 12, 2016
Regular Meeting
Resolution No. 16-__

MOTION:

SECOND:

RE: DENYING SPECIAL EXCEPTION APPLICATIONS BY TIMBERNEST, LTD. FOR 506-516 SOPHIA STREET AND THE REAR OF 525 CAROLINE STREET

ACTION: APPROVED; Ayes: 0; Nays: 0

WHEREAS, the applicant, Timbernest, Ltd., has applied to this Council for special exceptions to (1) the maximum residential density regulation in the Flood Hazard Overlay District, City Code §72-51.1, and (2) the maximum residential density regulation in the CD zoning district, City Code §72-32.2, for property located at 506-516 Sophia Street (GPIN 7789-23-5802) and a portion of 525 Caroline Street (GPIN 7789-23-3825), to permit the redevelopment of the property for single family attached and multi-family residential units.

WHEREAS, the Council after notice and public hearing thereon, has considered the special exception application in light of its conformity with the City's criteria for the review of special exception applications.

NOW, THEREFORE, BE IT RESOLVED, by the Fredericksburg City Council:

1. Council makes the following findings with respect to the special exception application: (a) the proposed use is not unique or unlikely of recurrence; (b) the grant of the special exception is not consistent with the City's Comprehensive Plan; (c) the special exception is not consistent with the goals, purposes and objectives of the City's zoning ordinance; (d) there has been a sufficient period of time for investigation and community planning with respect to the application; (e) the special exception is not consistent with the principles of zoning and good zoning practice, including the purposes of the district in which the special exception would be located, existing and planned uses of surrounding land, the characteristics of the property involved, and the adverse impacts of the proposed use; (f) the proposed use or aspect of the development requiring the special exception is not special, extraordinary or unusual; and (g) the applicant has failed to demonstrate that its application meets all these criteria.
2. Council denies the special exception application.

Votes:

Ayes:

Nays:

Absent from Vote:
Absent from Meeting:

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16- duly adopted at a meeting of the City Council meeting held Date, 2016 at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council

RECEIVED MARCH 29, 2016



Application #SE: _____

Date: _____

Fee/Check#: _____

APPLICATION SPECIAL EXCEPTION

APPLICANT NAME: VAN AND DEBORAH PERROY OR ASSIGNS

MAILING ADDRESS: 525 CAROLINE STREET, FREDERICKSBURG, VA 22401

TELEPHONE: (540) 621-3116 E-MAIL: FBYRG-SQUARE@MSN.COM
MICHIGANDERU@HOTMAIL.COM

THE UNDERSIGNED HEREBY APPLIES FOR AN EXCEPTION FOR: (1) DENSITY;

(2) 10' HEIGHT VARIANCE FOR ONE (1) BUILDING OF

THREE; (3) REALLOCATION OF USE FOR 26 EXISTING PARKING SPACES IF REQUIRED.

THE SUBJECT PROPERTY IS DESCRIBED AS FOLLOWS:

Property Location (1) 506-516 SOPHIA STREET (EXISTING TOWNHOUSES)
(2) REAR PARKING LOT OF 525 CAROLINE STREET

Property Owned By TIMBERNEST LTD (VAN PERROY - GEN PART. 51% DEBORAH PERROY - LIMITED PART 49%)

Owner's Mailing Address 525 CAROLINE STREET, FREDERICKSBURG VA 22401

Proposed Use of Property (be specific) REPLACEMENT OF 13 EXISTING RENTAL TOWNHOUSES ON 506-516 SOPHIA STREET PARCEL WITH 14 NEW

TOWNHOME/CONDO UNITS ON THE COMBINED PARCELS LISTED ABOVE. (SITE PLAN AND ELEVATION PROVIDED)

HOURS OF OPERATION RESIDENTIAL NUMBER OF EMPLOYEES N/A
(OWNER OCCUPIED)

Anticipated Number of Patrons or Clients 14 HOME OWNERS

Description of the development's impact on neighboring and adjacent properties, please be specific (attach additional sheet if necessary): NO OR MINIMAL IMPACT.

Criteria for a Special Exception: Use Separate Sheets for Explanations and be Specific and Thorough. (ATTACHED)



Application #SE: _____

Date: 1/15/2014

Fee/Check#: 3039

APPLICATION SPECIAL EXCEPTION

APPLICANT NAME: VAN AND DEBORAH PERRY OR ASSIANS

MAILING ADDRESS: 525 CAROLINE ST., FREDERICKSBURG, VA
22401

TELEPHONE: (540) 621-3116 E-MAIL: FBYRESQUARE@MSN.COM

THE UNDERSIGNED HEREBY APPLIES FOR AN EXCEPTION FOR: (1) TOWNHOME DENSITY OF 12 UNITS PER ACRE (2) FLOOD PLAIN DENSITY REDUCTION OF 50% (3) REDUCTION OF EXISTING ON-SITE PARKING FOR FREDERICKSBURG SQUARE FROM 46 TO 22 SPACES.

THE SUBJECT PROPERTY IS DESCRIBED AS FOLLOWS:

Property Location 506-516 SOPHIA STREET AND REAR 525 CAROLINE ST.

Property ^(S) Owned By TIMBERNEST LTD. (VAN PERRY, GEN PART, DEBORAH PERRY LTD PART.)

Owner's Mailing Address 525 CAROLINE STREET, FREDERICKSBURG, VA 22401

Proposed Use of Property (be specific) REPLACEMENT OF 13 EXISTING TOWNHOUSE UNITS AT 506-520 SOPHIA STREET ON .33 ACRE (WITH 13 OUTSIDE PARKING SPACES) AND 24 OUTSIDE PARKING SPACES BEHIND FREDERICKSBURG SQUARE ON .20 ACRE WITH 12 TOWNHOUSES AND 3 SINGLE LEVEL UNITS WITH 30 UNDER UNIT PARKING SPACES.

HOURS OF OPERATION RESIDENTIAL NUMBER OF EMPLOYEES N/A

Anticipated Number of Patrons or Clients 15 FAMILYS OR INDIVIDUALS

Description of the development's impact on neighboring and adjacent properties, please be specific (attach additional sheet if necessary): NO OR MINIMAL IMPACT.

Criteria for a Special Exception: Use Separate Sheets for Explanations and be Specific and Thorough.

Special Exception Request
(Application Continued)

1. Whether the grant of the special exception is consistent with the City's Comprehensive Plan;
2. Whether the special exception is consistent with the goals, purposes and objectives of the City's zoning ordinance;
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 zoning and good zoning practice, including the purposes of the district in which the special exception would be located, existing and planned uses of surrounding land, the characteristics of the property involved, and the adverse impacts of the proposed use;
5. Whether the proposed use or aspect of the development requiring the special exception is special, extraordinary or unusual;
6. Whether the applicant has demonstrated that its application meets all these criteria;

I do hereby make oath or affirmation that to the best of my knowledge, the foregoing information contained in this application is true.

[Signature] _____ Date 1/15/16

Signature of Applicant _____ Date

PRINT NAME OF APPLICANT VANGEL L. PERRY

The above oath or affirmation was signed before me and witnessed by me this 15 day of January, 2016 in the County/City of Fredericksburg in the state of Virginia.

Notary Signature [Signature]

Notary Registration # 7615786 Commission Expires 10/31/2018



[Signature] _____ Date 1/15/16

Signature of Owner _____ Date

PRINT NAME OF OWNER VANGEL L. PERRY, GENERAL PARTNER,
TIMBERNEST, LTD

The above oath or affirmation was signed before me and witnessed by me this 15 day of January, 2016 in the County/City of Fredericksburg in the state of Virginia.

Notary Signature [Signature]

Notary Registration # 7615786 Commission expires 10/31/2018



This Application for Special Exception is being made for the following reasons:

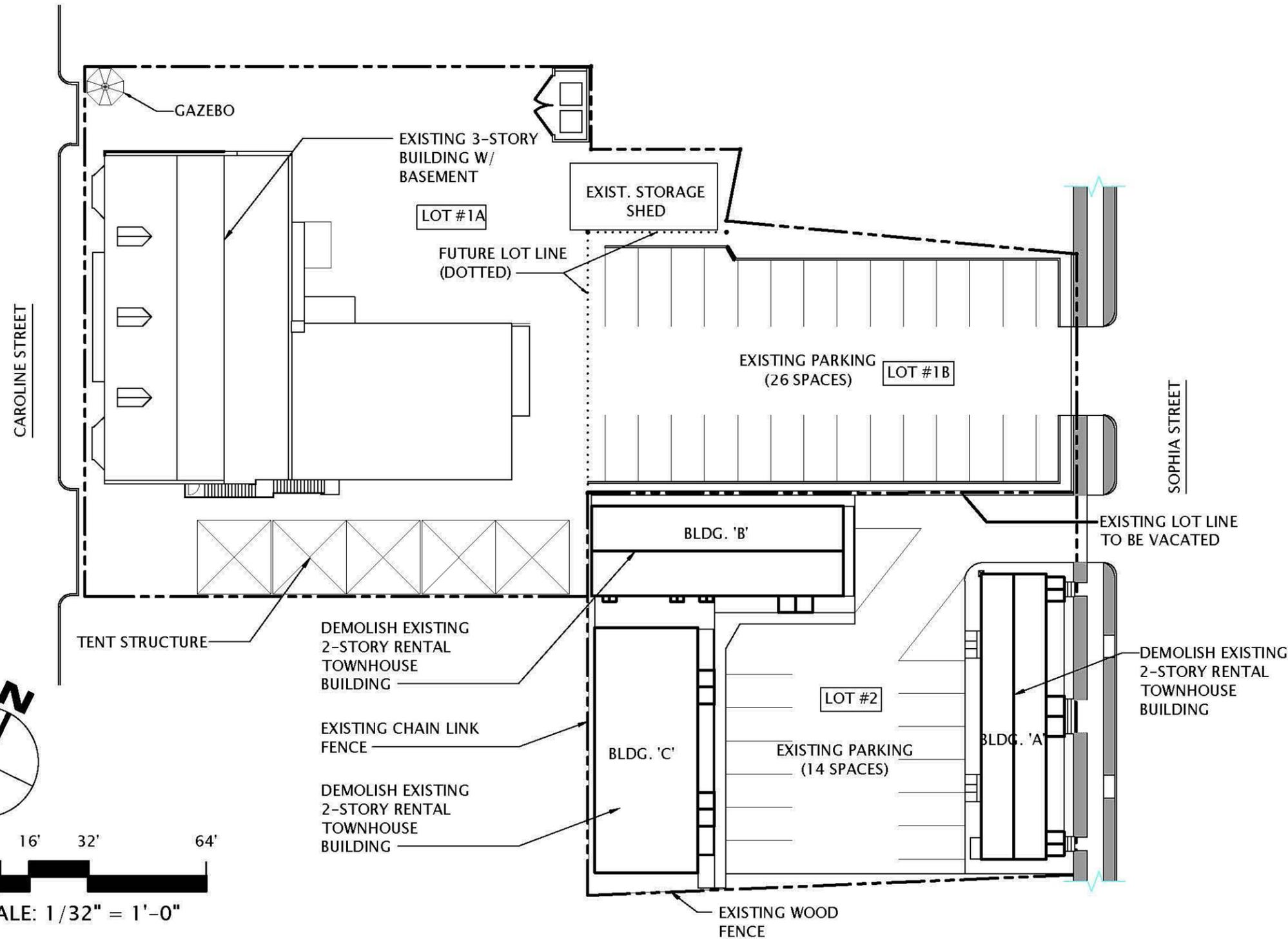
1. The Application is necessary to the realization of the Project consistent with the goals of the City's 2015 Comprehensive Plan which encourages the development of clustered and compact housing opportunities that will maximize the use of existing transportation infrastructure for residents who wish to own their homes in Downtown Fredericksburg. In this regard the following provisions from the Comprehensive Plan are cited:
 - A. Intent. "The intent is to insure the best use of finite space to support the creation and maintenance of attractive, livable urban communities".
 - B. Environmental Protection, Goal 6. Enhance livability by "...Promoting clustered and compact development..."
 - C. Residential Neighborhoods. Goal 9. "Encourage homeownership opportunities."
 - D. Historic Preservation. Goal 2. "Promote redevelopment of Downtown properties in a manner that reflects the character of the City as a vibrant and growing community".
 - E. Urban Riverfront Corridor. (The City dock to Faquier Street) "The concept for the road corridor is to encourage development on the west side of the street (Sophia Street) while leaving the east side open."
 - F. APPENDIX A. Best Practices for a Livable Community.
 1. Practice 2 calls for "Transit oriented development characterized by higher density development around transit stations to encourage transit use and pedestrian activity thereby reducing automobile use and the need for parking".
 2. Practice 6 states that, "undeveloped or underused parcels of land in otherwise built up areas are already served by existing infrastructure and their development/redevelopment should be encouraged and supported to add to the urban dynamic."
 3. Practices 7 and 8 are addressed by the replacement of non-historic substandard structures with state of the art, energy efficient residences that will reduce the carbon foot print and reflect design elements that will complement the community's character.

2. The Application is consistent with the goals, purposes and objectives of the City's zoning ordinance since it serves to further the objectives in the Code consistent with the goals of the Comprehensive Plan. The Project is consistent with "by right" use in the Downtown Historic District.
3. The requirement for investigation and community planning with respect to the Application is minimal as the use of the 506-520 parcel remains the same (residential) and the use and value of the rear vacant lot of 525 Caroline is substantially improved from vacant occasional on site parking to around the clock utilization of the spaces for on site residential use and parking. The Application and Project neither require nor envision a need for on street parking and the change in residential density from 13 to 14 units is inconsequential and actually reduces the relative current unit density from 13 on .33 acre to 15 on .52 acre.
4. The application is consistent with all applicable zoning restrictions with the exception of (1) townhouse density of 12 units per acre (non floodplain) and (2) a 50% density reduction in floodplain locations to 6 Units. As can be seen from the Site Plan the number of Units to be located on the .33 acre 506-520 parcel is actually reduced from the current and existing 13 Units down to 7 with the current 13 surface off street parking spaces replaced with 14 spaces located under the Units. The issue of floodplain is addressed with the placement of parking under the Units in accordance with the Code. The need for a Special Exception as to the replacement of 26 parking spaces at the rear of Fredericksburg Square with 16 off street under Unit residential parking spaces is being included to preclude any issues as to parking for Fredericksburg Square activities. Historically, when the 525 Caroline Street property was purchased from the Fraternal Order of Elks in October of 1996 the building's use was categorized as Assembly. The Elks Lodge membership in the City records at that time as confirmed to the current owners by Mr. Jervais Hairston, then City Administrator, was 626. Given the original 46 on site parking spaces for the property for Assembly use the existing occupant to parking ratio was one parking space for every 13.6 members, attendees or potential maximum occupants. Since the use of the Square was Assembly by the Elks and has remained the same since acquisition from the Elk's a reduction in the number of spaces from 46 to 22 would support (at the established ratio) a building occupancy or load of 299 guests at any one time. Fredericksburg

Square does not host wedding/banquet reception activities for more than 250 individuals at any one time. In addition, it would be unreasonable to expect that each individual guest would drive their own vehicle. Of primary importance is the fact that since the construction of the City Parking Deck most of our guests have elected to utilize the City facility leaving our rear lot underutilized on most occasions. A number of contract Patrons have even elected to reserve space in the City Deck for the convenience of their guests which has also proven to be very beneficial to the City since almost all events at the Square are on the weekends. Finally, at the time of construction the City of Fredericksburg did advise that the Square would have the same right to lease spaces in the Deck as did the Marriott should we need or desire to lease. While we did not exercise that right and still do not foresee a need we remain open to that option.

5. The Special Exceptions as to density and height are necessary for a number of reasons. First, the existing cinder block townhouse units were originally converted from warehouse storage buildings into townhouse Units in the 50's. As a result it is not economically viable to maintain and upgrade them in the face of new Code requirements and market realities with regard to square footage norms. The alternative is to try to maintain them as rental units which would involve ever increasing costs for relatively fixed rental income as well as precluding ownership opportunities Downtown. Second, the Units were not built with the floodplain issues in mind. In the event of a flood they would incur substantial damage on their occupied ground floor living space. To address this issue the first floor of all buildings will be allocated to parking with living areas on the higher floor levels. The seven (7) town home structures do not require a height variance but the Mansion Building located on the interior area of the site plan does require a ten (10) foot height variance. The Mansion Building will be substantially hidden from the Sophia elevation by the front row of townhomes and is essential to realize the density necessary to make the Project economically viable. Finally, the value of both existing parcels will be substantially increased not only from the standpoint of better and higher occupant use but from the standpoint of the City tax base.
6. The proposed redevelopment represents a unique and exceptional opportunity to address many of the key goals of the City's Comprehensive Plan to include redeveloping underutilized and outdated

property, addressing the need for more clustered and affordable home ownership opportunities adjacent to Downtown transportation hubs, and energizing and encouraging additional development on the west side of the Sophia Street corridor.



LOT #1A AND LOT#1B = 28,750 SF (0.66 ACRE)	
EXISTING 3 STORY BUILDING W/ BASEMENT	
BASEMENT	5,090 S.F.
FIRST FLOOR	6,888 S.F.
SECOND FLOOR	3,943 S.F.
THIRD FLOOR	3,698 S.F.
TOTAL	19,619 S.F.
LOT #2 = 14,375 SF (0.33 ACRE)	
EXISTING 2 STORY RENTAL TOWNHOUSE BLDGS.	
BUILDING 'A' - 4 TOWNHOUSES	
FIRST FLOOR	1,194 S.F.
SECOND FLOOR	1,194 S.F.
BUILDING 'B' - 5 TOWNHOUSES	
FIRST FLOOR	1,496 S.F.
SECOND FLOOR	1,496 S.F.
BUILDING 'C' - 4 TOWNHOUSES	
FIRST FLOOR	1,653 S.F.
SECOND FLOOR	1,653 S.F.
TOTAL:	8,686 S.F.
TOTAL TOWNHOUSES:	13 UNITS



EXISTING SITE PLAN TOWNHOMES AT RIVERWALK SQUARE

506 - 520 SOPHIA STREET FREDERICKSBURG, VA

06/21/16

A1



SOPHIA STREET ELEVATION



COMMONWEALTH
ARCHITECTS

ELEVATIONS
TOWNHOMES AT RIVERWALK SQUARE

FREDERICKSBURG, VA

05/31/16

A3



MANSION FRONT ELEVATION
TOWNHOMES AT RIVERWALK SQUARE

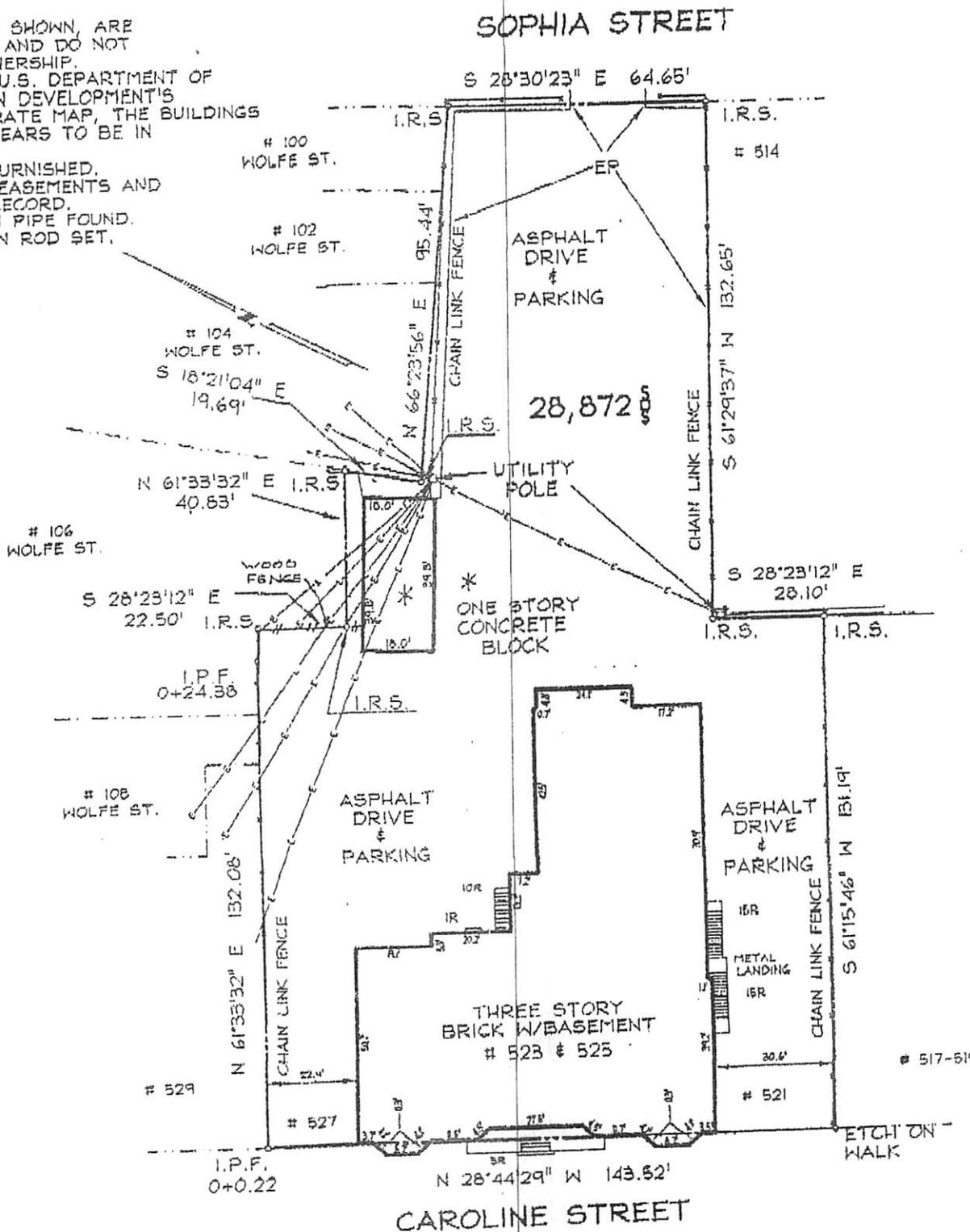
506 - 520 SOPHIA STREET FREDERICKSBURG, VA

05/31/16

A4

NOTES:

- 1. FENCE LOCATIONS, IF SHOWN, ARE APPROXIMATE ONLY AND DO NOT CERTIFY AS TO OWNERSHIP.
- 2. ACCORDING TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S FLOOD INSURANCE RATE MAP, THE BUILDINGS SHOWN HEREON APPEARS TO BE IN ZONE B & A24.
- 3. NO TITLE REPORT FURNISHED. PLAT SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
- 4. I.P.F. DENOTES IRON PIPE FOUND.
- 5. I.R.S. DENOTES IRON ROD SET.



BOUNDARY SURVEY
 PROPERTY OF
TRUSTEE OF FREDERICKSBURG, VA.
ELKS LODGE # 875 BBOE
 CITY OF FREDERICKSBURG, VIRGINIA
 SCALE: 1" = 30' DATE: OCTOBER 16, 1996
 REVISED 12 NOV 98

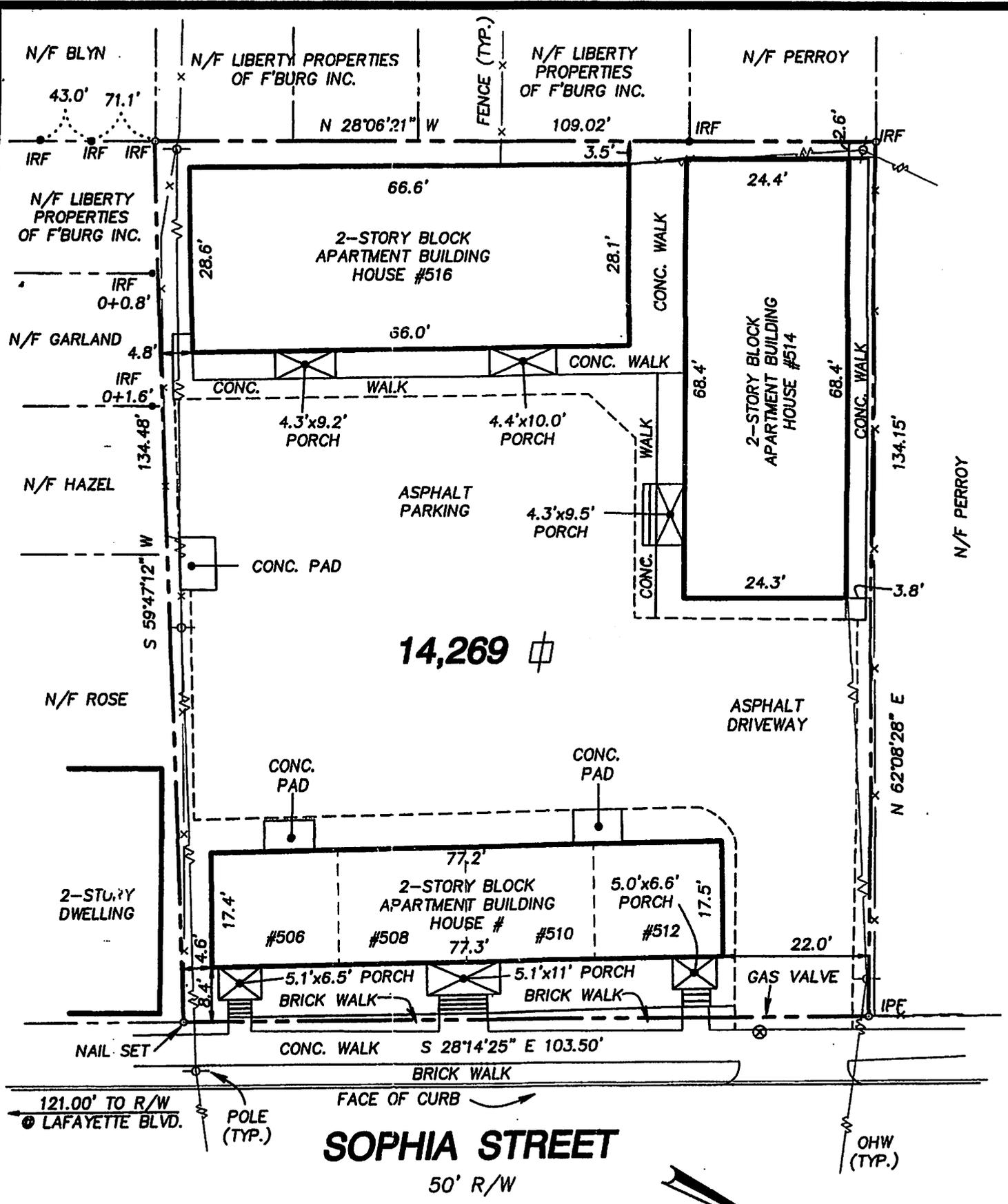
SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A TRANSIT TAPE SURVEY AND UNLESS OTHERWISE SHOWN THERE ARE NO ENCROACHMENTS EITHER WAY ACROSS THE PROPERTY LINE.



H. Aubrey Hawkins Associates, Ltd.
 LAND SURVEYING LAND PLANNING DEVELOPMENT
 500 MUSSELMAN ROAD PALMOUTH, VIRGINIA 22405
 540-371-0268 FAX 540-371-3479
 TOLL FREE 1-800-862-4055

CERTIFIED LAND SURVEYOR		CASE NAME: ELKS LODGE	DWPT BY: EG	FILE NO.
TAX MAP NUMBER: 47-525		WO 917-6-2068	FB 451	PG 106
DEED BOOK & PAGE: KK/419, NN/527, 60/563 & 91/282		CHKD BY: LG	SASC12BNDXEL	

RPC



14,269

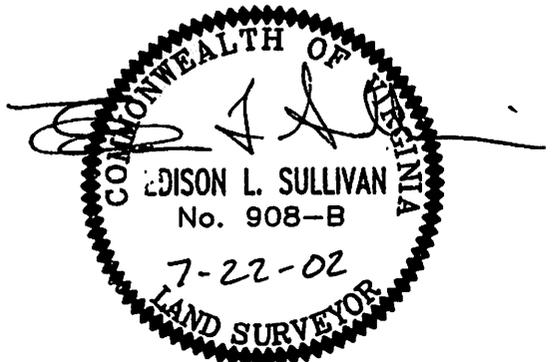
- NOTES :
1. NO TITLE REPORT FURNISHED.
 2. THIS PLAT IS SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD.
 3. IT APPEARS THAT ALL OF THE PROPERTY SHOWN HEREON IS LOCATED IN THE THE F.I.R.M. 100 YEAR FLOOD ZONE "A24", AS SCALED FROM MAP #510065 0005 B, DATED 7-2-79.
 4. MERIDIAN PER PLAT BY L.R.R. CURTIS, DATED JULY 1936 AND RECORDED IN D.B. 70 AT PAGE 362. BOUNDARY BASED ON MONUMENTATION FOUND IN THE FIELD.

PLAT
BUILDING LOCATION SURVEY
506, 508, 510, 512
& 514 SOPHIA STREET

LOCATED IN THE CITY OF
FREDERICKSBURG, VIRGINIA

DATE : JULY 22, 2002 SCALE : 1" = 20'

SULLIVAN, DONAHOE AND INGALLS
 ENGINEERS, LAND PLANNERS & SURVEYORS
 FREDERICKSBURG, VIRGINIA



TIMBERNEST, LTD

525 Caroline Street, Fredericksburg, Virginia 22401

GENERAL DEVELOPMENT PLAN

The Proposed Project will be named Riverwalk Square (The Project) and will replace 13 existing townhouse apartments situated on .32 acre with 14 new residences on approximately .55 acre and consisting of seven (7) new residential townhome units with 14 under unit parking spaces plus seven (7) single level residential units in a single mansion style structure with 14 under structure parking spaces. The Project will be built on two adjacent parcels owned by the applicants and which both front on Sophia Street as shown on the attached Existing and Proposed Site Plan drawings together with the Plat of Survey for both the 525 Caroline and the 506-516 Sophia Street parcels. (Attached)

Realization of the Project will require an Application for and approval of certain Special Exceptions which are contained in a separate Special Exception Application

Existing Conditions and Use

The existing parcels are currently configured as follows:

525 Caroline Street Parcel (Lot #2) (.21 Acre Rear Parking Area)

1. The rear parking lot of the 525 Caroline Street property currently contains 26 parking spaces with direct access from Sophia Street. An additional 18 parking spaces are available on the front of the parcel with direct Caroline Street access.
2. The rear and south property line of the 525 Caroline Street parcel adjoins the 506-516 Sophia Street parcel for a distance of 132.65 feet.
3. Electric and cable service to the 525 parcel are situated above ground and come from the Sophia Street side.

TIMBERNEST, LTD.

525 Caroline Street, Fredericksburg, Virginia 22401

506-516 Sophia Street Parcel (Lot#3) (.32 Acre)

4. There are 13 rental townhouses located in 3 separate buildings on the parcel with 14 off street surface parking spaces which adjoin the buildings as shown on the Existing Site Plan.
5. Electric and cable service to the 506-516 Sophia Street parcel are situated above ground and come from the Sophia Street side.

Proposed Changes to Realize the Project:

1. The current 132.65' north-south property line between Lot #2 and Lot #3 as shown on the Existing Site Plan will be extinguished and the two adjoining parcels will form a single parcel with direct access to Sophia Street. A new property line around the combined parcels will be as shown on the Proposed Site Plan.
2. The existing 13 townhouses situated on the 506-516 Sophia street parcel will be demolished. (Prior Demolishment Permit was previously granted but has expired)
3. Parking for the 7 new townhomes and 7 units in the Mansion Building will be under the structures and will provide a minimum of 2 spaces per unit (28 spaces).
4. The Proposed Site Plan indicates where the 14 units are to be located on the new co-joined parcels.
5. All current above ground utilities will be buried and provided from the Sophia Street side to enhance safety and improve the street scape.

TIMBERNEST, LTD.

525 Caroline Street, Fredericksburg, Virginia 22401

Clarifications to Application (City Letters of January 26, 2016 and March 03, 2016)

Procedures Manual Paragraph 2.a.

The two parcels that are the subject of the Application are both wholly owned by Timbernest Ltd. which is a Limited Partnership registered in the State of Virginia. The General Partner is Vangel L. Perroy holding a 51% ownership share and Deborah Perroy, a limited partner holding a 49% share. No other principal, contracted party or ownership entity is involved in the preparation and submission of this Application other than Commonwealth Architects of Richmond, Va who prepared the Site Plans and Elevation drawings.

Procedures Manual Paragraph 2.b.

It is stated that no member of City Council or the Planning Commission or any member of their immediate household or family owns or has any financial interest in such property or has any financial interest in the outcome of the decision.

Full Copy of Plats

Provided with list of all adjoining property owners and GPIN of same.

Procedures Manual Paragraph 5. a.-f.

The Project will consist of replacing 13 outdated existing rental townhouses currently situated on .32 acres with 7 individually owned townhomes and 7

TIMBERNEST, LTD.

525 Caroline Street, Fredericksburg, Virginia 22401

individually owned single level residential units in a vertical structure to be situated on a new lot of approximately .5 acre. The overall relative density of the townhouse units will be reduced from one unit per 1,072 square feet of ground surface area (existing) to 1,711 square feet of ground surface area per unit (joined lots) with minimal change in use and impact on the surrounding infrastructure.

All units will be individually metered as appropriate and will be supplied with underground electricity, cable, gas, water and sewer.

The only common area will consist of the paved access to the units from Sophia Street by means of on site drive access from Sophia Street.

Since the units will be constructed in the floodplain the ground floors will be for parking, mud room or other use allowed by Code.

There are no environmental issues affecting the subject parcels and soil tests support the proposed use.

Total Project build time should not exceed 10-12 months.

The impact on the infrastructure from the Project will be minimal since the overwhelming majority of the Project consists of replacing existing older, inefficient units with state of the art energy efficient ones. No meaningful changes are envisioned for roadways, schools, water and sewer, drainage or any other category of services or issues.

It is certified that the use and development of the property, and all improvements thereon, are subject to the General Development Plan as well as to the generally applicable regulations set forth in UDO Section 72-33 and 72-53.

Procedures Manual Paragraph 8.

TIMBERNEST, LTD.

525 Caroline Street, Fredericksburg, Virginia 22401

A list of all abutting property owners on the provided forms is attached.

PROJECT SUMMARY

Geo-Environmental Solutions, Inc. (GESI) completed a Phase I Environmental Site Assessment (ESA) of an approximately ¼ acre developed property, currently occupied by a multi-dwelling, residential apartment complex. This property is within the Historic District, located at 506-516 Sophia Street, Fredericksburg, Virginia ("Site").

GESI completed the following activities for this ESA:

- Obtained and reviewed a report from Federal and State regulatory databases (EDR Report; Appendix B);
- Conducted a physical inspection of the Site and immediately surrounding areas; and
- Contacted local government agencies for information regarding Site environmental history.

GESI provides the following information and conclusions based on the ESA activities:

- The Site consists of one approximately ¼ acre parcel (14,269 sq. ft. according to the plot plat from 2002). The Site is developed, including three multi-dwelling residential structures that were originally constructed in or around 1949. According to tax assessment records, the Site has been used as a multi-dwelling residential property since its original development. The exterior areas are a combination of asphalt covered parking area and concrete walkways.
- Underground and above ground chemical or fuel storage tanks (USTs, ASTs) were not observed nor are they reportedly present currently on the Site. Additionally, apparently no issues associated with former USTs have occurred at or on the Site (*confirmation requested from City Fire Department; response not received as of report date*).
- Nearby adjacent properties consist of more residential dwellings and commercial/retail business operations. None of these nearby facilities appear to include activities that would constitute potential environmental issues for the Site.
- GESI observed the presence of one pole-mounted electrical transformer at the northeastern corner of the Site. There was no label visible on the unit indicating if it contains PCB dielectric fluids. Under this circumstance, it must be assumed that the unit includes PCB-containing fluids. However, there were no indications of past or recent spills or releases from the unit. If a leak or spill is identified, then the transformer's owner (Virginia Power) should be contacted for response and clean-up. At this time there does not appear to be issues of environmental concern associated with the transformer.

- Site Building construction materials, for the most part, do not represent current, potential issues of environmental concern. According to the current Site owner, the buildings were substantially renovated in the late 1980's and have been maintained regularly since then. During our on-Site inspection we observed the three buildings (interior and exterior) to be generally in very good condition, with no obvious materials of environmental concern included in the structures. Small oil-stain patches exist in some of the parking spaces, but do not appear to be of a nature that represents a substantial environmental contamination threat at this time.
- A search of Federal and State database sources (EDR Report, August 31, 2006) includes information indicating the presence of facilities within a one-mile radius from the Site that include activities that may have created past environmental impacts. The Site is not noted in either the Federal or State databases as having recent or former environmental activities or issues.

According to the EDR Report there are several operations and facilities within one-mile from the Site that are included in the leaking tanks/LUST databases, manufactured gas plant records, CERCLIS-NFRAP files, RCRA generator registry, UST database and VRP list of facilities. However, all of the environmental concerns that occurred at these nearby facilities have been managed and/or mitigated to the point where the Federal and State regulatory agencies do not consider them an ongoing threat and have closed the cases. Therefore, there does not appear to be current environmental concerns associated with these nearby facilities based on the information presented.

- Information obtained from City of Fredericksburg agencies included:
 - ◆ Planning & Code Compliance Department, Zoning Office - the Site is included in an area designated as a Zone C-D, Commercial-Downtown. The present and former operation of the Site as a multi-dwelling residential complex complies with the designated, permitted uses included in the City's Zoning ordinances (Fredericksburg Code Division 16, Commercial-Downtown [C-D] District)

The Site lies within Flood Zone A24, which is in the 100-year zone (FIRM Panel #510065005B, 7/2/79).

This portion of Fredericksburg is considered a Resource Management Area (RMA) according to the Chesapeake Bay Protection Program map (1/99; Fredericksburg Code, Chapter 78, Article III, Division 26 Chesapeake Bay Preservation Overlay (CBPO) District). The Code defines RMAs as "...land types that, if improperly used or developed, would have the potential for causing significant water quality degradation or for diminishing the functional value of a resource protection area." If there are future plans for substantial renovation

and/or redevelopment of this Site, GESI recommends contacting the City for specific CBPO planning and compliance requirements.

- ◆ Fire Department – *As of 29 September 2006, there had been no reply to our request for information from the FD regarding potential past incidents involving hazardous/toxic materials and/or records of USTs or ASTs at the Site (letter of request submitted 31 August 2006).* Based on information received from other parties, the presence of USTs or ASTs, or past incidents involving hazardous/toxic materials do not appear to have existed or occurred at the Site.

No other items or issues of potential environmental concern were noted during the ESA activities. Other than those activities noted above and in the full report, and based on observations and research conducted for this ESA, there does not appear to be need for additional environmental assessment activities for the Site.

Based on the PLM results above, GES notes the following:

- The pipe wrap found on the piping in the boiler room and in the closet in the basement area is confirmed to be asbestos containing materials.
- Results for the green vinyl floor tile on the first floor is consistent with the previous analyses (December 1995 asbestos inspection).
- The linoleum floor covering in the immediate area beneath the bar counter (Figure 3), contains asbestos and requires management and handling similar to other ACM. The material was found to be in a non-damaged, non-friable condition, and, therefore, does not require removal. However, should the materials ever be scheduled for removal, a licensed asbestos removal contractor will be required to perform these actions.
- None of the ceiling tiles or plaster was found to be ACM.

Based on these activities, there does not appear to be significant incremental cost associated with the materials found and confirmed to be ACM, as compared with the information provided in the January 1996 asbestos inspection report by Mr. McCoy. As stated above, the linoleum floor covering in the basement is currently undamaged, and is not friable, and does not appear to present an inhalation hazard to patrons of the Elks Lodge in its current state. Therefore, as long as it remains in this condition, the materials do not require removal, but do require management and maintenance.

UST Closure

The heating oil UST, located in the west-northwestern area of the Elks Lodge site (Figure 4), was removed from the ground over the two-day period of October 2 and 3, 1996. GES observed the final stages of the closure activities on October 3rd, and spoke with the removal contractor's field staff about activities not witnessed.

Upon arrival on October 3rd, GES observed that the UST had already been removed from the ground and the excavation pit was almost completely backfilled. GES spoke with Mr. Robert Williamson, the lead equipment operator for Red Jewel Construction, the tank removal contractor. He reported that prior to removal of the tank, approximately 1,900 gallons of heating oil was pumped out of the tank. GES observed that the tank was substantially larger than the 1,000 gallons capacity reported during the Phase I ESA investigation. Mr. Williamson indicated that the tank was approximately 3,000 gallons in size.

GES inspected the tank, and observed that except for some minor rusting, there were no signs of pits, holes, or other indications of structural deterioration that would lead to suspicion that a potential release may have occurred during the tank's active life.

Mr. Williamson also reported that the Fredericksburg Fire Marshall had been on-site during the tank closure activities both the 2nd and 3rd, and was apparently satisfied that no problems were associated with the tank. One soil sample was reportedly collected on October 2nd by a Red Jewel employee, and sent to EnviroCompliance Laboratories, Inc. in Glen Allen, Virginia. He said that the verbal results from the lab indicated that petroleum hydrocarbons were not detected above a level of 25 mg/kg in the sample. Mr. Williamson also said that there were

no visible or olfactory signs of a possible past release that he noticed during the removal activities.

Based on the limited observations GES made, and the reported conditions of the soils and verbal laboratory analytical results for the one soil sample, it appears that there are no environmentally related concerns associated with the former heating oil UST at the Elks Lodge property.

Closing

GES appreciates the opportunities to provide our services for you. If there are any questions regarding this report or other issues with respect to these or the previous Phase I ESA activities, please do not hesitate to contact me at (540) 891-8110. Thank you.

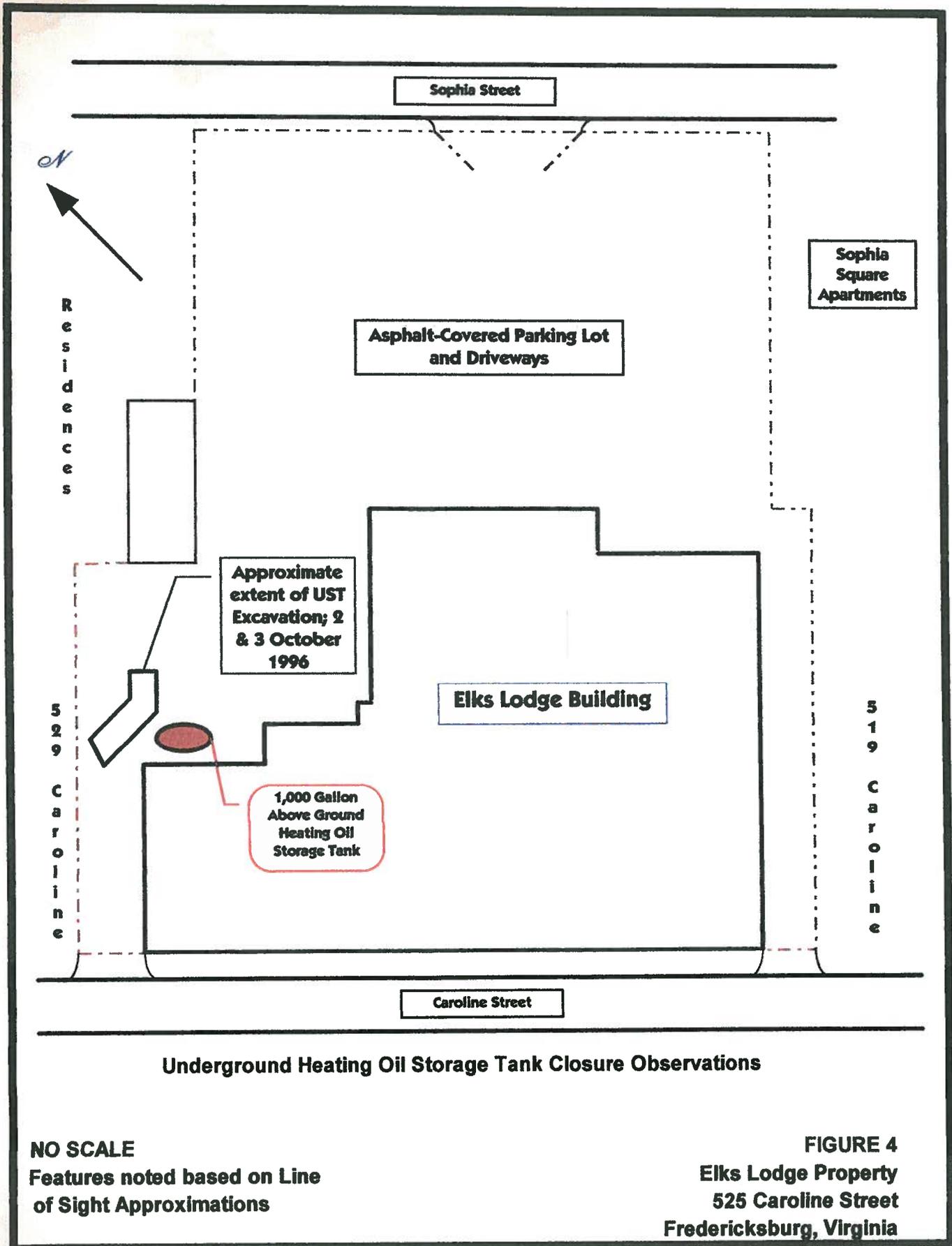
Sincerely,

GEO-ENVIRONMENTAL SOLUTIONS

A handwritten signature in blue ink that reads "Kenneth A. Clayman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kenneth A. Clayman, CHMM, CPG
Principal Consultant

REAR 525 CAROLINE ST.



NO SCALE

Features noted based on Line of Sight Approximations

FIGURE 4

Elks Lodge Property
525 Caroline Street
Fredericksburg, Virginia



PLANNING COMMISSION MINUTES

May 11, 2016

7:30 p.m.

**City of Fredericksburg
715 Princess Anne Street
Council Chambers**

You may view and listen to the meeting in its entirety by going to the Planning Commission page on the City's website: fredericksburgva.gov

MEMBERS

Roy McAfee – Chair
Richard Dynes, Vice Chair - ABSENT
Jim Pates, Secretary
Jim Beavers
Roy Gratz
Tom O'Toole

CITY STAFF

Chuck Johnston, Director of CP&B Dept
Mike Craig, Zoning Administrator

1. CALL TO ORDER

The May 11, 2016, Planning Commission meeting was called to order by Chairman McAfee. Mr. McAfee explained the standard meeting procedures.

2. PLEDGE of ALLEGIANCE

3. ADOPTION OF MINUTES

- **April 13, 2016 – Regular Meeting - Adopted**

PUBLIC HEARINGS

- 4. SE2016-01 - Timbernest, LTD, requests special exceptions for general density, density in the floodplain, height, and required parking to redevelop 506 – 512 Sophia Street (GPIN 7789-23-5802) and a portion of 525 Caroline Street (GPIN 7789-23-3825) in the Commercial-Downtown (CD) Zoning District. The development plan is to demolish the existing multi-family buildings at 506-512 Sophia Street, adjust the existing property lines to create a 0.52-acre parcel fronting along Sophia Street, and redevelop the new site.**

**Allowed by right in
Commercial Downtown Zoning**

Requested Special Exceptions

Density

12 townhomes per acre
18 multifamily units per acre
(In addition, property in the 100
year floodplain is limited to ½
permitted density)

29 units per acre
(7 new townhome units and
7 new multi-family units)

Height

50 feet

57 feet

Parking

38 spaces
required for 525 Caroling Street
(Fredericksburg Square building)

22 spaces
for 525 Caroline Street

The Comprehensive Plan designates the area where the subject properties are located as 'Downtown' and does not provide a specific policy for residential density, height, or parking.

Mr. Craig presented the application along with a brief slide show to familiarize members of the public with the project site and proposal.

Mr. Craig noted that the original special exception requests for height and parking are no longer necessary or being requested. The applicant has reduced the height of the building to the allowable 50 feet. He said the proposed uses will occupy parking currently dedicated to the Fredericksburg Square use. However, the Square building (originally built in 1854 and reconstructed in 1927) meets the Unified Development Ordinance (UDO) definition of "Historic Building" and, in accordance with subsection 72-53.1.B(2), is exempt from parking requirements. The only special exceptions being asked for at this time are for general density and density in the floodplain.

Mr. Craig noted that on April 25th and May 9th, the Architectural Review Board (ARB) reviewed the project application with respect to demolition of the existing buildings, site planning and the new construction. The UDO allows for the ARB to review special exceptions and special uses and provides the Board with the opportunity to make a recommendation on these projects. He said that although the ARB has not adopted an official motion as a body, they offered the following input. The membership generally was in favor of the density special exception, as long as the architecture could be made to fit in with the surrounding context. There was concern in terms of the mass and scale of the townhomes along Sophia Street. He said the ARB may require [the height of the townhouses] to be lower, with the option that they be wider to gain back buildable square footage. He said that the site layout was generally okay. The ARB did not want to make a firm motion because he believes they perceive there is more work to be done

on this project. Two members of the ARB, he said, were not okay with permitting the demolition of the existing apartment buildings and their comments did not proceed beyond that point.

Mr. Craig said that staff was recommending that the Planning Commission defer a vote to allow the applicant to address the City's Architectural Review Board and the remaining Technical Committee comments. He said this is a complicated application, with a lot of moving parts. He said some additional information came in the day he was writing the staff report and he has not vetted some of the technical aspects; he said he also needs to work with Public Works regarding the curb cuts. He also asked that if the Planning Commission sees something [noteworthy] with respect to the application, members should provide clear guidance to the applicant with aspects the Commission likes, or things that members believe need to be changed.

Mr. Beavers asked about properties considered to be 50% in the floodplain. He asked what difference it makes if it's 50%, or not, because if you are in the floodplain you are in the floodplain and if you are not, you're not.

Mr. Johnston said that not being the author of that provision [in the City Code], he could only guess. He said one issue that he would observe is, yes, there is a definitive line for the 100-year floodplain, but some properties are only in the floodplain up to one-foot and other properties are in up to eight or 10 feet. So, he said, there is great variations as what is theoretically usable by simply elevating a structure a modest number of feet as opposed to perhaps 10 or 12 feet up in the air. That could be part of the thinking that there should be some sort of reduction for land that is located in the floodplain. He noted areas of the City that have several properties located within the floodplain that are not in the main flow of the river, so there may have been some sense that it may have been acceptable, but he can only surmise why.

Mr. Beavers asked that if the City could do it all over again, would we just say you can build or cannot build [within the floodplain], because the 50% determination makes no sense.

Mr. Johnston said you might add in the criteria a third dimension – the degree that a property is within the floodplain, he believes, should bear some issue. One of the problems with properties that have been developed within the floodplain is that they get pushed up to the maximum capacity for height because you have to elevate it and the desire for at least two living-space floors over a garage so you have a full three-story house at a full 35 feet.

Mr. Pates said he believes part of the reason for the density limitation in the City Code was simply that the City did not want to encourage development/new construction within the floodplain, and that you can't ban it completely because that would basically be taking people's properties. So, he said, he believes the

idea was that by having the density restriction, you would have less construction, less people, and less obstruction of the floodplain within those areas.

Staff and Commissioners continued to discuss different aspects regarding the floodplain, the floodway, etc.

Mr. Pates referenced the existing site plan sheet in the application. He confirmed that the Fredericksburg Square Property and the parking lot behind it are one property, consisting of about a half-acre, and then where the apartment buildings are is another parcel.

Mr. Craig said this was correct.

Mr. Pates asked, on the existing Fredericksburg Square parcel, what was the current parking requirement for that parcel?

Mr. Craig said for that building, as it exists, and meeting the definition of a historic building in the UDO, parking is not required.

Mr. Pates said he finds this very hard to believe that where you have *existing* historic buildings downtown with *existing* parking, the City is suddenly taking the position that such properties don't have to have any parking at all?

Mr. Craig said that is the policy that the City Council adopted with the UDO in 2013.

Mr. Pates said he cannot believe that the City Council meant to wipe out all existing parking for historic buildings in Fredericksburg. He said this makes no sense whatsoever.

Mr. Craig said the staff had talked about this a little bit and one thing he wanted to reiterate is that any new construction does have to be parked and he understands Mr. Pates' point about historic buildings. But, any new construction, or any additions to historic buildings, all require parking.

Mr. Pates said then what the City is essentially telling people is let's just get rid of all of our parking and let's go up 50 feet on every parcel in downtown Fredericksburg that has a historic structure on it.

Mr. Craig said if you were adding another story, or elevating that structure, that extra story requires parking. He said it is just the historic part, the reuse, and the rehabilitation of that original structure that is exempt.

Mr. Johnston said he thinks the assumption was that if there were some redevelopment adjacent to an historic structure, ARB review would ensure that it would be appropriate or blend in or be consistent with the character [of the

surrounding properties]. He said three years ago, back before he came to the City, he understood there had been a long and lengthy debate with Council regarding downtown parking and that some people were even saying that all parking [requirements], across the board downtown, ought to be waived.

Mr. Pates said that so now [this means that] since this [is within the Downtown Parking District] where you can pay a fee in lieu of [providing] parking, nobody has to provide parking anywhere, essentially.

Mr. Craig said the “fee in lieu” is only for 50% of the parking.

Mr. O’Toole referenced the proposed site plan on Lot 2 and asked where exactly the parking is located.

Mr. Craig said it is all in the first floor of the units. He described the layout of all the parking for the project.

Mr. O’Toole said then it is basically private parking.

Mr. Craig said that is correct.

Dr. Gratz asked about the report provided by the Historic Resources Planner that was provided in the PC packets, which offers alternative ways of developing this project. He asked if it has any standing or [whether it is] just a report that was provided to the ARB.

Mr. Craig said Kate Schwartz is the new Historic Resources Planner for the City and she was looking at ways to mitigate the impact on the historic district and presented that information to the ARB. He said he included her packet with the Planning Commission materials so the PC could review it.

Mr. Pates said an important piece is the ARB approval of the demolition of the existing apartments. He said he believes it would make better sense for the Planning Commission to consider this request after the ARB has given its determination.

Mr. Craig said staff specifically asked that [question] to the ARB, whether or not they would be in favor of the demolition. He said that as the staff report states, two members of the ARB wanted more information and additional study. The other members of the ARB were generally okay with the demolition and were more interested in discussing the remainder of the proposed project. He said the ARB has not yet made a formal [decision], however.

Mr. Johnston pointed out that the ARB has not voted on the project yet because Mr. Perroy has not made a formal application to the ARB so it has basically been a discussion. However, Mr. Johnston said, we can certainly encourage Mr.

Perroy to make application to the ARB in order to move this along through that process. He said typically, as many will recall, the ARB does not like to approve a demolition without knowing what will be coming afterward.

Dr. Gratz confirmed that staff is asking the Commission to vote to defer action until its next meeting.

Mr. Craig said that is correct.

There were no additional questions for staff.

Mr. McAfee asked if the applicant had additional information he would like to present.

Mr. Van Perroy, 525 Caroline Street (applicant) – He noted that a few years ago, they had purchased the 506-516 Sophia Street parcel with the intent of demolishing it for the purposes of hotel development. He said there was a demolition permit approved for the apartments issued in the course of pursuing the hotel development in 2009. The work was not done at that time so he is required to once again acquire the ARB's approval. He described in detail how he envisions the project to be developed.

Mr. McAfee opened the public hearing for this application.

Mr. James McGhee – 526 Caroline Street – said he is happy to see something done with this development and only has a concern regarding aesthetics of the structure, which he is confident that the ARB will address.

Mr. Tommy Mitchell – 100 Frederick Street – said he is in favor of the project and that it is a nice improvement for Sophia Street, which will have a nice economic component for the City.

There were no additional comments from the public.

Mr. McAfee asked if the Commission desired to hold the public hearing open [until the next meeting].

Mr. Johnston said that if the public hearing were held open, then staff would not be required to re-advertise if there are any major changes to the application.

Mr. Beavers asked if the hearing were held open, would the next Commission meeting be May 25th?

Mr. Craig said it could be that date or the June 8th meeting, whichever the Commission prefers.

Mr. McAfee closed the public hearing on this item

Mr. Johnston addressed Mr. Pates' suggestion regarding the Commission postponing a decision until the ARB has made a decision as to the demolition. He noted that Mr. Perroy has not made a formal application to the ARB and that the absolute soonest the ARB would be able to review and make a decision would be at their next scheduled public hearing, which is June 13th, a week following the June 8th regular meeting of the Planning Commission.

Mr. Beavers said he would be willing to make a motion because he does not see any reason to defer a decision. He said he has reviewed the material very carefully and the demolition is not a concern in his mind. He made a motion to recommend approval of the special exception request.

There was no second to the motion.

Mr. Beavers withdrew his motion.

Mr. McAfee said there were a few open questions. He said he has some concerns and does not like losing density. He said the parking is okay with him, however. A concern is that as a pedestrian, this is somewhat of a "cluster". Specifically, he said when he thinks about walking on the sidewalks by the project, it is not pedestrian-friendly due to the curb cuts for the proposed garages. He said he does not have issues with the density or the demolition, but he would like to see a layout where he could expect to see an elderly person or a young child permitted to walk around and not get run over. He said he does not believe the project, as currently submitted, is pedestrian-friendly but that this problem could be easily solved with a little bit of rearranging.

Mr. McAfee thanked Mr. Perroy not only for his current efforts but for all his past efforts in making an attempt to improve these properties. He said he would like to see this project move forward in some manner after the various concerns are addressed. He said that there are too many unanswered questions to vote on the application this evening.

Mr. Pates noted that Mr. McAfee addressed having pedestrian-friendly sidewalks on the interior of this project. He said these are not City streets but are instead entirely private on the interior. He noted that the townhouses will face inward of the private development and he asked why there is concern about pedestrian access inside a private development.

Mr. McAfee said that he believes the way the Comprehensive Plan is written and the way the UDO is written, we make no distinction between the interior layout and the exterior layout, as far as safety is concerned.

Mr. Johnston said he believes, in general, that is true. He said he believes there is a gradation of streets and how they should be handled. Certainly, we would not encourage a series of driveways and garages on Sophia Street. But in not having garages on Sophia Street there has to be an "alley" of some sort for service and for parking. Units 1, 2 and 3 would not be possible without having that rear alley. The shape of the property for units 4, 5, & 6, is somewhat similar. Unit 4 has a door that is going to front on Sophia Street. The only means of access for units 5, 6, & 7 is an alley and given the shape of the property.

Mr. Craig said the UDO is set up in a way that residential units are supposed to front on streets. There is a provision that they can be in the interior of the block and there are Administrative Exceptions that permit that. The issue that we have got here, which has been brought up by Mr. McAfee, is that the majority of these units are put into this special situation. There are places on the site where they would not have to be that way – where there could be a more typical access for any resident or any visitor and where all the access would not be crammed into one alley. That is not how our UDO is set up or what the Comprehensive Plan envisions.

Mr. McAfee said Mr. Craig mentioned the applicant would need an administrative exception for these driveways.

Mr. Craig said that is correct.

Mr. McAfee said they would also need an administrative exception for the disconnection because there is something blocking these two driveways from being together. That is also against our policies.

Mr. Craig responded, yes sir, as would the lots being off of an alley. Lots can be served by a couple of different means, but they have to meet certain standards. The Code is set up so that lots front on streets. In these more intensive districts, there are alternatives. Alleys are not one of those permitted options, but you can serve lots off of alleys with that "exception."

Mr. McAfee said he cannot believe that this piece could not be developed in a way that Mr. Perroy wants, but without having these types of conflicts. He said he believes there is enough space to accomplish this.

Mr. Johnston said one of the other issues raised by the ARB is that by virtue of having a 24-foot driveway and 5-foot sidewalks, and having 34 feet between buildings, some of the members thought that was excessive and very wide and not appropriate to what they were thinking. It may be, he said, in his personal view, townhouses may not be the right answer here. Perhaps, he said, it should be more of a multi-family type building so you don't have this issue of alleys.

Mr. McAfee addressed Mr. Craig and said that it seems to him that if you took this whole piece of property and developed it as a mixed-use, you could get close to 36 units by-right.

Mr. Craig said if you met the definition of "mixed use," which would require accounting for the commercial space in the Fredericksburg Square building, then by right, you would be permitted 24 units. (But you would still have to work with the floodplain density requirements.) With a special use permit, you could get up to 36.

Mr. Pates said he thought this had been a very interesting discussion, particularly in terms of the configuration of these units facing an interior alley, especially something that small and manageable. He said it seemed to him that these kinds of projects seem to work in most cases and he personally did not see a problem with interior-facing units like this. He said it was interesting and different, which is an appealing part of the application because it gives the residents a sense of privacy and sense of community.

Mr. Beavers said he agrees with Mr. Pates' comments and believes the market will dictate whether these will be owner-occupied units. He said he knows the applicant would like them to be owner-occupied.

Dr. Gratz asked if the Fire Department has looked into accessibility to these units.

Mr. Craig said they have reviewed the design and they have said they have sufficient access.

Dr. Gratz said he is not crazy about the design and tends to agree with the analysis of staff regarding that issue. He said he does not believe the design to be very appealing.

Mr. Pates said he had a question about the memo provided in the PC packet, written by Ms. Schwartz. Specifically, he said, he was interested in her opinion that the existing apartments on Sophia Street constitute a contributing structure in the historic district. He said he was curious how she arrived at that opinion, and said that, generally speaking, he thought contributing historic structures were not supposed to be demolished.

Mr. Craig said he did not believe this was her opinion but that she had pulled what was catalogued as part of a historic survey.

Mr. Johnston said, yes, it was part of the survey. He said the building on Sophia was specifically referenced to the survey because of its age, he believes. He said buildings B and C in the back were not even part of the survey.

Mr. O'Toole said, personally, he liked the design and layout of the proposal. He said, however, he is also a little concerned about the [lack of] "green space", but he thinks that will work itself out. He asked, if this item were tabled tonight, how long did staff think it would take to resolve these issues, other than an ARB vote?

Mr. Craig said it was up to the Planning Commission. He said staff anticipated more issues with the access but it appeared the Commission did not have that many issues. He said these are the types of issues staff wants resolved and will be working with Public Works and the applicant to resolve them. He said he believes this can be done within a week.

Dr. Gratz made a motion to table this item until the June 8, 2016, Planning Commission meeting to allow additional time for the applicant to address concerns voiced by the Planning Commission, staff, the TRC, and the Architectural Review Board

Mr. Beavers seconded the motion.

Mr. Craig requested that the Planning Commission provide the applicant with bullet points that they would like to see addressed prior to its next meeting.

Mr. McAfee said the application will be continued until the June 8, 2016 meeting and would like to see the following addressed:

- Address the UDO requirements regarding pedestrian access;
- Access to project
- Review and address concerns regarding the impact of the historical block face

Mr. McAfee requested that Ms. Schwartz be present at the June 8th meeting to address any questions that the Commission may have regarding the ARB requirements.

Mr. McAfee said there is a motion on the floor, which has been seconded. He called for the vote.

Motion carried by a vote of 4 – 1, with Mr. Pates voting against the motion.

GENERAL PUBLIC COMMENT

- 5. A general public comment period is provided at each regular meeting for comments by citizens regarding any matter **related to Commission business that is not listed on the Agenda for Public Hearing**. The Chair will request that speakers observe the **three-minute time limit** and yield the floor when the Clerk indicates that their time has expired. No dialogue between speakers will be permitted.*

Mr. McAfee opened the floor for general public comment.

There were no speakers.

Mr. McAfee closed the General Public Comment period.

OTHER BUSINESS

6. Planning Commissioner Comment

Mr. Pates provided a statement regarding his concerns to several matters: (Full statement is included as **ATTACHMENT A**.

- the timeline of the Comprehensive Plan Update and resulting Area Plans progress;
- the lack of planning efforts by the Commission; and
- cancelation of meetings.

Mr. McAfee addressed Mr. Pates' concern regarding the progress of the Area Plan process. He said the process has been moving forward and that a selection committee has met on a few occasions to review the eight proposals that had been submitted by vendors. He said there has been a vendor selected and a contract is being written by the City to hire this vendor to commence work on the Area Plans.

There were no additional Commissioner Comments.

Planning Director Comment

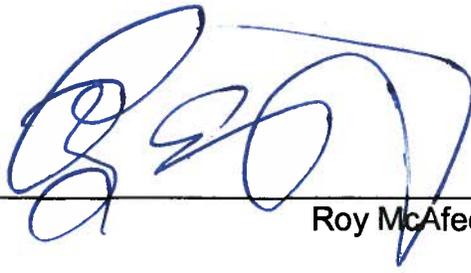
Mr. Johnston said there are various applications that will be coming before the Commission in June.

Mr. Johnson updated Commissioners regarding the Proffer Guidelines process. He noted that the General Assembly recently passed new proffer laws that has caused the City to regroup and rework the policy guidelines.

He said the City Council is moving forward with Liberty Place.

ADJOURNMENT

Meeting adjourned.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke that extends to the right, crossing a horizontal line.

Roy McAfee, Chair

Attachment A

Planning Commission Meeting May 11, 2016

STATEMENT OF JAMES M. PATES

I wanted to talk briefly tonight about something that has been of concern to me this evening and that has increasingly concerned me over the past 6 months, namely, how little time this Commission is spending on *actual planning*. Tonight, we were considering an application for special exceptions needed for a project in the Historic District, but we are doing that without any of the planning that is needed to transform our Comprehensive Plan into a useful document.

This Commission approved a partial Comp Plan Update back in March 2015, a document that was **three years late** but that still lacked any update of roughly one-third of the Plan, namely, a Land Use Plan. Since that time, this Commission has done virtually no planning of any kind, a period of 14 months. Specifically, I have five areas of concern:

First, we still have no published Comprehensive Plan Update. I find this incomprehensible. The timeline:

March 25, 2015 – The Planning Commission voted to approve the draft Plan (without a Land Use Plan component), even though we did not have a final document in front of us. I voted against the Plan at that time because we did not have the actual document being approved.

September 8, 2015 - The Council approved the Plan with no changes, but it lacked any “Action Plan” or prioritization of projects or a schedule

September 30, 2015 - The Planning Commission discussed the Action Plan and made certain recommendations to Council.

November 10, 2015 - The Council approved the Action Plan, which was to be included with the Comp Plan Update.

December 9, 2015 - I asked for a copy of the final published Plan. I was told that it was being prepared and would be ready shortly.

January 13, 2016 - I asked again.

Today, May 11, we still have no published hard copy of the Plan. There *is* a document on the City’s website, but it is not an actual finished document, with photographs, charts, action plan, etc.

Second, when the Council launched the Comp Plan Update in January 2014, it was projected that the Plan would be updated by December 2014 and that a consultant would then be hired to help with the individual Area Plans for each of the 10 areas in the City. The whole process was projected to take 2-3 years or the end of 2017. We had little public participation or outreach for the Plan, with the thought being that this would happen as part of the Area Planning process.

As to today, little process has been made. This Commission, as a group, has had no involvement with the selection of the consultant and I don't think one has even been hired, 9 months after the Council approved the Plan. This is time that has been largely wasted.

Third, the Commission has made no effort to do any planning itself. Instead, we have missed many meetings, with no action or discussion at all of many of the critical planning issues facing the City.

We had NO MEETINGS on the following dates. We missed:

- 2 meetings in July
- 2 meetings in August
- 1 meeting in October
- 1 meeting in November
- 1 meeting in December
- 1 meeting in February 2016
- 2 meetings in March 2016
- 1 meeting in April 2016

TOTAL MISSED MEETINGS = 11 canceled meetings since last July.

Fourth, one of the important planning issues that has been discussed for the 29 months I've served on the Commission is the City's lack of any kind of proffer policy. We have considered conditional rezonings during this period and the applicants have made voluntary cash proffers and we have approved them, but with no useful guidance on whether those proffers actually offset the applicant's share of needed public improvements. Most of those proffers, in my opinion, have been grossly inadequate. Why couldn't we have done our homework on this issue on all those dates when we had no meetings?

Fifth, and perhaps most importantly, by doing little or no planning, this Commission is abdicating its responsibilities to assist the City Council in planning the future of the City and turning that function over to City staff. How can the City Council do its job when this Commission is not doing its own?

Thank you.



DRAFT

PLANNING COMMISSION MINUTES

June 8, 2016

7:30 p.m.

City of Fredericksburg
715 Princess Anne Street
Council Chambers

You may view and listen to the meeting in its entirety by going to the Planning Commission page on the City's website: fredericksburgva.gov

MEMBERS

Roy McAfee – Chair
Richard Dynes, Vice-Chair
Jim Pates, Secretary
Jim Beavers
Roy Gratz
Tom O'Toole
Kenneth Gantt

CITY STAFF

Erik Nelson, Deputy Director
Mike Craig, Zoning Administrator

1. CALL TO ORDER

The June 8, 2016, Planning Commission meeting was called to order by Chairman McAfee. Mr. McAfee explained the standard meeting procedures.

Chairman McAfee welcomed our newest Commission member, Mr. Kenneth Gantt, and thanked him for volunteering to serve the citizens of our great City.

2. PLEDGE of ALLEGIANCE

3. ADOPTION OF MINUTES

- **May 11, 2016 – Regular Meeting - Adopted**

UNFINISHED BUSINESS/ACTION

- 4. SE2016-01 - Timbernest, LTD, requests special exceptions for general density and density in the floodplain to redevelop 506 – 512 Sophia Street and a portion of 525 Caroline Street in the Commercial-Downtown (CD) Zoning District.**

Mr. Craig presented the revisions made to the application since the public hearing, which was held on May 11, 2016, and he provided a brief slide presentation of the project site and proposal. He said the applicant has clarified that he does not intend to convert the tent and gazebo areas to parking lots, as had been previously planned. He said the applicant said the tent and gazebo are critical to his current business operations, which is why he has chosen not to opt for the infill areas. He has added a pedestrian connection between the project and Caroline Street, and added a vehicular connection – an alley access, Riverwalk Place - extending into the Fredericksburg Square lot. He has changed the materials of the internal sidewalks to stamped concrete, to make it more visible to a vehicular driver that a pedestrian walkway could be in the area. He has added the full Sophia Street streetscape to be in line with [Department of] Public Works planning – full brick sidewalk, rubber mulch, colonial street lights, etc. He has also modified the architecture of the building in response to ARB comments. He said the ARB has not yet seen the revised drawings but Mr. Perroy has made the changes in response to comments made at their meeting. Mr. Craig reviewed the staff analysis that was included in the staff report. He said parking continues to be a concern. He said that the City is aware that this is a debatable project. Therefore, he said that staff recommends approval, with the recommendation that the applicant either:

- a. Revise the project, as described in the body of the staff report, to infill the Caroline Street block face and maintain an equivalent parking and service area to what exists today; or
- b. Propose a viable alternative to off-set the impact of eliminating 26 on-site spaces currently used by the Fredericksburg Square building.

Mr. Craig also suggested that any recommendation for approval should include, at a minimum, the following proposed conditions:

1. The project shall be developed in substantial accordance with the General Development Plan, entitled “Townhomes at Riverwalk Square,” by Commonwealth Architects, dated May 31, 2016 (the “GDP”). The GDP may be modified by the City’s Architectural Review Board during the Certificate of Appropriateness process.
2. A direct pedestrian access from Riverwalk Square to Caroline Street, as generally shown on the GDP, shall be constructed by the developer prior to the first issuance of the first occupancy permit for Riverwalk Square.
3. Pedestrian and vehicular access between Riverwalk Square and Fredericksburg Square, along Riverwalk Square, shall be maintained in perpetuity as generally shown on the GDP.
4. The developer shall construct the Sophia Street streetscape, as generally shown on the GDP and in accordance with Public Works comments, prior to the issuance of the first occupancy permit for Riverwalk Square.
5. The developer shall remove the two curb cuts and driveways on either side of the Fredericksburg Square building, restore the streetscape in the area, and re-stripe the parking lane along Caroline Street to maximize the amount of public parking spaces, prior to the issuance of the first occupancy permit for Riverwalk Square.

Mr. Beavers said that Mr. Craig used the [phrase] that this project is “fairly debatable.” Frankly, all projects are fairly debatable. He said that in his opinion, what currently exists is not architecturally appealing. He asked Mr. Craig what would be any other downside with this investment other than the parking. And, other than the parking, why would the City not want to see this improved project near the river?

Mr. Craig said staff has tried to identify clearly what the impacts would be in the area and the [Fredericksburg Square} service area is number one. He said the ARB is still not completely sold on the architecture, but he believes that they were generally okay with things too if it could be fit within the context of the overall picture.

Mr. Dynes asked for clarification as to exactly what service impacts there are in terms of things being pushed out into the street or public space, that are not currently there today.

Mr. Craig said mostly parking.

Mr. Dynes asked if the applicant has the option to use the parking deck.

Mr. Craig said there was the potential of a long-term lease when the [downtown] hotel project was being considered. The Marriot won that long-term lease. He said due to bonding, the City is no longer able to sign long-term leases [for the parking deck]. He said staff looked into using the garage and its capacity. He said most of the time there is enough capacity for Mr. Perroy’s patrons to use the garage, or book 25 or so spaces for events. He said the exception to that is during holiday months. He said the garage is at peak capacity during holiday months on a regular basis.

Mr. Dynes asked about the proposed “administrative exceptions” [for the project]. He said the internal architecture does not bother him at all as long as it is done well, and maintaining the access to the rear of the commercial space is essential. He said the maintenance issues for the internally-configured houses concern him, and he asked if brick would be used on the rear facing walls so that they would not require maintenance for quite some time, or whether some other material that will require maintenance in a fairly short amount of time will be used. He asked how the increase in density [would] impact the [proposed] One Hanover project next door.

Mr. Craig said he believes One Hanover got a higher density special exception than what is being requested by Mr. Perroy and that the One Hanover property is also within the floodplain.

Dr. Gratz referenced the site plan and asked if Lot One would have any parking at all.

Mr. Craig said Mr. Perroy has not shown any parking but he could potentially provide parking.

Mr. Pates said he did not understand the application. He asked how many special exceptions are actually being requested, and he asked Mr. Craig to explain them.

Mr. Craig said two special exceptions are being requested. One is for “general density.”

Mr. Pates asked which one is for general density and for which lots.

Mr. Craig explained that the special exceptions are for a new lot -- Lot 2 -- which is comprised of a portion of an existing lot, which is the Fredericksburg Square lot; and the full 506-512 Sophia Street lot. He said diagram A1 is the old configuration and A2 is the new configuration. He confirmed that the special exception would be strictly for Lot 2.

Mr. Pates asked if they are going from three lots to two lots.

Mr. Craig said no, it is only two lots. He explained the acreage of each parcel/lot.

Mr. Pates asked if the acreage is included in the staff report.

Mr. Craig directed Mr. Pates to the portion of the staff report that reflects the acreage. He noted that there is no density exception for Lot 1.

Mr. Pates and Mr. Craig continued to discuss the special exception requests for clarification.

Mr. Pates asked about the "floodplain density" special exception issues involved with this property. He said that there were approximately four different floodplain categories. He asked what portions of the subject properties fall within which of the different floodplain categories.

Mr. Craig said the properties are only in one floodplain category, which is the 100-year floodplain. He said they are not within the floodway or flood fringe.

Mr. Pates asked Mr. Craig for his opinion on why there is a floodplain overlay district in the Code.

Mr. Craig said he believes it is important to have these types of overlay districts to ensure that there are regulations that are followed. He said he believes there is less density allowed because of environmental reasons or impacts.

Mr. Pates said it was also his understanding that a special exception is supposed to be used for something that is extraordinary or special. He asked what is so different (extraordinary or special) about this property, as opposed to any other property in the floodplain, and why a special exception should be granted in this case.

Mr. Craig said this area is in the core downtown. The City Public Works Department is planning infrastructure for this area and the use of the parking garage and the use of the train. Portions of the Comp Plan also talk about the hard edge on Sophia Street. He said it is a balancing act for the Planning Commission and City Council to weigh the issues and come to a decision.

Mr. Pates said he believes ordinances were written and enacted for a purpose and they should be followed unless there is some compelling reason not to. He asked if Mr. Craig sees any compelling reason to do that now.

Mr. Craig said yes, from a planning perspective. The subject property is in the core area. It is close to transportation facilities and other infrastructure amenities, such as the Riverfront Park, and there are also other plans for that area.

Mr. McAfee said that, for clarification, we are talking about an exception for an increase in density than what is allowed by right and if this project moves forward the density is actually being lowered from what currently exists.

Mr. Craig said that is correct – the density would go from 42 units to 29 units per acre.

Dr. Gratz asked how the footprint of the proposed project would affect the flood level of adjacent properties.

Mr. Craig said that in order to construct buildings within the floodplain, a Base Flood Elevation Study is required, which shows exactly the type of offset to which Dr. Gratz refers. No building is permitted that will raise the flood level anywhere in the City, he said.

Mr. Nelson explained that the displacement of water (with new construction) is actually less than what currently exists even with a larger footprint, due to current building code requirements such as blow out plugs in the walls and other measures. Therefore, he said there is no additional hazard to adjacent properties.

Dr. Gratz referenced the pedestrian sidewalk access. He asked how people will be affected who live in the townhouse development [that will be] accessing Caroline Street. He voiced concern that with this configuration, people would have to walk directly past a party or gathering at the Gazebo/Tent area at Fredericksburg Square, while trying to access Caroline Street.

Mr. Craig said he would allow Mr. Perroy to address this concern. He said staff believes the pedestrian access is a necessary component of the project.

Dr. Gratz said he agrees it is an important component but simply wanted to know how this would affect activities being held at Fredericksburg Square.

Mr. O'Toole noted that the staff report indicates that the Technical Review Committee has reviewed this project and submitted comments. He asked if there were any concerns/comments that should be shared with the Commission.

Mr. Craig said other than what staff has identified as impacts, there were no other engineering or technical impacts that were a concern. He said Mr. Perroy addressed the rear access when he agreed to bring the alley through to the next lot.

Mr. O'Toole asked if the Fire Department has looked at the project and if they are in agreement with having adequate access to the subject property with the back entrance.

Mr. Craig said, yes, they approve and were actually the ones that requested it.

Mr. O'Toole said that during the public hearing on this item, it was said that the project does not require parking because of the building being in the Historic District. He said so essentially the applicant is asking to eliminate the parking that is currently there and to be allowed to construct townhouses in place of the parking.

Mr. Craig said this was correct.

Mr. Dynes said what it comes down to then is you have an existing use of a historic building that has adequate parking today, and we are considering whether to allow the applicant to subdivide the lot that the existing use and building are on, in order to eliminate all the parking that is on site. [This would mean] that: 1) it can be subdivided so it can be joined with another parcel and allow for the construction of townhomes; and 2) for historical architectural reasons we don't want them to actually utilize what remains of the parking that is not in use today but would be available in what they originally proposed. He said so the net deficit here really is all 41 spaces. He said we may recover some from reconfiguring the on-street parking. He asked if this truly meets the spirit of the code that exempts historic buildings from parking requirements.

Mr. Craig said that question came up from Mr. Pates during the public hearing. He said it is a policy that was set by the City Council – reuse of historic buildings is such a priority that we do not have parking requirements. He said that in terms of whether or not it meets the requirements of the UDO, he believes it does. He said, however, that the Comp Plan does state that parking strategies should be evaluated. He said that by choosing to build on that service area in the back, you are losing usable parking spaces, which is a measurable impact. He said it is really a Comp Plan type of issue. He said it could be offset in a couple ways and, as a staff member, he believes there are ways to address this.

Mr. Dynes said, though, that no one has come forward with a credible way or adequate way to mitigate it.

Mr. Craig responded, no sir.

Mr. McAfee asked the applicant if he would like to address the Commission.

Mr. Van Perroy, applicant, thanked City staff for working with them to mitigate and address the issues. He said they have gone back to their architects a number of times and overall, he said, the project has been improved greatly.

Mr. Perroy addressed a question asked earlier by Dr. Gratz as to whether people living in the townhouses will have to walk past a wedding party or other event being hosted at Fredericksburg Square. He said this will not be the case. He said he intends to apply for a wall permit (with ARB approval) that would be constructed to protect that walkway. He reaffirmed changes made that were mentioned during Mr. Craig's presentation of the application.

Mr. Perroy addressed the recommended conditions of approval that were outlined in the staff report. Specifically, Condition #5 states:

“The developer shall remove the two curb cuts and driveways on either side of the Fredericksburg Square building, restore the streetscape in the area, and restripe the parking lane along Caroline Street to maximize the amount of public parking spaces prior to the issuance of the first Occupancy Permit in Riverwalk Square.”

He said he cannot accept taking away the curb cuts and that it would create a disaster. He said taking out the curb cuts would prohibit future owners from utilizing driveways and could affect the economic viability of the entire Fredericksburg Square area. He said adding five additional parking spaces as suggested by staff will make no difference for downtown parking and was somewhat irrelevant. Mr. Perroy said [his business] tells its guests that their best bet is to utilize the parking deck and it has always worked out best for them and their guests.

He addressed comments made regarding the service area. He noted that almost all of their deliveries are made from Caroline Street (Sisco, Premium Beverage, Fick, PFG, etc.). He noted that you cannot get a semi-truck into a 12-foot-wide gate, which exists off of Sophia Street. He said if you look at the “service area,” there are very few people who access there. He said once in a while, FedEx is able to access that area if the gate is open, but at times it is not open. He said with respect to parking, the ordinance is very clear with respect to historic buildings. He said he is trying to make Fredericksburg Square as viable as possible and he has a City parking deck located right around the corner, that has in excess of 280 spaces; and with the new Spotsylvania VRE station, it is under-utilized. He said there is never a problem with his guests using the deck. He emphasized that the City saying he has to provide parking gets down to a legal issue where, if the City requires him to provide parking, they are essentially saying the UDO is what it is and no one utilizing historic buildings has to provide parking - except for Fredericksburg Square/Timbernest, Ltd. He said he did not write the UDO but he bought the building in 1996 and the UDO parking provision was passed in October 2013 and he believes it was passed for a reason. He said he believes everyone needs to be treated fairly.

Mr. Perroy also addressed pedestrian access to townhomes 5 – 7. He said he does not believe there is going to be heavy pedestrian usage. He said this is a neighborhood where they currently have 13 people who all know each other, and they are going up to 14 with the new proposal. He said there won't be a reason for most people to be in the area unless they are visiting someone.

Mr. Beavers asked Mr. Perroy if the removal of the curb cuts is his biggest objection to what staff has suggested as conditions.

Mr. Perroy said there are a couple of conditions he has a problem with, but, yes, the curb cuts is the biggest concern.

Mr. Pates said he wanted to go back to the question raised earlier about the present configuration of the property. He asked if Mr. Perroy has two or three “lots of record.”

Mr. Perroy said there are only two lots – the Fredericksburg Square lot fronts on Caroline Street and the rear fronts on Sophia Street. The 506-516 Sophia Street property is a rectangular lot, as Mr. Craig described it.

Mr. Dynes asked how many guests typically attend weddings at Fredericksburg Square.

Mr. Perroy said approximately 100 – 125. He said it used to be 150 but people are more conservative now with the unstable economy.

Mr. Gantt referenced parking. He said that with the opening of the VRE Lot in Spotsylvania, he is aware that parking at the City parking deck is available. He noted, however, that the events that are held at Fredericksburg Square are typically on weekends and holidays, days which the City also has a larger influx of visitors to the downtown. He asked if Mr. Perroy looked at those numbers or only times when activities and other events are down in numbers.

Mr. Perroy said he spoke with the people who work at the parking deck and was told that during the week, parking is certainly down in numbers. The only times there have been issues has been on weekends, when the deck fills up with activities such as Oktoberfest.

Mr. Craig said that staff contacted the parking deck staff as well. He said between June 2015 and January 2016, on weekdays, there was consistently a weekday peak that hit the capacity at the deck. Since then, he said, the Feb – April 2016

numbers have trended down by about 20 spaces but still hits capacity on weekends. He said there is a weekend peak that does coincide with the Holiday season.

There were no further questions for the applicant or staff.

Mr. McAfee asked the will of the Commission.

Mr. Dynes said he thought the recommendations requested by staff would need to be significantly altered. He said the parking issue for him has been addressed and satisfied. He said he would be in favor of the project. He noted specifically that the following items would need to be removed from the recommendations and/or conditions for him to recommend that the application move forward [reading from staff report]:

Recommend approval on the condition that the Applicant either:

- a. Revises the project as described in the body of this report to infill the Caroline Street block face and maintain an equivalent parking and service area to what exists today; or*
- b. Proposes a viable alternative to off-set the impact of eliminating 26 on-site spaces currently used by the Fredericksburg Square building.*

Any recommendation for approval should include at a minimum the following proposed conditions:

- 5. The developer shall remove the two curb cuts and driveways on either side of the Fredericksburg Square building, restore the streetscape in the area, and restripe the parking lane along Caroline Street to maximize the amount of public parking spaces prior to the issuance of the first Occupancy Permit in Riverwalk Square.*

Mr. McAfee asked if there is a motion to be offered by Commissioners.

Mr. Beavers made a motion to recommend approval of the two special exception requests and removing Condition #5 regarding curb cuts.

Mr. Gantt asked for clarification of the motion.

Mr. McAfee confirmed with Mr. Beavers that his motion was to recommend approval of the two special exception requests and to include conditions 1 – 4 outlined in the staff report.

Mr. Dynes asked what happens with Recommendations a. and b., which were also suggested in the staff report.

Mr. McAfee said those are options that are not being discussed.

Mr. Beavers said but they are options.

Mr. McAfee asked Mr. Beavers if they were then part of his motion.

Mr. Beavers said yes.

Mr. McAfee said that was not made clear when Mr. Beavers made his motion. He asked Mr. Beavers to restate his motion.

Mr. Dynes said he would like to make an amendment to the motion made by Mr. Beavers.

Mr. McAfee said Mr. Dynes would need to second the motion first as it has not been seconded.

Mr. Beavers withdrew his motion to allow Mr. Dynes to make the motion.

Mr. Dynes made a motion to recommend approval of the two special exceptions, with the following alterations to the conditions recommended by staff: **Remove condition “a.”** [reading from staff report]:

- a. *Revises the project as described in the body of this report to infill the Caroline Street block face and maintain an equivalent parking and service area to what exists today;*

Remove condition “5”:

- 6. *“The developer shall remove the two curb cuts and driveways on either side of the Fredericksburg Square building, restore the streetscape in the area, and restripe the parking lane along Caroline Street to maximize the amount of public parking spaces prior to the issuance of the first Occupancy Permit in Riverwalk Square.”*

And to add a new 5th condition which reads:

“5. Construction of a new wall, which is to be approved by the ARB, and to be installed along the new pedestrian sidewalk/walkway from Caroline Street along the Southern Drive to Lot 2.

Mr. Beavers seconded the motion.

Mr. McAfee asked if there was any further discussion of the motion.

Mr. Pates said the motion before them is to recommend approval, provided the applicant proposes a viable alternative to offset the impact of eliminating 26 on-site spaces currently used by the Fredericksburg Square building. He said he does not understand how the Planning Commission can recommend approval of something when it does not know what it is. He said this is like saying, “We recommend approval of your application

if you revise your application.” He asked what this gets the City and how it can possibly help the City Council. He said he would much rather see the Commission delay action on this application until the next meeting and have the applicant come back with a viable alternative that the Commission can vote on. He said he believes this constitutes the Planning Commission not doing its job.

Mr. Gantt said he is the new member, but he has read the Minutes from the public hearing on this matter and it appears that the Planning Commission continues to “kick the can” on this application. He said he understands the concerns of Mr. Pates but at the same time he would imagine that if there is something that is not provided to the ARB or City staff that takes this into consideration for City Council, then the City Council can still come back and say they do not agree with the proposal at this point. He confirmed that the Commission is only making a recommendation to City Council.

Mr. McAfee said Mr. Gantt is correct and that the Commission is an advisory body.

Mr. Gantt said he would agree with Mr. Pates that there is probably more that can be done with respect to continuing to ask Mr. Perroy to come back regarding parking issues. However, at the same token, the Commission is advising that this application move forward and that a viable solution comes forward from Mr. Perroy, through the ARB, on what can be done with respect to parking. He said the question becomes, does the Commission decide what viable is, or does the City Council need to say that it agrees with the Parking Ordinance that it passed. He said he believes the Commission has met the letter or the intent because the City wants something that addresses parking.

Dr. Gratz asked if the motion made by Mr. Dynes is [recommending approval of] both special exception requests.

Mr. McAfee said normally there would be a Resolution, which would clarify the two requests but that the City Attorney has not able to get that to the Commission. He said he had called the City Attorney a couple days ago and has not heard back from her.

Mr. Craig said the Planning Commission is voting on a motion and that for these types of applications, the City Council [members] are the ones who vote on Resolutions or Ordinances. He said he believes the Commission has made a coherent motion, which is to recommend approval of both special exceptions. He said since it is a recommendation and it has the clear language of the motion, it is consistent and adequate. However, he said the Council will take two votes.

Mr. McAfee asked Mr. Dynes and Mr. Beavers if it was their intent to include both special exception requests in the motion and the second, respectively.

Mr. McAfee and Mr. Dynes confirmed it was their intent.

Mr. McAfee called for the vote.

Motion carried by a vote of 5 – 2, with Mr. Pates and Dr. Gratz voting against the motion.

GENERAL PUBLIC COMMENT

6. A general public comment period is provided at each regular meeting for comments by citizens regarding any matter **related to Commission business that is not listed on the Agenda for Public Hearing**. The Chair will request that speakers observe the **three-minute time limit** and yield the floor when the Clerk indicates that their time has expired. No dialogue between speakers will be permitted.

Mr. McAfee opened the floor for general public comment.

There were no speakers.

Mr. McAfee closed the General Public Comment period.

OTHER BUSINESS

7. Planning Commissioner Comment

Mr. Dynes said he was not present at the May 11, 2016 meeting but that he had read Mr. Pates' comments from the last meeting regarding the Planning Commission not being engaged in the planning processes of the City. He said he would like to see it happen. He said he is also concerned and disappointed that the Planning Commission was not involved with the hiring process for the consultant for the Comprehensive Plan Area Plans.

Mr. McAfee clarified that he (as Chairman) has been the representative for the Planning Commission during the entire process of the selection of a consultant for the Area Plans process, and therefore had input.

Mr. Beavers said he would also like to point out to Mr. Pates that his comments said that the Commission did not meet for its second meeting of the month in November or December. Mr. Beavers clarified that there is only one meeting scheduled for the months of November and December, both of which were held. He noted that due to the holidays, there is no second meeting scheduled for those two months. And, regarding the proffers [policy], he said, six months ago he would have agreed but now given what the General Assembly has done, he asked Mr. Pates (as an Attorney) if the City should really go down that path.

Mr. Pates responded, "Absolutely, no question!"

Mr. Beavers asked if there is no risk to the City by doing so.

Mr. Pates said no.

Mr. Beavers said finally, he would like to address the last comment made by Mr. Pates, which said: *"Fifth, and perhaps most importantly, by doing little or no planning, this Commission is abdicating its responsibilities to assist the City Council in planning the future of the City and turning that function over to City staff. How can the City Council do its job when the Commission is not doing its own?"* He said City staff are paid professionals and that is why they are here. He said the rest of us are lay people who have a great interest in our City, but this is why the City hires professional planning staff. He said he has a Master's Degree in Public Administration with a focus on Urban Planning, but he can say with confidence that he

does not know what the Deputy Director, the Director, or the Zoning Administrator does because it has been close to 40 years.

Mr. Gantt said he is happy to be appointed to the Planning Commission and he looks forward to serving the City. However, he said, he was a bit concerned when he read the comments made by Mr. Pates at the May 11, 2016 meeting because we have a member who has some concerns regarding the activities of the Commission. He said he would be interested in the actuality of the work the Commission does and how they do it in conjunction with the City staff. He said he agrees with Mr. Beavers comments and does not have a degree in public administration. But he said, what he does have is a love for the City, common sense, and the ability to listen to the experts who provide the information to help us as a Commission to advise City Council. He said but if there is a concern that something is not happening with the Commission, then we need, as a group, to take a look at that.

Mr. Pates asked if there is a meeting scheduled for June 29th.

Mr. Craig said there is no business to move forward for the 29th of June so the next scheduled meeting is July 13th.

Mr. Pates said this was exactly what he was talking about [at the last meeting]. He said unless there is some developer here with a project to be reviewed, the Commission does not meet. He said there is a tremendous amount of work to be done and it seems to him that we need to take advantage of our next meeting time to do a little actual planning. He said there are many topics. He said it would be nice to have a discussion with the Economic Development Department to discuss a recently-released study that he believes is relevant to the Planning Commission's responsibilities.

Mr. McAfee said he believes some of what Mr. Pates is saying is a bit of a misrepresentation and he takes issue with it. He said the Commission goes through a lot of effort when it creates and/or revises the City's planning documents and that there is a time for everything. He told Mr. Pates he is sorry if he missed that curve and did not get enough work in with those processes, but he is confident that if Mr. Pates continues to serve on the Commission, he will have ample opportunity to bite into some of it in the future. He noted that the Area Plan process will be kicking in which will also provide for quite a bit of Commissioner input.

Mr. Gantt referenced the Planning Commission By-Laws, which under Article 5, states that if there are no actions or other applications to move forward there will be no meeting.

Mr. Dynes said work sessions have been scheduled in the past. He said that in reference to the comment made by Mr. Pates to meet with the Economic Development Department, he would not want it to be a multi-hour event, but he certainly thinks it is worth an hour or an hour-and-a-half of his time and believes it would be very useful for the Commission and the City.

Mr. Craig said that once Mr. Johnston returns from his trip, he will discuss the best route to take with Mr. Freehling to meet with the Economic Development Authority.

Planning Director Comment

None.

ADJOURNMENT

Meeting adjourned.

Roy McAfee, Chair

TYPE	MAX DENSITY (units/acre)	PROPOSED NUMBER	ACRES REQUIRED to meet MAX	PROPOSED ACREAGE	PROPOSED ACREAGE DENSITY (units per acre)
Single Family Residential	4	0	0.00	0.000	0
Single Family Attached	6	7	1.17	0.375	19
Multi Family	9	7	0.78	0.125	56

1.94

TOTAL acreage needed to meet regulations

MEMORANDUM

July 02, 2016

To: Mayor Mary Katherine Greenlaw and City Council

From: Matthew J. Kelly
Councilman, At-Large

Subject: Residential Permit Parking on College Avenue

ISSUE:

Over the past few years construction has continued at the University of Mary Washington without keeping pace with parking needs. With the construction of the student center, the potential impacts of other proposed projects, and the hosting of events at the university, residential parking along College Ave. has become more difficult throughout the year and most hours of the day.

As a result, residents along College Ave. have no available parking for visitors or friend. In addition, safety concerns stemming from restricted sight-lines and speeding has also made it difficult for residents to enter College Ave. from their driveways.

This is an issue involving both the safety and quality of life for residents of College Heights and especially those who live along College Ave. who have been excluded from the College Heights Parking Zone.

RECOMMENDATION:

Take appropriate steps to include the residential side of College Avenue in the College Heights Residential Parking Zone thereby allowing residents to apply for residential parking only on their blocks.

Cost:

Cost of signage



MEMORANDUM

TO: City Council

FROM: Kathleen Dooley, City Attorney

DATE: June 29, 2016

RE: Conflict of Interest Act Opinions

ISSUE:

City Council asked for a report on the sources of Conflict of Interests Act advisory opinions for local officers and employees, at its June 28, 2016 meeting. From time to time, questions arise regarding the propriety of the official actions of Council members, appointees, and employees. The City Council is best able to respond to these inquiries when there has been local review of the official action. In light of the statutory requirement to designate a FOIA officer, Council inquired whether it may also designate a COIA officer.

RECOMMENDATION:

City Council is not empowered to require local officers or employees to seek an advisory opinion from any particular source – the statute makes multiple sources available by law. The City Council may, however, in the interests of the organization, encourage local officers and employees to obtain advisory opinions from the City Attorney or the Commonwealth’s Attorney, or to share with the City Attorney advice that they may receive from the Conflict of Interests and Ethics Advisory Council.

Time will tell whether the availability of multiple sources of advisory opinions will result in “opinion shopping,” or in the rendering of inconsistent opinions within a single local jurisdiction. In Fredericksburg, the Commonwealth’s Attorney and City Attorney have a good history of communication and dialogue on the application of the Conflict of Interests Act.

BACKGROUND:

The Conflict of Interests Act generally:

The Virginia State and Local Government Conflict of Interests Act¹ contains three general categories of restrictions and prohibitions: (1) conduct that is generally improper for officers and employees; (2) officers' and employees' personal interests in contracts with their governmental agency; and (3) restrictions on the participation of officers and employees in transactions of their governmental agencies. In addition, the Act requires officers and employees to file regular periodic financial disclosures, in addition to transactional disclosures.

The Conflict of Interests Act is a complex statute with a number of well-defined, some poorly-defined, and some important undefined terms. Its correct application depends on the details of an individual officer's financial interests and their intersection with the precise question that is pending before the officer's governmental or advisory agency. Officers should be sensitive to situations where they feel that they are sitting on "both sides of the table." But officers need to be guided by competent legal advice – a simple "smell test" or "gut feeling" is not an adequate compass. Once the officer has the legal advice in place, if the situation permits the officer to use his or her judgment, then the officer should consider the potential for an appearance of impropriety in making a final decision.

COIA violations:

Knowing violation of the Conflict of Interests Act is a Class 1 misdemeanor.² A "knowing" violation occurs when the officer engages in conduct or refuses to perform an act when he knows that the conduct is prohibited or required by this chapter. With respect to transactions, an officer may violate the Act by (1) failure to fully disclose a conflict of interest; (2) participation in a transaction when disqualification is required, or (3) discussing a transaction with other officers or staff when the discussion is prohibited.

The maximum penalty for a Class 1 misdemeanor is one year in jail and a \$2500 fine. In addition, a person who knowingly violates the Conflict of Interests Act is guilty of malfeasance in office.³ Upon conviction of a violation, the judge or jury may order the forfeiture of the public office. Finally, if the officer benefited financially from his or her violation, then the officer shall be assessed a civil penalty in an amount equal to the amount of money or thing of value received as a result of the violation. If the thing of value has increased in value between the time of violation and the time of discovery, the greater value is the amount of the civil penalty.⁴

The statute of limitations for a violation is one year from the time the Commonwealth's Attorney has actual knowledge of the violation or five years from the date of the violation, whichever event occurs first.⁵

¹ Code of Virginia §§2.2-3100 *et seq.*

² Code of Virginia §2.2-3120.

³ Code of Virginia §2.2-3122.

⁴ Code of Virginia §2.2-3124.

⁵ Code of Virginia §2.2-3125.

The Conflict of Interests and Ethics Advisory Council:

The General Assembly created the “Virginia Conflict of Interest and Ethics Advisory Council” in 2014.⁶ The purpose of the Council is to encourage and facilitate compliance with COIA. The Council is comprised of nine members, including one member appointed by the Governor from a list of nominees from the Virginia Association of Counties, and one from a list of nominees from the Virginia Municipal League.

The agency has legal authority to furnish formal advisory opinions, guidelines, and informal advice to any person covered by the Conflict of Interests Act.⁷ Formal opinions are public record and shall be published on the Council’s website after Council approval; but the published form may have such deletions and changes as necessary to protect the identity of the requester. The informal advice issued by Council staff is confidential, protected by the attorney-client privilege.⁸

The Council publishes a “[Local Government Employee and Officer Training Module](#),” on its website, along with a “[State and Local Official Guide to the Gift Law](#),” and “[Gift Log Template](#).” In addition, the Council publishes its formal [Advisory Opinions](#) on its website. These new public resources should prove to be valuable information for local officers and employees seeking information about the Act.

Advisory opinions:

Opinions that shield the officer or employee from criminal charges:

Effective July 1, 2016⁹ a local officer or employee shall not be prosecuted for a knowing violation of COIA if the alleged violation resulted from his good faith reliance on a written opinion of the Commonwealth’s Attorney or the COIA Advisory Council made in response to his written request for such an opinion, and the opinion was made after a full disclosure of the facts regardless of whether such opinion is later withdrawn, provided that the alleged violation occurred prior to the withdrawal of the opinion. The written opinion shall be a public record and shall be released upon request.

As a practical matter, the COIA Advisory Council releases formal advisory opinions only after Council review and approval. The Council meets at least quarterly. Formal opinions of the Council therefore may not be available on short notice. The Council’s inclusion of two local government representatives provides assurance that formal opinions will be adopted with the benefit of the local government perspective and the knowledge of the local government context.

⁶ Code of Virginia §30-355.

⁷ Code of Virginia §30-356(5).

⁸ *Id.*

⁹ The 2016 General Assembly amended Code of Virginia §2.2-3121, “Advisory opinions,” by adopting SB 288, which was approved by the Governor.

Advisory opinions that may be used by the officer or employee in defense of a criminal charge:

If any local officer or employee is charged with a knowing violation of COIA, and the alleged violation resulted from his reliance upon a written opinion of his county, city or town attorney, made after a full disclosure of the facts, that such action was not in violation of COIA, then the officer or employee shall have the right to introduce a copy of the opinion at his trial as evidence that he did not knowingly violate COIA.¹⁰ Otherwise, these opinions are shielded by the attorney-client privilege. In this case, the organization – the City of Fredericksburg – acting through its duly appointed officers – the City Council – is the client. COIA opinions issued by the City Attorney to local officers and employees may be made available to, and may be reviewed by, the City Council.

Other informal advisory opinions:

The COIA Advisory Council is also authorized to provide informal opinions to local officers, as mentioned above. A potential problem with informal opinions of the Council staff is that the staff may not be familiar with the context in which the local officer works. In addition, the advice is confidential to the inquirer. If the officer's conduct is questioned, local officials may be unaware of the advice provided. Finally, the availability of informal advice from the Council may encourage opinion shopping by local officers, to the detriment of consistency and transparency at the local level.

Advisory opinions generally:

In every case, the legal advice should be guided by the public policy stated in the Conflict of Interests Act – that our system of representative government is dependent in part upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizen maintaining the highest trust in their public officers and employees. The key to seeking an advisory opinion is complete disclosure by the officer of all relevant facts. If the officer does not fully and truthfully provide all relevant information to the attorney, then the officer is not entitled to rely on the legal advisory opinion.

Only the affected individual may request an official advisory opinion.¹¹ They will not be issued to third party inquirers – other members of the board or agency or interested members of the public.

¹⁰ Code of Virginia §2.2-3121(C), effective July 1, 2016.

¹¹ Attorney General COI Op. 09-053, August 8, 2009.



MEMORANDUM

TO: Timothy Baroody, City Manager
FROM: Deidre Jett, Budget Manager
DATE: July 1, 2016
SUBJECT: FY 2017 Supplemental Appropriation for Transportation Projects
Reflecting an Increase in VDOT Funding

ISSUE

Shall the City Council amend the budget and increase the FY 2017 appropriation in the Public Works Capital Projects Fund by \$180,900 reflecting an increase in funding from the Virginia Department of Transportation (VDOT)?

RECOMMENDATION

Staff recommends approval of the attached resolution which increases the FY 2017 appropriation in the Public Works Capital Fund (Fund 302) by \$180,900 as a result of additional state-aid. No additional local funds are required. This resolution requires two readings. The first reading of the resolution was approved unanimously on June 28, 2016.

BACKGROUND

Since the FY 2017 budget was approved, the City has received notification of which projects were approved for funding by VDOT. The chart on the following page details the recommended changes to the FY 2017 budget based on which projects were approved by VDOT. The Dandridge Street and Payne Street projects will be funded on a fifty-fifty basis between the VDOT and the City. VDOT will provide 100% of the funding for the William Street, Dixon Street and Blue Gray Parkway projects. The Caroline Street repaving project is the first phase of a two phase project and will be funded with local funds. The timing of the phases reflect the estimated completion dates of the water and sewer line projects. Caroline Street from Amelia Street to George Street will be funded in FY 2017 at an estimated cost of \$400,000. Caroline Street from George Street to Charlotte Street will be included in the FY 2018 Capital Improvements plan at an estimated cost of \$400,000.

Public Works Capital Projects	Adopted Budget FY 2017	Recommended Changes FY 2017	Change in Appropriation
Asphalt & Concrete Repairs	\$ 1,400,000	\$ 175,000	\$ (1,225,000)
Payne Street - College Ave to Rappahannock Ave		200,000	200,000
Dandridge Street - College Ave to Rappahannock Ave		200,000	200,000
Caroline Street - Amelia to George		400,000	400,000
William Street/Rt 3 - Westmont to Virginia Partners		181,750	181,750
Dixon Street - Beulah Salisbury to Hazel Run		292,250	292,250
Blue and Gray- Bridge over Dixon Street - West end of Bridge over River		131,900	131,900
Culvert Replacement	75,000	75,000	
Downtown Streetscape Renovations	50,000	50,000	
Embrey Dam/Rappahannock Canal Footbridge	100,000	100,000	
Fall Hill Avenue Widening Project	2,880,000	2,880,000	
Riverfront Park	500,000	500,000	
Stormwater Management Plan	75,000	75,000	
Traffic Signal Modernization	100,000	100,000	
Wheeled Refuse Carts	100,000	100,000	\$ -
Total	\$ 5,280,000	\$ 5,460,900	\$ 180,900

Funding Sources	Adopted Budget FY 2017	Recommended Changes FY 2017	Change in Appropriation
DMV Overweight Tickets	20,000	20,000	
Motor Fuels Tax	50,000	50,000	
State Revenue Sharing	625,000	200,000	(425,000)
VDOT Primary Extension Funding - CTB	-	216,992	216,992
VDOT Primary Extension Funding - State of Good Repair		388,908	388,908
Prior Year Capital Fund Balance	750,000	750,000	
General Fund Transfer	955,000	955,000	
Debt Issuance	2,880,000	2,880,000	\$ -
Total	\$ 5,280,000	\$ 5,460,900	\$ 180,900

In addition to the Streets listed above, VDOT is managing an improvement project on Princess Anne Street from Route 1 to Fauquier.

FISCAL IMPACT

The FY 2017 appropriation in the Public Works Capital Fund (Fund 302) will increase by \$180,900 to \$5,460,900 from \$5,280,000, reflecting the increase in VDOT funding. No additional local funds are required.

Attachment: Resolution

cc: Mark Whitley, Assistant City Manager
 Clarence Robinson, Director of Fiscal Affairs
 Doug Fawcett, Director of Public Works



July 12, 2016
Regular Meeting
Resolution No 16-57

MOTION:

SECOND:

RE: AMENDING THE FISCAL YEAR 2017 PUBLIC WORKS FUND BUDGET AND INCREASING APPROPRIATIONS BY \$180,900 REFLECTING AN INCREASE IN FUNDING FROM THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT)

ACTION: APPROVED: Ayes: 0; Nays 0

FIRST READ: June 28, 2016 SECOND READ: _____

WHEREAS, the Adopted Budget for Fiscal Year 2017 included \$5,280,000 in the Public Works Fund: and,

WHEREAS, the Virginia Department of Transportation (VDOT) announced which projects were approved for funding after the passage of the FY 2017 budget; and,

WHEREAS, the City expects to receive \$805,900 in funding from VDOT which represent an increase of \$180,900 in funding; and,

WHEREAS, City Council wishes to appropriate these funds;

NOW, THEREFORE, BE IT RESOLVED that the following appropriations increasing the FY 2017 budget be recorded in the Public Works Fund:

Public Works Fund

Source

Other Categorical Aid

3-302-024040-0143	VDOT – Primary Ext	\$	180,900
Department Total:		\$	<u>180,900</u>

Total Source: \$ 180,900

Use

Annual Pavement Rehab Program

4-302-094121-3170	Construction Contracts	\$	180,900
Department Total:		\$	<u>180,900</u>

Total Use: \$ 180,900

Votes:

Ayes:

Nays:

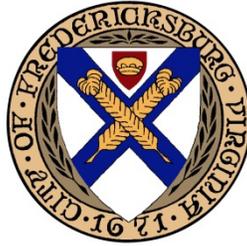
Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I, Tonya B. Lacey the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-57 duly adopted the City Council meeting held July 12, 2016 at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council



MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: Mark Whitley, Assistant City Manager
RE: Appointment to Rappahannock Area Youth Services and Group Home Commission
DATE: July 1, 2016

ISSUE

The City Council is asked to appoint the seventh voting member of the Rappahannock Area Youth Services and Group Home Commission, concurrently with the Stafford and Spotsylvania County Boards of Supervisors.

RECOMMENDATION

Staff recommends adoption of the attached resolution, which requires one reading only.

BACKGROUND

The Boards of Supervisors of Spotsylvania County, Stafford County and the City Council of the City of Fredericksburg entered into an agreement in August 2014 creating a residential home and group home serving youth from the three localities known as the Rappahannock Area Youth Services and Group Home Commission. This body is the successor to the Rappahannock Area Office on Youth and the Chaplin Group Home Commission.

The Commission is governed by a seven-person board consisting of two persons from each of the member jurisdictions appointed by the governing body of each member jurisdiction and one person appointed by the governing bodies from the Advisory Board to the Commission. The Commission was tasked with appointing the Advisory Board, and that has now been completed.

As the Commission organized, it was decided that the Chair would be from one of the localities, and the Vice-Chair from another. The offices would then rotate between the jurisdictions, with the first rotation taking place in July 2016. The City was randomly selected to be the first Chair, and Dr. Duffy has served in that capacity. Ms. Gail Crooks of Spotsylvania was selected as the Vice-Chair. The other members of the Commission currently are: Ms. Donna Krauss and Ms. Laura Sellers of Stafford County, Mr. Greg Benton of Spotsylvania County, and me.

The Commission recommends that the Advisory Board member from the jurisdiction that does not have a member as an officer be the seventh voting member.

Now that the City's term has ended for the office of Chair, one of the members from Spotsylvania will serve as Chair and a member from Stafford County will serve as Vice-Chair. The City appointee to the advisory board, Ms. Christen Gallik, is requested to become the seventh member of the Commission.

FISCAL IMPACT

There is no fiscal impact to this appointment.

cc: Ben Nagle, Executive Director of RAYS&GHC



July 12, 2016
Regular Meeting
Resolution No 16-XX

MOTION:

SECOND:

RE: APPOINTING CHRISTEN GALLIK TO THE RAPPAHANNOCK AREA YOUTH SERVICES AND GROUP HOME COMMISSION

ACTION: APPROVED: Ayes: 0; Nays 0

WHEREAS, the Boards of Supervisors of Spotsylvania County, Stafford County and the City Council of the City of Fredericksburg have entered into an agreement dated August 5, 2014 (“Agreement”) creating a residential home and group home serving youth from the three localities known as the Rappahannock Area Youth Services and Group Home Commission (“Commission”); and

WHEREAS, the Commission is governed by a seven person board consisting of two persons from each of the member jurisdictions appointed by the governing body of each member jurisdiction and one person appointed by the governing bodies from the Advisory Board to the Commission; and

WHEREAS, the Commission has appointed Christen Gallik to its Advisory Board and the Commission requests that each member jurisdiction appoint Christen Gallik to be the seventh voting member of the Commission as authorized under the Agreement;

WHEREAS, Christen Gallik graduate of Mary Washington College with a Bachelor of Science in Biology and the Johns Hopkins University with a Master’s in Business, is currently an 11 year employee with the City of Fredericksburg Department of Social Services in Fredericksburg, Virginia and is the Director where she is responsible for the administration of social service programs to City residents.

NOW, THEREFORE, BE IT RESOLVED by the City of Fredericksburg City Council that Christen Gallik is hereby appointed as the seventh voting member to the Rappahannock Area Youth Services and Group Home Commission for a term ending June 30, 2017.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I, Tonya B. Lacey the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-XX duly adopted the City Council meeting held July 12, 2016 at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council



MEMORANDUM

TO: Timothy Baroody, City Manager
FROM: Deidre Jett, Budget Manager
DATE: July 5, 2016
SUBJECT: Resolution Increasing the FY 2017 Appropriation of the Rappahannock Youth Services and Group Home Commission by \$68,638

ISSUE

Shall the City Council increase the FY 2017 budget appropriation for the Rappahannock Youth Services and Group Home Commission by \$68,638?

RECOMMENDATION

Staff recommends approval of this resolution. Only one reading is required.

BACKGROUND

On May 10, 2016 the City Council approved the FY 2017 Budget which included an appropriation of \$1,290,480 for the Rappahannock Youth Services and Group Home Commission in Fund 738 (Rappahannock Area Office on Youth Fund). On June 13, 2016 the Board of Directors of the Rappahannock Youth Services and Group Home Commission approved a final budget with revised revenue and expenditure estimates at \$1,359,118. This is an increase of \$68,638 over the FY 2017 budget approved by Council. As fiscal agent, the City is requested to increase the appropriation to match the budget approved by the Board of Directors. Please note, the City's local contribution for FY 2017 of \$55,672 did not increase.

FISCAL IMPACT

The resolution increases the appropriation of the Rappahannock Youth Services and Group Home Commission (Fund 738) by \$68,638 to \$1,359,118 from \$1,290,480. The attached resolution had no impact on the City's general fund since no additional local funds are required.

Attachment: Resolution

cc: Mark Whitley, Assistant City Manager
Clarence Robinson, Director of Fiscal Affairs
Benjamin Nagel, Executive Director



**July 12, 2016
Regular Meeting
Resolution No. 16-xx**

MOTION:

SECOND:

RE: AMENDING THE FISCAL YEAR 2017 BUDGET BY INCREASING THE APPROPRIATIONS TO THE RAPPAHANNOCK AREA OFFICE ON YOUTH FUND BY \$68,638

ACTION: APPROVED: Ayes: 0; Nays 0

WHEREAS, the budget appropriation for the Rappahannock Area Office on Youth Fund (Fund 738) for Fiscal Year 2017 was adopted by the City Council on May 10, 2016; and

WHEREAS, the City of Fredericksburg serves as fiscal agent for the Rappahannock Youth Services and Group Home Commission through Fund 738; and

WHEREAS, the Board of Directors for the Rappahannock Youth Services and Group Home Commission adopted a budget on June 13, 2016 that was \$68,638 higher than the budget adopted by City Council;

NOW, THEREFORE, BE IT RESOLVED, that the annual appropriation in the Rappahannock Area Office on Youth Fund (Fund 738) be increased by \$68,638 to \$1,359,118 from \$1,290,480.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-xx duly adopted at a meeting of the City Council meeting held July 12, 2016 at which a quorum was present and voted.

**Tonya B. Lacey, CMC
Clerk of Council**



MEMORANDUM

TO: Kathleen Dooley, City Attorney
FROM: Rob Eckstrom, Assistant City Attorney
DATE: June 21, 2016
RE: Meals tax amendments

Issue

Should the City update its meals tax ordinance to conform with state law, and to eliminate the meals tax exemption for meals exempt from state sales tax?

Recommendation:

Yes.

First, the General Assembly regularly adds and changes mandatory exemptions to our meals tax authority. These exemptions are codified in the Code of Virginia. The City Code should be updated to reference the state statute containing those exemptions instead of attempting to list the ever-changing mandatory exemptions in our code.

Second, the Virginia Department of Taxation recently made a policy change exempting from sales tax certain meals which had previously been taxed. The City currently exempts from the meals tax meals which are subject to state sales tax. Removing this exemption will maintain the status quo and also bring the City's meals tax into line with most other Virginia localities.

Background:

Conformance with state law:

When the Commonwealth granted cities the authority to impose an excise tax on meals, it included several exemptions to that authority in the enabling statute (for example, any food purchasable with food stamps). The City incorporated those exemptions into its meals tax ordinance. Over the years, the General Assembly has added to the list of mandatory exemptions and amended the existing ones. The City has not kept its ordinance up-to-date with the state code, and to continue to update every time the General Assembly amends the statute would be unnecessarily burdensome. The City Code should be updated to reference the state code instead of attempting to reiterate the frequently-updated list.

Because the Commissioner of the Revenue is obligated to follow the state list of exemptions, this amendment will not substantively affect the meals tax; it will merely eliminate confusion over which exemptions are applicable.

The exemptions in subsections (A) and (B) of the ordinance are local exemptions distinct from those in the state code. The Commissioner does not recommend amending those sections.

Exemption on meals exempt from sales tax:

The City Code contains several exemptions that go beyond those required by state law. One of these exemptions is on meals that are exempt from state sales tax.

Until May 2, 2016, prepared meals and catering were excluded from the list of items that non-profit and governmental organizations were able to purchase without paying state sales tax. This was essentially because those meals and catering were considered to be partially a taxable service, rather than purely non-taxable tangible personal property. Meals purchased for individual use (as opposed to those purchased for a tax-exempt entity's use) were also taxable.

On May 2nd, the Virginia Department of Taxation issued a tax bulletin explaining a change in policy. Purchases of catering and meals by tax-exempt organizations will no longer be taxed on the basis that those meals and catering are a taxable service, and the exemption will no longer be denied on the basis that the tax-exempt entity had purchased the meals and services for consumption by individuals.

The proposed amendment will not result in an increase in taxes; instead it will allow the City to continue to tax the meals that were taxable before the Virginia Department of Taxation's recent policy change.

Fiscal Impact:

The first proposed change makes no substantive change to the meals tax, and therefore has no fiscal impact.

Not making the change would reduce meals tax revenue, but because the meals at issue are not tracked as a sub-category of meals taxes by the Commissioner of the Revenue, it is difficult to quantify the fiscal impact. The change is intended to maintain the status quo in regard to meals tax revenue.



MOTION:

**July 12, 2016
Regular Meeting
Ordinance No. 16-__**

SECOND:

RE: CONFORMING THE CITY MEALS TAX TO STATE LAW, AND ELIMINATING THE MEALS TAX EXEMPTION FOR MEALS EXEMPT FROM THE VIRGINIA RETAIL SALES AND USE TAX IN RESPONSE TO VIRGINIA DEPARTMENT OF TAXATION TAX BULLETIN 16-3

ACTION:

IT IS HEREBY ORDAINED by the Fredericksburg City Council that Chapter 70—Taxation, Article IX—Meals Tax of the City Code is amended as follows:

SEC. I. City Code Amendment.

1. Sec. 70-433. Exemptions; limits on application.

A. The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:

- (1) Factory-prepackaged candy, gum, nuts and other items of essentially the same nature;
- (2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature;
- (3) Food sold in bulk. For purposes of this subsection, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on-premises consumption (e.g., a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption;
- ~~(4) Alcoholic and non-alcoholic beverages sold in factory sealed containers;~~
- ~~(5) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children; and~~
- ~~(6) Any food or food product purchased for home consumption, as defined in the federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied under this article, the following items, whether or not purchased for immediate consumption, are excluded from the definition of food in the federal Food Stamp Act: sandwiches, salad bar~~

~~items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory sealed beverages. This subsection shall not affect provisions set forth in Subsection C(3), (4) and (6) of this section.~~

- B. A grocery store, supermarket, or convenience store shall not be subject to the tax, except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.
- C. The tax imposed under this article shall not be levied on *items exempted under Code of Virginia § 58.1-3840*. ~~the following purchases of food and beverages:~~
- ~~(1) Food and beverages furnished by food establishments to employees as part of their compensation, when no charge is made to the employee;~~
 - ~~(2) Food and beverages sold by day care centers or public or private elementary or secondary schools or food sold by any college or university to its students or employees;~~
 - ~~(3) Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision thereof, or the United States;~~
 - ~~(4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm or disabled, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof;~~
 - ~~(5) Food and beverages furnished by a fraternity or sorority to its members;~~
 - ~~(6) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, disabled, or needy persons in their homes or at central locations;~~
 - ~~(7) Food and beverages sold on an occasional basis (i.e., not exceeding three occasions or events of not more than two days each per calendar year), by a nonprofit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes;~~
 - ~~(8) Any other sale of a meal which is exempt from taxation under the Virginia Retail Sales and Use Tax Act, Code of Virginia, § 58.1-600 et seq. or administrative rules and regulations issued pursuant thereto; and~~
 - ~~(9) Food and beverages sold through vending machines.~~

SEC. II. Effective Date.

This ordinance is effective immediately.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Approved as to form:

Kathleen Dooley, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16-__ duly adopted at a meeting of the City Council meeting held July 12, 2016 at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council



MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: David W. Nye, Chief of Police
DATE: July 1, 2016
RE: Rappahannock Area Law Enforcement Mutual Aid Agreement

ISSUE

The City Council is asked to approve an amendment to the attached Police Department's mutual aid agreement of 2013 with the Sheriff's Offices of the City of Fredericksburg and Stafford, Spotsylvania, and King George Counties.

RECOMMENDATION

Staff recommends approval of the Rappahannock Area Law Enforcement Mutual Aid Agreement.

BACKGROUND

David P. Decatur took office as the Stafford County Sheriff on January 1, 2016 and as of that date Charles E. Jett is no longer the Stafford County Sheriff. The remaining parties to the agreement wish to add Sheriff Decatur as a party to the existing agreement and Sheriff Decatur wishes to become a party to the agreement.

FISCAL IMPACT

There is no fiscal impact. Unless otherwise agreed to in writing, the parties shall not be liable to each other for reimbursement for costs associated with, or arising out of, the rendering of assistance pursuant to the agreement, except to the extent that reimbursement for such expenses may be or is received from the Federal Emergency Management Agency (FEMA) or another governmental agency.

Attachments: Resolution
Rappahannock Area Law Enforcement Mutual Aid Agreement
Current Mutual Aid Agreement



July 12, 2016
Regular Meeting
Resolution No. 16-__

MOTION:

SECOND:

**RE: AMENDING THE RAPPAHANNOCK AREA LAW ENFORCEMENT
MUTUAL AID AGREEMENT TO ADD STAFFORD COUNTY SHERIFF
DAVID P. DECATUR AS A PARTY**

ACTION: APPROVED; Ayes: 0; Nays: 0

WHEREAS, David P. Decatur took office as the Stafford County Sheriff on January 1, 2016, and as of that date, Charles E. Jett is no longer the Stafford County Sheriff; and

WHEREAS, the remaining parties to the agreement wish to add Sheriff Decatur as a party to the existing agreement, and Sheriff Decatur wishes to become a party to the agreement; and

NOW, THEREFORE, BE IT RESOLVED, that the agreement is continued under its existing terms, CHARLES E. JETT is removed as a party to the agreement, and STAFFORD COUNTY SHERIFF DAVID P. DECATUR is added as a party to the agreement. The City Manager is authorized to execute an amendment to the agreement to that effect.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-__ duly adopted at a meeting of the City Council meeting held July 12, 2016 at which a quorum was present and voted.

***Tonya B. Lacey, CMC
Clerk of Council***

FIRST AMENDMENT TO
RAPPAHANNOCK AREA LAW ENFORCEMENT
MUTUAL AID AGREEMENT

THE CITY OF FREDERICKSBURG, CITY OF FREDERICKSBURG SHERIFF PAUL W. HIGGS, KING GEORGE COUNTY SHERIFF STEVE F. DEMPSEY, STAFFORD COUNTY SHERIFF CHARLES E. JETT, and SPOTSYLVANIA COUNTY SHERIFF ROGER L. HARRIS entered into a mutual aid agreement dated January 18, 2013.

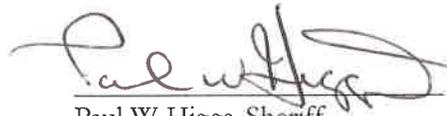
DAVID P. DECATUR took office as the Stafford County Sheriff on January 1, 2016. As of that date, CHARLES E. JETT is no longer the Stafford County Sheriff.

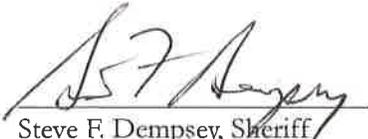
The remaining parties to the agreement wish to add Sheriff Decatur as a party to the existing agreement, and Sheriff Decatur wishes to become a party to the agreement.

Therefore, the agreement is continued under its existing terms, CHARLES E. JETT is removed as a party to the agreement, and STAFFORD COUNTY SHERIFF DAVID P. DECATUR is added as a party to the agreement.

This amendment is effective on the date that all parties have signed below.

Timothy J. Baroody, City Manager Date
City of Fredericksburg


Paul W. Higgs, Sheriff Date
City of Fredericksburg 6-21-16


Steve F. Dempsey, Sheriff Date
King George County 6/14/16


David P. Decatur, Sheriff Date
Stafford County 6/14/16


Roger L. Harris, Sheriff Date
Spotsylvania County 6/8/16

RAPPAHANNOCK AREA LAW ENFORCEMENT

MUTUAL AID AGREEMENT

This is a mutual aid agreement by and between the **CITY OF FREDERICKSBURG, CITY OF FREDERICKSBURG SHERIFF PAUL W. HIGGS, KING GEORGE COUNTY SHERIFF S.F. DEMPSEY, STAFFORD COUNTY SHERIFF CHARLES E. JETT, and SPOTSYLVANIA COUNTY SHERIFF ROGER L. HARRIS**, (collectively, the "Parties.")

RECITALS

- A. The City of Fredericksburg and the Counties of King George, Stafford and Spotsylvania are all member localities of the Statewide Mutual Aid Program ("SMA"), established in partnership with the Commonwealth of Virginia, which was developed to facilitate the provision of mutual aid between member localities in response to declared disasters and emergencies. The SMA Program is supplemental to, and does not replace or affect, day-to-day mutual aid agreements between localities.
- B. The Parties wish to provide for the use of their joint law enforcement forces, both regular and auxiliary, their equipment and materials, in order to maintain peace and good order, pursuant to the legal authority provided in Code of Virginia (1950) as amended, §§15.2-1724, 15.2-1726, 15.2-1730.1 and 15.2-1736. This Mutual Aid Agreement is therefore intended to supplement, but not to replace, the SMA.
- C. The Parties have decided that providing joint enforcement and cooperative services on a daily basis, and in certain emergency situations, will increase the ability of the Sheriffs and the Chief of Police and their localities to promote the public safety and protect the general welfare of the citizens.

D. The Parties wish to provide for the provision of mutual aid, for the legal authority of police officers and other law enforcement officers while performing their duties pursuant to this agreement and for the benefits and immunities of such officers, all as provided under Virginia law.

NOW THEREFORE, in consideration of the mutual benefits to be derived from a law enforcement mutual aid agreement, the undersigned parties do agree as follows:

1. Call for assistance.

The Chief of Police, Sheriff, or their authorized designees, may call for assistance whenever the necessity arises:

- a. For the enforcement of laws designed to control or prohibit the use or sale of controlled drugs as defined in Virginia Code §54.1-3401 or laws contained in Virginia Code Title 18.2, Chapter 8, Article 3;
- b. In response to any law-enforcement emergency involving any immediate threat to life or public safety;
- c. During any emergency resulting from the existence of a state of war, internal disorder, or fire flood, epidemic or other public disaster;
- d. For any other incident, circumstance, condition, or event which is likely to exceed local law enforcement capabilities.

2. Procedure for calling for assistance.

- a. The Chief of Police, Sheriff, or, if the chief law enforcement officer is unavailable, then the duty senior law enforcement officer, upon determining that a situation exists requiring assistance, shall communicate the need for assistance to the chief law enforcement officer

for the jurisdiction from which assistance is requested. An oral or written communication is sufficient to activate this Agreement.

- b. In the event the chief law enforcement officer cannot be reached, then the Communications Center for the jurisdiction receiving the request shall be contacted and the request shall be made to the jurisdiction's duty senior law enforcement officer.
- c. If immediate assistance is needed during an emergency situation, then a direct request to the assisting jurisdiction's Communication Center is appropriate and sufficient to trigger mutual aid under this Agreement. In those situations, Communications Centers are authorized to dispatch needed resources and then make internal notifications, preventing the delay of potentially lifesaving resources.
- d. The request for assistance shall include:
 1. The name and position of the official making the request;
 2. The nature of the assistance needed;
 3. The number and types of resources needed;
 4. The name, rank, location and contact information of the officer to whom the assisting personnel should report;
 5. The designation of a radio communications system for use by the requested party.

3. Resources available.

- a. Law enforcement mutual aid provided pursuant to this Agreement shall include, but not be limited to, personnel, both regular and auxiliary, including uniformed officers, plainclothes officers, special operations personnel, canine officers, and related equipment and materials. All law enforcement officers and personnel shall be duly

trained and currently certified for the position provided.

- b. No party shall be required to provide mutual aid, or to continue mutual aid, unless the chief law enforcement officer determines that he or she has sufficient resources to do so.
- c. The personnel of the requested party shall render such assistance under the direction of the Chief of Police or Sheriff of the requesting party, or their respective designee.
- d. The party receiving aid under this Agreement shall provide for the release of assisting personnel, equipment, and materials as soon as practicable.

4. Incident action plans.

The parties agree to develop one or more incident action plans, as needed, for the implementation of this Agreement. The incident action plans may include additional details such as procedures for maintaining radio communication with outside personnel, assessment of availability of resources, supervision and control, food and supplies, term of deployment, and any after-action review. The incident action plans may further estimate the types and amounts of major resources and their locations; and they may be developed in cooperation with other agencies, including institutions of higher education, school districts, medical facilities and private entities.

5. Legal authority, immunities, exemptions, and employment benefits of responding personnel.

Any police officer or other law enforcement officer, regular or auxiliary, while performing his or her duties pursuant to this Agreement, shall have the same authority to enforce the laws of the Commonwealth of Virginia and to perform other duties of a law enforcement officer when

present in the requesting jurisdiction as within the locality where he or she was appointed. Such officer shall have the same powers, rights, benefits, privileges and immunities in the receiving jurisdiction, including immunities from liability and exemptions from laws, ordinances and regulations, as within the appointing jurisdiction. All pension, relief, disability, death benefits, workers' compensation, and other benefits enjoyed by officers rendering assistance pursuant to this Agreement shall extend to services performed under this Agreement as if those services had been rendered within the appointing jurisdiction.

6. Costs.

Unless otherwise agreed in writing, the parties shall not be liable to each other for reimbursement for costs associated with, or arising out of, the rendering of assistance pursuant to this Agreement, except to the extent that reimbursement for such expenses may be or is received from the Federal Emergency Management Agency (FEMA) or another governmental agency. The parties shall not be liable to each other for reimbursement for injuries to law enforcement officers or personnel, or damage to equipment incurred in going to or returning from another jurisdiction, except to the extent that reimbursement for such expenses may be or is received from FEMA or another governmental agency.

7. Immunities of parties.

The services performed and expenditures made under this Agreement shall be deemed to be for public and governmental purposes and all immunities from liability enjoyed by the Parties within their respective jurisdictions shall extend to their participation in rendering assistance outside their jurisdiction pursuant to this Agreement.

8. Liability and insurance coverage.

Each party will be responsible for its own actions and those of its personnel, both regular and auxiliary, paid and volunteer. Each party agrees to be bound by the insurance requirements as set forth in the Commonwealth of Virginia Statewide Mutual Aid Plan dated March 30, 2010, which are incorporated by reference as if set out in full herein.

9. Duration.

This Agreement rescinds and supersedes all previous written agreements and oral understandings relating to the provision of mutual law enforcement services between the parties, except with respect to the SMA Program. This Agreement shall become effective upon execution by at least two parties, provided that it shall only become effective with respect to those parties that have executed it. It shall remain in effect until terminated by all but one party, upon written notice setting forth the date of such termination. Withdrawal by a party hereto shall be made by thirty days' written notice to all other parties. Such notice shall not terminate the Agreement among the remaining parties.

10. Amendment.

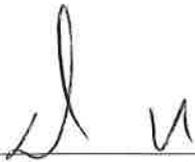
This Agreement may be amended by written concurrence of all signatories.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

Rappahannock Area Law Enforcement Mutual Aid Agreement

January 18, 2013

Page 7



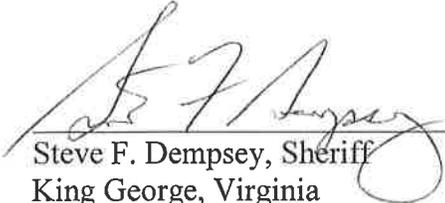
David W. Nye, Chief
Fredericksburg, Virginia

2/13/13
Date



Paul W. Higgs, Sheriff
Fredericksburg City, Virginia

1/29/2013
Date



Steve F. Dempsey, Sheriff
King George, Virginia

1/29/13
Date



Charles E. Jett, Sheriff
Stafford, Virginia

1/29/13
Date



Roger L. Harris, Sheriff
Spotsylvania, Virginia

02/04/13
Date



MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: Doug Fawcett, Director of Public Works
DATE: July 12, 2106
SUBJECT: Contract Award – Advanced Traffic Management System

ISSUE

Shall the City Council authorize the City Manager to execute a contract with Aegis ITS, Inc. for provision of equipment and services associated with the enhancement and upgrading of the City's Advanced Traffic Management System?

RECOMMENDATION

Yes. We recommend that City Council adopt the attached resolution authorizing the City Manager to execute this contract.

DISCUSSION

The City has received funding from the Virginia Department of Transportation to establish a Transportation Operations Center at the City Shop. This center will provide for remote monitoring and control of traffic signals at approximately half of the signalized intersections in the City (with the goal of eventually establishing monitoring/control at all signalized intersections.) Establishing the center will require the installation of computer hardware and software and the services associated with installing the equipment and establishing communication with the various traffic signals.

The City received five responses to a Request for Proposals that it issued in late 2015. A committee of two members of the City staff and one representative of another municipal traffic agency reviewed and ranked the proposals, with the assistance of a traffic engineering consultant employed by the City to provide services related to this matter. Two proposers were then invited for interviews and additional evaluation of their proposals. The submission of the recommendation for contract award to Aegis ITS, Inc. represents the completion of the review and evaluation process.

FISCAL IMPACT

The City has received \$425,000 in Congestion Mitigation and Air Quality (CMAQ) funds for this project. These funds do not require any local match. The value of this contract is \$342,363. The remainder of the funds will be used to purchase additional computer hardware/software, except for \$10,000 allocated for VDOT management/oversight of the project.

Attachment: Resolution



MOTION:

**July 12, 2016
Regular Meeting
Resolution No. 16-__**

SECOND:

RE: AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH AEGIS ITS, INC. FOR PROVISION OF EQUIPMENT AND SERVICES ASSOCIATED WITH ENHANCEMENT AND UPGRADING OF THE CITY'S ADVANCED TRAFFIC SIGNAL MANAGEMENT SYSTEM

ACTION: APPROVED: Ayes: ; Nays:

WHEREAS, the City Council of the City of Fredericksburg, Virginia desires to authorize the enhancement and upgrading of the City's advanced traffic signal management system by providing for establishment of a Traffic Operations Center at the City Shop; and

WHEREAS, City staff has solicited proposals from qualified providers of the equipment and services necessary to accomplish this goal, has received and evaluated multiple proposals and has presented a recommendation for contract award; and

WHEREAS, the recommended provider of the equipment and services is Aegis ITS, Inc.

NOW THEREFORE, BE IT RESOLVED, that the City Manager is hereby authorized to execute a contract for provision of equipment and services associated with enhancement and upgrading of the City's Advanced Traffic Management System to Aegis ITS, Inc. in the amount of \$342,363.

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No.16-__ duly adopted the City Council meeting held July 12, 2016 at which a quorum was present and voted.

***Tonya B. Lacey, CMC
Clerk of Council***



MEMORANDUM

TO: Kathleen Dooley, City Attorney
FROM: Rob Eckstrom, Assistant City Attorney
DATE: June 21, 2016
RE: Perquisites to issuance of business license – zoning and building approvals

Issue

Should the City amend Chapter 70 (Taxation) of the City Code to require new businesses, and existing businesses in new or expanded locations, to provide evidence of zoning and building code approvals as a prerequisite to the issuance of a business license?

Recommendation:

Yes. This would restore a longstanding City policy and a valuable code compliance tool.

Background:

This requirement existed in § 78-964 of the City's former zoning ordinance. While developing the UDO in 2013, staff decided that the requirement more appropriately belonged in the taxation chapter of the code. However, the ordinance that would have accomplished this was never brought before Council.

Relocation to the City's tax code seems to be the more logical location for this prerequisite to the issuance of a business license. The requirement is more related to taxation than it is to the traditional planning considerations of the public health, safety and welfare. Relocation would seem to make the provision more visible to new businesses.

The Commissioner of Revenue administers this requirement. Satisfactory evidence includes an approved zoning permit or building certificate of occupancy or even an issued, valid building permit. This prerequisite essentially provides for coordination between the City's zoning, building, and taxing authorities. Failure to obtain zoning or building approval does not relieve the business owner from the tax liability.

Fiscal Impact:

None.



MOTION:

SECOND:

**July 12, 2016
Regular Meeting
Ordinance No. 16-__**

**RE: REQUIRING ZONING AND BUILDING OFFICIAL APPROVAL
BEFORE A BUSINESS LICENSE IS ISSUED**

ACTION: APPROVED; Ayes: 0; Nays: 0

IT IS HEREBY ORDAINED by the Fredericksburg City Council that Chapter 70—Taxation, Article VII—License Taxes, Division 1—Generally of the City Code is amended as follows:

1. Section 70-304.1:

Sec. 70-304.1. ~~Payment of delinquent taxes as a~~ Prerequisites to issuance of license; noncompliance not to eliminate liability for tax

- (a) No license shall be issued under this article until the applicant has produced satisfactory evidence to the commissioner that all delinquent business license, personal property, meals, transient occupancy, and admissions taxes properly assessed against the applicant and owed by the business to the city have been paid.
- (b) *No license shall be issued under this article until the applicant has produced satisfactory evidence to the commissioner that all applicable zoning and building code approvals have been obtained for any new business or existing business in a new or expanded location.*
- (c) Any person who engages in a business without obtaining a license required by this article, or after having been refused a license, shall not be relieved of the tax imposed by this article.

First read: _____ **Second read:** _____

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Approved as to form:

Kathleen Dooley, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16- duly adopted at a meeting of the City Council meeting held July 12, 2016 at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council

**FREDERICKSBURG
RECREATION COMMISSION
Minutes of April 21, 2016**

The April meeting of the Fredericksburg Recreation Commission was held on Thursday, April 21, 2016 at Maury Commons. The meeting was called to order at approximately 6:31 p.m.

Commissioners Present: Mrs. Susan Tyler, Mrs. Sharon Null, Mr. James Bailey, Dr. Timothy Duffy, Dr. George Foster (arrived late), Dr. John Gordon, III, Mr. Ken Kroko, Mr. Brandon McVade and Dr. Marcus Tepaske. Also in attendance: Director Jane Shelhorse and Mrs. Patricia Sparks.

- I. **Approval of Minutes:** The minutes of March 17, 2016 were unanimously approved.

- II. **Public Comment:** A presentation was made by the Chairman of the Clean and Green Commission, Mr. Robert Courtnage and Green Committee Member, Mrs. Anne Little. Mr. Courtnage gave a brief background of the Clean and Green Commission. Formerly known as the Beautification Commission, in 2007 it was reinstated as the Clean and Green Commission. With the rebirth of the Commission, their mission changed and expanded. The Clean and Green Commission consists of three committees. The *Green Committee* is primarily responsible for the planting of trees and works closely with Tree Fredericksburg. The *Clean Committee* works on litter reduction efforts and will be looking at litter control and how to reduce litter in the City including the parks. The *Sustainability Committee* works on energy conservation issues. In the near future, the Sustainability Committee and City staff will be developing a compost program. These individual committees report to the Commission at large. The Clean and Green Commission members consist of eight City residents, one City Council member, one Parks and Recreation representative, one Public Works representative, one Planning Commission Member and one R Board member. Having these members on the Clean and Green Commission has created a more efficient collaboration effort. Ten years ago the trees in the parks were declining and dangerous. There were no funds budgeted for the removal of dangerous trees, and Public Works did not trim any trees in City Parks. Once the collaboration began between the City, Tree Fredericksburg and the Clean and Green Commission, there was a dramatic change in the health of the trees throughout the City streets and in the parks. In addition to tree planting, the Green Committee, Parks Department and volunteers do ivy removal, mulching, removal of invasive species and clean ups. The Clean and Green Commission would like to propose a partnership with the Recreation Commission and establish a proposal

whereby both park and street proposed plantings will be presented to City Council. Mr. Courtnage stated the Clean and Green Commission would like to have a strong relationship with the Recreation Commission, and make the tree planting process more transparent. He would like to see the Green Committee notify the Clean and Green Commission and The Recreation Commission on plans for planting trees, and each Commission would include the plan in their minutes, and that would be transmitted to City Council for approval as part of its consent agenda. This would add the transparency, but empower the professionals to manage the process.

Mrs. Anne Little gave a powerpoint presentation on the landscaping and tree planting process. Park staff identifies issues such as funding, park use, lack of shade, standing water, mowing concerns, sightlines, fencing, invasive plants and current vegetation. Park staff then presents the issues to the Green Committee for further review. City staff and the Green Committee consult on details such as funding, park use/activities, design, plant selection and an implementation plan. City staff finalizes the plan evaluating design, coordination with other City departments, review plant selection and budget impact. City Staff coordinates installation with the park schedule, prepares area for installation and then works together with Tree Fredericksburg to formulate a long-term care plan. Tree Fredericksburg coordinates the volunteers for the tree planting, and cares for the trees for the first five years, then hands the trees to City staff for long-term maintenance. The process of tree planting is comprehensive and it is a joint effort involving City Departments, Commissions and volunteers. Mrs. Little's presentation showed the gradual transformation of Maury playground and the improvements made using this process over a five-year period. Improvements included the removal of poison ivy, adding shade trees for playground users, and reducing mowing/maintenance issues in the park. She added that the trees that have been planted in the parks have all been planted to replace dead or diseased trees or to address specific concerns of staff and park users such as standing water or lack of shade.

III. Communications from Staff: The Commissioners reviewed the following reports:

Financial Report - March 2016

Sports/Parks Report – April 2016

Leisure/Special Events Report – April 2016

Staff Contact List

Email from Janice Olsen – The Commissioners received a string of emails and a handout addressed to Director Shelhorse from Mrs. Janice Olsen expressing her concerns on the planting of trees in City parks. Director Shelhorse stated she met with Mrs. Olsen to discuss her

concerns on planting trees in City parks especially in open playing fields. Director Shelhorse stated Mrs. Olsen feels strongly the Recreation Commission should have a bigger role in the planning process of planting trees in the City parks. Director Shelhorse had invited Mrs. Olsen to make a presentation to the Recreation Commission on April 19th; however, she declined the invitation. Commissioner Kroko stated that some of her concerns were addressed earlier by Robert Courtnage. Commissioner Foster stated that the open play areas are not required to be full regulation size for pickup games. Currently, Parks and Recreation does not allow pickup games on the fields at Dixon and it is important to have open space. Commissioner Null stated that there is plenty of open space to run and play at Memorial Park. Commissioner Gordon stated that the presentation by the Clean and Green Commission explained why particular trees are planted in an open space in a park, and having that information can eliminate some conflict issues. Commissioner Kroko reminded everyone it costs the City nothing to plant the trees. Director Shelhorse stated that the City Manager asked the Recreation Commission to make a decision on how involved it would like to be in the tree planting process. The Commissioners agreed they would like to be informed of future tree plantings accompanied with an explanation, if needed, for the planting of a particular tree in a particular park area, but would leave the final approval of the plan to the staff and professionals. Commissioner Tepaske recommended placing future tree plantings on the main City web page.

IV. Noteworthy Dates: The Commissioners reviewed upcoming programs and trips.

V. Old Business:

A. Riverfront Park – Director Shelhorse stated the architects, Rhodeside and Harwell met with City staff and stakeholder groups FOR, the Arts Commission and Tree Fredericksburg, to further refine and simplify the design. The architects will be reporting to the Riverfront Task Force in the next few weeks. The architects conducted soil-boring tests on the property. The architects have been working on the riparian zone along the embankment; making that area into a more of a meadow which will require less maintenance, keep the bank stabilized, and simplify the overall design. Funding has been requested in the FY17 CIP budget for more design development and FY18 for construction.

B. Park Signs and Logo – Commissioner Tepaske reported that he had received some suggestions from the Commissioners. He asked the

Commissioners continue to send their suggestions to him through the end of April. Director Shelhorse stated the upcoming brochure asks for comments from the community of “What does Parks and Recreation means to you?” Based on our last meeting, Director Shelhorse met with Higaschi Glaser Design. They are excited to work on the project and already have some ideas on logos. They would like to take the ideas gathered from the Staff, the Commission and the Community and proceed from there. Their initial proposal of approximately \$5,000 included three logo design concepts to be chosen for refinement, then final logo design, master digital artwork, letterhead, business card design and envelopes. For an additional fee they would work on how we could incorporate the logo into the other things we do like our program brochure. Higaschi and Glaser want to connect to the community and suggested they could tie the Parks and Recreation logo into the Main Street logo.

C. Commission Retreat – Director Shelhorse stated she reserved the building at Sunshine Park June 24th and 25th, for the Commission Retreat.

D. Eagle Scout Project – The Commissioners received pictures of the 2016 Eagle Scout Amphitheater Project at Old Mill Park. Director Shelhorse referenced three dying, hazardous trees next to the amphitheater that will be removed and replaced as part of the project.

E. Face the River – Director Shelhorse reported that the Face the River Group, a group of volunteers from the Main Street organization, is looking to clean up the scenic view along the Rappahannock River to spur economic development. The Face The River Group has been working on getting some donations to help fund the clean up and is working with City staff to clear out some of the vegetation at the parking lot behind the Happy Clam and the George Street parking lot. The City has removed 7 hazardous trees and volunteers have cut vines hanging from the trees.

VI. New Business: None

VII. Commission Concerns and Topics:

Commissioner McVade stated he is working with the Idlewild Homeowners Association in regard to a proposed City park in the Idlewild Community. There is some opposition to the idea of having a public park in the neighborhood. Director Shelhorse stated that staff has some concerns that the site is part of a larger piece of property that is now being considered as a school site as early as 2020. The FY17 budget does not include funding for new park development.

Commissioner Duffy stated there is a lot support from City Council for the City Manager’s recommended FY17 budget.

Commissioner Gordon announced that the City Schools were assisting with Earth Day, by providing a shuttle for people from James Monroe High School parking area to Old Mill Park.

Commissioner Null stated she had received a compliment from a Mother who had a daughter attending a drama class offered by Parks and Recreation. Director Shelhorse will let Leisure Supervisor JoAnne Jones know.

Meeting Adjourned at 7:20 p.m.

 5/19/16
Jane C. Shelhorse Date
Director

**Next Regular Meeting May 19, 2016 6:30 p.m.
at Maury Commons, Suite 111.**

**FREDERICKSBURG
RECREATION COMMISSION
Minutes of May 19, 2016**

The May meeting of the Fredericksburg Recreation Commission was held on Thursday, May 19, 2016 at Maury Commons. The meeting was called to order at approximately 6:32 p.m.

Commissioners Present: Mrs. Susan Tyler, Mrs. Sharon Null, Dr. Timothy Duffy, Dr. George Foster (arrived late), Dr. John Gordon, III, Mr. Ken Kroko, and Dr. Marcus Tepaske. Absent: Mr. James Bailey and Mr. Brandon McVade. Also in attendance: Director Jane Shelhorse and Mrs. Patricia Sparks.

I. **Approval of Minutes:** The minutes of April 21, 2016 were unanimously approved.

II. **Public Comment:** No public comments.

III. **Communications from Staff:** The Commissioners reviewed the following reports:

Financial Report – April 2016

Sports/Parks Report – May 2016

Leisure/Special Events Report: Director Shelhorse announced Parks and Recreation will be partnering with City Schools to offer the free lunch food truck service at the Dixon Pool parking lot, as well as running the pool concessions area.

IV. **Noteworthy Dates:** The Commissioners reviewed upcoming programs and trips.

V. **Old Business:**

A. Riverfront Park – Commissioner Kroko stated the Riverfront Task Force met last week. Currently, we have a good design, and by early summer they should have a schematic design to present to City Council. Once we receive the schematic design there will be some tweaks before the approval of the final design. There is \$5 million allocated for the development and building of Riverfront Park. There will be no phasing in of additional projects in building the park. Commissioner Tepaske asked if we looked at accepting private donations or fund raising for the development of the park. Commissioner Kroko stated it is very much a part of the Riverfront Task Force initiative and it is still in discussion. The current park designs may be viewed on the main City web page. Commissioner Duffy stated he is in favor of building a park with integrity.

B. Park Signs and Logo – Commissioner Tepaske asked if there was feedback from the community. Director Shelhorse stated the summer brochure did ask for comments from the community of "What does Parks

and Recreation mean to you?" Email your thoughts to Parks and Recreation or visit us on Facebook. Commissioner Null stated that it was not clear what we were asking for, and asked that we add a question on line asking what do you "*like*" about Parks and Recreation. Director Shelhorse stated Higaschi Glaser Design is excited to work on the project and already have some ideas on logos. They will take the ideas gathered from the Staff, the Commission and the Community, and proceed from there. For under \$5,000 they will include three logo design concepts to choose from for refinement, then the final logo design, master digital artwork, letterhead, a business card design and envelopes. For an additional fee, they will work on how the department can incorporate the logo into other Parks and Recreation events, programs and marketing. The Commissioners discussed the Higaschi Glaser design, however they agreed to take time from the retreat to discuss park signs and logos. Commissioner Kroko stated Higaschi Glaser would do a great job. They will design a logo using suggestions from the staff, the Commission and the community. They would absolutely give us a great product. The Commissioners asked that Director Shelhorse and Supervisor of Marketing, Tiffany Capehart, continue to move forward on the park sign/logo project and make their suggestions at the retreat. Director Shelhorse stated there are other people interested in designing the Parks and Recreation logo and she requested their feedback in looking at other options. Director Shelhorse stated if the fee is under \$5,000, we are not required to get a second bid. Director Shelhorse asked who actually approves the new logo? Would it be up to the City Manager, Recreation Commission or staff? The Commissioners agreed to have a discussion with staff at the retreat producing three ideas/designs received from staff, the Commissioners and the community and then approach design firm. Commissioner Gordon suggested that the Logo Committee meet prior to the retreat to narrow down the suggestions. Director Shelhorse will contact the City Manager to determine who does have the final approval on the final design. The Commissioners agreed not to lose momentum and to continue moving forward. Director Shelhorse stated she would like to use the logo in our August brochure. Commissioner Kroko stated that we are looking for more of a total marketing plan, and Higaschi Glaser will do what we ask them to do and more.

C. Commission Retreat – Director Shelhorse has spoken with Judith Talbot, from the Institute from Environmental Negotiation in reference to conducting the retreat. The initial cost was \$5,000; however, she has dropped the fee to \$3,600 and will negotiate that fee as well. The fee includes the consultation meetings prior to the retreat, conducting the retreat on Friday 4-8 pm and Saturday 8-1 p.m., workshop materials, workshop summaries, lodging, meals and travel expenses. She has worked with numerous agencies such as The California Outdoor Recreation Department and The Auburn State Recreation Department. Director Shelhorse requested input from the Commissioners in hiring a professional mediator to manage the retreat. Commissioner Tepaske stated he felt we would reap the benefits if we have a professional

facilitator, if the fee was reasonable. Director Shelhorse may be able to get the fee a little lower.

VI. New Business:

A. Public Sculpture Project – The Commissioners received information from the Fredericksburg Arts Commission in regards to Public Art Projects. The Commissioners discussed the various sites recommended by the Arts Commission. Director Shelhorse asked the Commissioners to look at the photo of site at Old Mill Park. The fence would have to be removed and placed behind the sculpture. The Commissioners discussed moving the sculpture further into the park. Commissioner Kroko also suggested that instead of placing an art sculpture near the road and the fence at Old Mill Park, moving the sculpture around the bend near Riverside Drive, in an area where many more people congregate.

Commissioner Null stated she did not feel the Dixon Park location would be a good place for an art sculpture because of possible vandalism. Commissioner Foster recommended placing the sculpture on the corner where the medical building is. Commissioner Tyler recommended placing a “Welcome to Fredericksburg” sign in the median strip and placing the art sculpture near the sign.

Director Shelhorse explained that the sculpture is placed on a 4' x 4' concrete slab placed over a sewer top and the sculptures are rotated approximately every 18 months. Commissioner Duffy stated he is in favor of the idea. Commissioner Gordon stated the only school property appropriate due to regulations would be the entrance to Learning Lane. Commissioners Tyler and Null recommended several locations such as the Blue Grey Parkway and Lafayette intersection and where the “Love” sign is on William and Blue Grey Parkway. The Commissioners discussed their concerns on children climbing on the art and getting hurt. Commissioner Kroko stated in Riverfront Park we want art sculptures that children can climb on. Director Shelhorse will meet with the Fredericksburg Arts Commission to discuss the Commissioner’s concerns. The Commissioners are in agreement with the idea of placing art sculptures throughout the City, however, they do have concerns on some of the proposed locations. The Commissioners would like to get information on the criteria used by the Arts Commission to determine the sculptures throughout the City.

B. VCR Fountain - Director Shelhorse stated Parks, Recreation and Public Facilities and Public Works have installed a water fountain at the Cobblestone Trail Head on the VCR Trail. The ILM Corporation has agreed to pay the water bill for the first five years.

C. Eagle Scout Project #2 - The 2nd Eagle Scout Project includes



MEMORANDUM

TO: Mayor Greenlaw and City Council
FROM: Tonya B. Lacey, Clerk of Council
DATE: July 5, 2016
SUBJECT: Council Board and Commission Appointments

ISSUE

Council assignments to boards and commissions.

RECOMMENDATION

At the July 12 regular session, Council is requested to fill vacancies on the following Boards and Commission.

COUNCIL APPOINTMENTS REQUIRED

- Board of Social Services – one Council representative needed
- Central Rappahannock Regional Library Board of Trustees – one Council representative needed
- Community Policy & Management Team for Youth & Family Services – one Council representative needed
- Fredericksburg Area Museum & Cultural Center (FAMCC) – one Council representative needed
- Fredericksburg Arts Commission - two Council representatives needed
- Fredericksburg Clean and Green Commission – one Council representative needed
- Fredericksburg Chamber of Commerce Military Affairs Council – one Council representative needed

- Fredericksburg Regional Alliance – one Council representative and one Council alternate needed
- George Washington Regional Commission and Fredericksburg Area Metropolitan Planning Organization – two Council representatives and one alternate
- Housing Advisory Committee – two Council representatives needed
- MainStreet – one Council representative needed
- Potomac Rappahannock Transportation Commission - one Council representative and one Council alternate needed
- Rappahannock Area Agency on Aging Advisory Board (RAAA) Board of Directors – one Council representative needed
- Rappahannock Juvenile Detention Commission – one Council representative needed
- Rappahannock Regional Solid Waste Management Board (R-Board) – two Council representatives
- Rappahannock River Basin Commission – one Council representative needed and one Council alternate needed
- Recreation Commission – one Council representative needed
- Regional Group Home Commission – one Council representative needed
- Taxi Board - one Council representative needed
- Town and Gown Committee - two Council representatives needed
- Virginia Railway Express Operations Board – one Council representative and one Council alternate



MEMORANDUM

TO: Timothy J. Barody, City Manager
FROM: Mark Whitley, Assistant City Manager
RE: Board of Equalization Appointments
DATE: July 5, 2016

ISSUE

The City Council is asked to approve a resolution that recommends the appointment of members of the Board of Equalization by the Circuit Court.

RECOMMENDATION

Staff recommends adoption of the attached resolution, which requires one reading.

BACKGROUND

The City of Fredericksburg recently completed a general property re-assessment for real estate in the City. The assessment was effective July 1, 2016. The next step in the process is for the Circuit Court to appoint a Board of Equalization for the City, which will consider appeals of the most recent assessments by property owners. The Circuit Court must choose between three and five residents of the City to serve on the Board of Equalization.

The resolution before City Council provides the Circuit Court with a recommendation concerning appointments, sets the compensation for Board Members, and suggests a number of meetings to handle appeals from property owners. Generally speaking, the Board will meet and hear appeals in the autumn, and will complete its work by the end of December. The statute concerning Board of Equalization appointments provides that the term expires one year after the effective date of the assessment for which they were appointed.

The Commissioner of the Revenue has provided the City Council with a list of citizens that are well-qualified and have agreed to be considered for appointment to the Board of Equalization.

FISCAL IMPACT

The City Council appropriated \$5,500 in the FY 2017 operating budget for the Board of Equalization. The appointment of the Board of Equalization is part of the City's obligation in the administration of the real estate tax, and there is nothing in the resolution that creates a special fiscal impact.

Attachment: Resolution
cc: Lois Jacob, Commissioner of the Revenue



July 12, 2016
Regular Meeting
Resolution No. 16-

MOTION:

SECOND:

RE: RECOMMENDING THE APPOINTMENT OF CERTAIN PERSONS BY THE CIRCUIT COURT TO THE BOARD OF EQUALIZATION AND SETTING THE COMPENSATION OF BOARD MEMBERS

ACTION: APPROVED: AYES: 0; NAYS: 0

WHEREAS, Section 58.1 – 3370, et seq., of the Code of Virginia requires that the Circuit Court of the City of Fredericksburg, Virginia, appoint a Board of Equalization for a term of one year to consider appeals by property owners within the City to the general real estate assessment effective July 1, 2016; and

WHEREAS, the City Council traditionally submits recommendations to the Circuit Court of persons qualified and willing to serve on said Board; and

WHEREAS, the Council has considered the following persons for appointment to said Board and has found them to be qualified freeholders in the City; and

WHEREAS, pursuant to the aforementioned provisions of the Code of Virginia, the City Council has the authority to set the compensation of members of said Board and other requirements regarding the work of said Board.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fredericksburg, Virginia that the City does hereby recommend to the Circuit Court of the City of Fredericksburg that the Court appoint the following four (4) members to the Board of Equalization of the City, as follows:

Members: Suzy Stone
 Sara Irby
 Sean Lando
 Evan Sullivan

BE IT FURTHER RESOLVED, that each member of the Board of Equalization shall be compensated at the rate of Seventy-Five Dollars (\$75.00) per day for each day in which the Board is in session and the member is present; and

BE IT FURTHER RESOLVED, that the Board is hereby requested to use its best efforts to limit the number of sessions held to fourteen (14), with a mix of day and evening sessions for the convenience of the public.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-__ duly adopted at a meeting of the City Council meeting held July 12, 2016 at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council



MEMORANDUM

TO: Timothy Baroody, City Manager
FROM: Deidre Jett, Budget Manager
DATE: July 5, 2016
SUBJECT: Resolution Appropriating FY 2016 Funds for Public Works Vehicles

ISSUE

Shall the City Council amend the FY 2017 budget by appropriating FY 2016 fund balance for the purchase of two vehicles in the Public Works Department?

RECOMMENDATION

This resolution requires two readings. The first reading will be held on July 12, 2016. A second reading will be scheduled for August 9, 2016. Staff recommends approval of this resolution.

BACKGROUND

In the spring of 2015, the City issued the 2015A General Obligation bonds for various projects. This included \$700,000 for Public Works equipment. As the chart below shows, Public Works spent a portion of those funds in FY 2016 and desires to have the balance appropriated in FY 2017 to begin the procurement process to purchase additional equipment.

2015A General Obligation Bonds Proceeds Public Works Equipment			
Street Sanitation		Refuse Collection	
FY 16 Allocation of Bond Proceeds	\$350,000	FY 16 Allocation of Bond Proceeds	\$350,000
<u>Street Sweeper</u>	<u>(\$210,000)</u>	<u>Two Packer Trucks (net of trade-ins)</u>	<u>(\$200,000)</u>
Balance	\$140,000	Balance	\$150,000
FY 17 Appropriation	\$140,000	FY 17 Appropriation	\$150,000
<u>Street Flusher</u>	<u>(\$140,000)</u>	<u>Packer Truck</u>	<u>(\$150,000)</u>
Balance	\$0	Balance	\$0

FISCAL IMPACT

The attached resolution will reduce the Fiscal Year 2016 Fund Balance (Assigned) by \$290,000. This portion of fund balance reflects the portion of unspent bond proceeds assigned for Public Works equipment.

The FY 2017 authorized spending for vehicle replacements in the street sanitation budget will increase by \$140,000 and the authorized spending for vehicle replacements in the refuse collection budget will increase by \$150,000.

Attachment: Resolution

cc: Mark Whitley, Assistant City Manager
Clarence Robinson, Director of Fiscal Affairs
Doug Fawcett, Director of Public Works



July 12, 2016
Regular Session
Resolution No. 16-__

MOTION:

SECOND:

RE: AMENDING THE FISCAL YEAR 2017 BUDGET BY APPROPRIATING FISCAL YEAR 2016 CARRYOVER FUNDS FOR PUBLIC WORKS VEHICLES

FIRST READ: _____ SECOND READ: _____

ACTION: APPROVED: Ayes: 0; Nays: 0

WHEREAS, the City of Fredericksburg fiscal year runs from July 1 to June 30;
and

WHEREAS, the City has ongoing equipment needs for which the purchase was not completed as of June 30; and

WHEREAS, the City has fund balance amounts as of June 30 to continue this work;

NOW, THEREFORE, BE IT RESOLVED, that the following appropriations are recorded amending the FY 2017 budget in the following funds;

GENERAL FUND

Source

Fund Balance

3-100-061010-0015	Fund Balance (Assigned)	\$ 290,000
	Department Total	\$ 290,000
	Total Source:	\$ 290,000

Use

Street Sanitation

4-100-042200-8105	Motor Vehicles & Equip - Replacement	\$ 140,000
	Department Total	<u>\$ 140,000</u>

Refuse Collection

4-100-042300-8105	Motor Vehicles & Equip - Replacement	\$ 150,000
	Department Total	<u>\$ 150,000</u>

Total Use: \$ 290,000

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16- duly adopted at a meeting of the City Council meeting held July 12, 2016 at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council



MEMORANDUM

TO: City Council

FROM: Kathleen Dooley, City Attorney

DATE: July 1, 2016

RE: Resolution initiating actions in response to SB 549 – the Proffer Bill

ISSUE:

What actions should the City Council take in response to SB 549, which was adopted by the 2016 Virginia General Assembly and signed into law by the Governor, which makes significant changes to local proffer authority?

RECOMMENDATION:

The attached resolution, prepared in consultation with Planning staff, initiates a review of the Comprehensive Plan and Unified Development Ordinance to address critical issues identified in SB 549. Upon the completion of this initial review, the City Council will wish to assess the impacts of SB 549 on the City's proffer authority and take any additional actions as warranted.

BACKGROUND:

The following background discusses the current proffer authority, and identifies the actions that the adoption of the proposed resolution will initiate.

The policy and purpose of conditional zoning:

The Code of Virginia provides the following policy statement for the authorization of conditional zoning:

It is the general policy of the Commonwealth . . . to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land uses and the same time to recognize effects of change. It is the purpose of [the following Code sections] to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.¹

The general theory behind conditional zoning has been summarized as follows:

At least in theory, conditional zoning allows land to be rezoned that might not otherwise be rezoned because the proffers protect the community in which the land is located by imposing additional regulations or conditions on the land being rezoned to address impacts.²

In a proffer, the developer promises to perform an act, to refrain from performing an act, or donate money, land, services or products designed to address an impact from zoning. Once accepted by the locality, a proffer becomes part of the zoning regulations applicable to the land, and it runs with the land until it is rezoned.³

Current proffer authority in Fredericksburg:

Fredericksburg has adopted proffer authority under Code of Virginia §15.2-2303.⁴ This authority applies to high-growth localities like Fredericksburg, and it permits “reasonable conditions” to be voluntarily proffered by the developer and accepted by the locality.⁵ The City has not adopted proffer guidelines or a proffer policy.

Effective date of the new law – “filed” on or after July 1, 2016:

The new law applies to applications for conditional or planned zoning⁶ filed on or after July 1, 2016.⁷ It applies to new residential uses on residentially zoned property,

¹ Code of Virginia §15.2-2296 excerpt.

² Albemarle County Land Use Law Handbook, Chapter 11, “Proffers,” section 11-100, “Introduction.”

³ Id.

⁴ City Code §72-22.4(A)(2).

⁵ Code of Virginia §15.2-2303.

⁶ The legislation distinguishes between “rezoning” and “proffer condition amendment.” The UDO treats these interchangeably – an application to amend proffers is a rezoning application. This memo will use the term “rezoning” to apply to both situations.

including a residential component of a mixed use development.⁸ It does not apply to applications for special use permits, special exceptions, or variances, because “proffers” do not arise in those contexts.

The proposed resolution provides that the City will review applications for residential rezonings filed before July 1, 2016 under the existing process currently set forth in the Unified Development Ordinance and Procedures Manual.

The proposed resolution provides that the City will review any applications for residential rezonings filed on or after July 1, 2016 under the 2015 Comprehensive Plan as may be amended, and any UDO or Procedures Manual amendments which may result therefrom.

Geographical application of the new law – Comprehensive Plan review:

The types of conditional zoning applications affected are those for construction or building expansion on residentially zoned property, including a residential component of a mixed use development, when the new residential development requires the rezoning. “Residentially zoned property” is property currently zoned or proposed to be zoned for either single-family or multifamily housing. The only districts in which either single family or multifamily housing is not permitted are the R-MH, I-1 and I-2 districts. All of the other “R” districts (R-2, R-4, R-8, etc.,) permit either single family or multifamily residential uses by right. In addition, either single family or multifamily housing is permitted by right in the CT, C-D, C-SC, C-H, PD-R, PD-C, PD-MU, and PD-MC districts. Thus, the application of the new law reaches to a zoning map amendment proposing a residential use in nearly every City zoning district.

The new law will apply to the rezoning application if it proposes more residential uses than permitted by underlying zoning or a lower residential density than permitted by the underlying zoning. Theoretically, it would be possible to receive an application for a conditional rezoning that would result in the exact same number of residential units as permitted by right, which would not be subject to the new law.

The law does not apply to land within an approved small area comprehensive plan in which the delineated area is designated as a revitalization area, encompasses mass transit, includes mixed use development, and allows a density of at least 3.0 floor area

⁷ “This act is prospective only and shall not be construed to apply to any application for rezoning filed prior to July 1, 2016, or to any application for a proffer condition amendment for a rezoning for which the application was filed prior to that date.” In short, a landowner cannot use the new law to renegotiate a previously-granted rezoning application.

⁸ New Code of Virginia §15.2-2303.4(A), definition of “new residential development,” and “new residential use.” The definitions of these terms include a proposal to develop more residential units or fewer residential units than permitted under the then-existing zoning. Presumably it would not apply to an application that does not change residential density.

ratio in a portion thereof. A “small area comprehensive plan” is defined as that portion of a comprehensive plan that is specifically applicable to a delineated area within a locality rather than the locality as a whole.

Under the proposed resolution, Planning staff and the Planning Commission will evaluate the 10 planning areas in the 2015 Fredericksburg Comprehensive Plan. Are any of the 10 planning areas appropriate for delineation as a revitalization area, with mass transit and mixed use development, and a proposed density of at least 3.0 FAR in a portion of the area? If so, then the Planning Commission will certify amendments to the Comprehensive Plan establishing those small area plans – and for the restoration of the ability to discuss proffers with developers – in those planning areas. City Council will hold a public hearing on the amendments certified by the Planning Commission and adopt amendments to the Comprehensive Plan.

This review may also result in a recommendation to amend the Planned Development zoning regulations to permit a 3.0 floor area ratio for commercial development by special use permit, in order to expand the tools available to implement any amendment to the Comprehensive Plan.

The proposed resolution also authorizes the Planning Commission to consider and certify or recommend any necessary or correlating amendments to the Comprehensive Plan or Unified Development Ordinance to reflect the statutory changes to local proffer authority in SB 549.

Application of new law: “new residential development.”

The new law applies to a rezoning or proffer condition amendment application for approval of a “new residential development or new residential use.” These terms are defined as follows:

“New residential development” means any construction or building expansion on residentially zoned property, including a residential component of a mixed-use development, that results in either one or more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what may be permitted by right under the then-existing zoning of the property, when such new residential development requires a rezoning or proffer amendment.

“New residential use” means any use of residentially zoned property that requires a rezoning or that requires a proffer condition amendment to allow for new residential development.”

General prohibition:

Under the new law, no locality shall (i) request or accept any unreasonable proffer (as described below) in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or a new residential use, or (ii) deny any rezoning application or proffer condition amendment for a new residential development or new residential use where such denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment.⁹

This general prohibition applies to "requests" for proffers, but it also applies to the "acceptance" of an otherwise voluntary proffer. The City Council may not accept a voluntary proffer from an applicant if it is not "reasonable" as defined in the new law. As described below, the prohibition on "requests" also extends to "suggestions."

The proposed resolution confirms that neither the City Council, Planning Commission, nor any agency, commission, or committee of the City of Fredericksburg nor any of their members nor City staff shall suggest, request, require or accept any unreasonable proffer as defined in SB 549 in connection with any residential rezoning application filed on or after July 1, 2016.

New substantive limitations on proffers:

■ "Unreasonable" proffers generally:

Under the new law, every request or suggestion of a proffer shall be deemed "unreasonable" unless it addresses an impact that is "*specifically attributable* to a proposed new residential development or other new residential use." This general rule applies to suggestions or requests for "on-site" proffers, which are proffers addressing an impact within the boundaries of the property to be developed. It also applies to "off-site" proffers, which include any proffer of cash – whether for expenditure for on-site or off-site improvements. "Off-site" proffers also include any proffer addressing an impact outside the boundaries of the property to be developed. Every proffer must meet the "specifically attributable" rule. This phrase is not defined in the legislation.

⁹ New §15.2-2303.4(B).

■ “Unreasonable” off-site proffers:

The new law establishes a two-level test for proffer for off-site improvements. Remember that the term “off-site” includes a proffer addressing an impact outside the boundaries of the property, and any cash proffer, whether for expenditure on-site or off-site.

- First level test: types of off-site public infrastructure for which proffers may be offered or accepted:

The first level of the test limits the types of off-site public infrastructure for which proffers may be offered or accepted. Under the new law, the only public facilities for which off-site proffers may be accepted are public transportation facilities, public safety facilities, public school facilities, or public parks. Each of these terms is defined in the new legislation. Any proffer for a different type of off-site improvement is “unreasonable” as defined by the new law. However, the new definitions are vague with respect to the specific facilities and costs that are included for the named off-site facilities.

- New/expanded primary and secondary public schools:

“Public school facility improvement” means “construction of new primary and secondary public schools or expansion of existing primary and secondary public schools, to include all buildings structures, parking, and other costs directly related thereto.”

- Public safety facility improvements:

A “public safety facility improvement” includes “construction of new law-enforcement, fire, emergency medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings, structures, parking, and other costs directly related thereto.”

- Public transportation facility improvements:

This term includes (i) construction of new roads; (ii) improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation or the applicable standards of the locality [Fredericksburg uses the VDOT standards], and (iii) construction, improvement, or expansion of buildings, structures, parking, and other facilities directly related to the use.

- Second level test: the new residential development creates the need for the facility expansion or construction, and will realize a direct and material benefit from the off-site facility:

Once the type of off-site facility has been identified, then the second level test of “reasonableness” applies. An off-site proffer (including all cash proffers) shall be

deemed “unreasonable” unless it addresses an impact to an offsite public facility, such that (a) the new residential development or use creates a need, or an identifiable portion of a need for one or more public facility improvements in excess of existing public facility capacity at the time of the application, and (b) each new residential development/use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements.

- “In excess of existing capacity:”

In the review of a rezoning application under the new law, the Council may base its assessment of public facility capacity on the projected impacts specifically attributable to the new residential development or new residential use. *The proposed resolution includes direction to the Planning staff and Planning Commission to consider amendments to the Comprehensive Plan to address the topic of adequate public facilities, implemented through appropriate levels of service, and the identification of the existing capacity of public facilities for which the Council may accept voluntary proffers.*

The importance of the Comprehensive Plan:

The analysis of residential rezoning applications under the new statute will rely heavily on the City’s 2015 Comprehensive Plan. The City’s Goals, Policies, and Initiatives, as stated in the Comprehensive Plan, will take on an even greater role in the review of these applications. “Comprehensive plans are perhaps the single most important land use control device available to local governments to guide ultimate decision-making in land use matters. Conformance to comprehensive plans in individual zoning decisions can provide the single strongest and most defensible basis for action by substantially removing the potential of discrimination against individual landowners.”¹⁰

“A comprehensive plan may properly form the basis to approve or deny a rezoning . . . However, because the comprehensive plan is only a guide, it is not required that land only be rezoned or permitted in accordance with it. . . . Although the comprehensive plan is a guide, rather than a set of requirements, decision-makers should strive to assure that their decisions are consistent with the plan. Conformance to the comprehensive plan not only facilitates reasonable and well-informed decisions, but also removes the potential for discrimination in the decision process against individual owners.”¹¹

¹⁰ “Planning and Zoning,” John H. Foote, Walsh Colucci Lubeley & Walsh, P.C., Chapter 1 of the 2016 Local Government Attorneys’ Handbook, page 1-43.

¹¹ Albemarle County Land Use Law Handbook, Chapter 9, “The Comprehensive Plan,” section 9-200, “Legal status of the comprehensive plan and its role in legislative zoning decisions.”

Effect of new law with respect to “suggestions” and “requests”:

The new law contains a very significant change in the law with respect to the informal discussions that occur between City staff, Planning Commissioners, City Council members, and applicants. In any action in which a locality has denied a rezoning, if the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit to an unreasonable proffer or proffer condition amendment that it has proven was “suggested, requested, or required by the locality,” the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial. If the court makes such a finding, then the applicant may be entitled to an award of attorneys’ fees and costs, and to an order remanding the matter to the governing body with a direction to approve the rezoning without the inclusion of any unreasonable proffer.

Under the new law, each idea or proposal offered in the back-and-forth of reconciling diverse interests has the potential to trigger review under the undefined “specifically attributable,” “creates the need or identifiable portion thereof,” “in excess of existing capacity,” and “direct and material benefit” standards of the new law. Each suggestion has the potential to result in the invalidation of the governing body’s final decision, and to trigger liability for the applicant’s legal fees and costs of litigation.

FISCAL IMPACT:

The fiscal impact of the new law is unknown at this time.



July 12, 2016
Regular Meeting
Resolution No. 16-

MOTION:

SECOND:

**RE: INITIATING ACTIONS IN RESPONSE TO SB 549 RELATING TO
CONDITIONAL ZONING FOR RESIDENTIAL REZONINGS AND
PROFFER AMENDMENTS**

ACTION: APPROVED: AYES: 0; NAYS: 0

WHEREAS, the 2016 General Assembly passed and the Governor approved SB 549, which amends to the Virginia Code relating to conditional zoning for residential rezonings and proffer amendments;

WHEREAS, SB 549 becomes effective on July 1, 2016, is prospective only and will only apply to any residential rezoning and proffer amendment applications filed on or after July 1, 2016;

WHEREAS, SB 549 prohibits a locality from suggesting, requesting, accepting or requiring any on-site, off-site, or cash proffer defined as “unreasonable” by SB 549 in connection with a residential rezoning or proffer amendment;

WHEREAS, SB 549 does not apply to any new residential development or new residential use occurring within the area of an approved small area comprehensive plan in which the delineated area is designated as a revitalization area, encompasses mass transit (including FRED Transit), includes mixed use development, and allows a density of at least 3.0 floor area ratio in a portion thereof;

WHEREAS, the City Council adopted a new comprehensive plan on September 8, 2015, before the 2016 General Assembly session convened;

WHEREAS, Chapter 3 of the 2015 Comprehensive Plan addresses the topic of Transportation;

WHEREAS, in light of SB 549, the utility of Chapter 3 as guidance for the review of residential rezoning applications would be enhanced by the addition of goals for adequate public facilities, implemented by established levels of service and identification of existing capacity of public transportation facilities;

WHEREAS, Chapter 4 of the 2015 Comprehensive Plan addresses the topic of Public Services, Public Facilities, and Preserved Open Space;

WHEREAS, in light of SB 549, the utility of Chapter 4 as guidance for the review of residential rezoning applications would be enhanced by the addition of goals for adequate public facilities, implemented by levels of service and identification of existing capacity of public facilities, particularly with respect to Education, Fire and Rescue, Police, and Recreational Parks and Open Space;

WHEREAS, Chapter 11 of the 2015 Comprehensive Plan divides the City into ten planning areas, focused on major components of the City's infrastructure, each with a distinct and identifiable character, with varying land use objectives;

WHEREAS, one or more of the ten planning areas may meet the criteria for an exemption from SB 549 for areas within a small area comprehensive plan;

WHEREAS, in light of SB 549, the "Land Use Potential" discussions for the ten planning areas in Chapter 11 of the 2015 Comprehensive Plan would be enhanced by identification of areas that are appropriate for revitalization, served by mass transit, include mixed use development, and allow a density of at least 3.0 floor area ratio in a portion thereof;

WHEREAS, in light of SB 549, it may be necessary to amend planned development zoning district regulations in the Unified Development Ordinance to allow a 3.0 floor area ratio as a permitted or special use, to implement the amendments to the Comprehensive Plan;

WHEREAS, the public necessity, convenience, general welfare and good zoning practice require the foregoing review and amendments, and any necessary or correlating amendments to the Comprehensive Plan and Unified Development Ordinance.

NOW THEREFORE, BE IT RESOLVED by the City of Fredericksburg Council:

1. The Planning Commission is requested to consider and prepare amendments to the 2015 Comprehensive Plan addressing the issues set forth in this Resolution and any necessary or correlating amendments to reflect the statutory changes to local proffer authority in SB 549.
2. The Planning Commission is requested to submit such Comprehensive Plan amendments to public hearing(s) within 100 days of this Resolution, and to certify such amendments as it may recommend, for consideration by the City Council.
3. The Planning Commission is requested to consider and prepare amendments to the Unified Development Ordinance addressing the issues set forth in this Resolution and any necessary or correlating amendments to reflect the statutory changes to local proffer authority in SB 549.

4. The Planning Commission is requested to submit such Unified Development Ordinance amendments to public hearing(s) within 100 days of this Resolution, and to make recommendations concerning the proposed amendments to the City Council.
5. All applications filed before July 1, 2016 for rezoning or for a proffer condition amendment seeking approval of new residential development or new residential use, including any mixed use development containing a residential component, shall be reviewed following the process currently set forth in the Unified Development Ordinance and Procedures Manual.
6. All applications filed on or after July 1, 2016 for rezoning or for a proffer condition amendment seeking approval of new residential development or new residential use, including any mixed use development containing a residential component, shall be reviewed under the 2015 Comprehensive Plan as may be amended pursuant to this Resolution, and any Unified Development Ordinance or Procedures Manual amendments which may result therefrom.
7. Neither the City Council nor the Planning Commission, nor any agency, commission, or committee of the City of Fredericksburg nor any of their members nor City staff shall suggest, request, require or accept any unreasonable proffer as defined in SB 549 in connection with any application filed on or after July 1, 2016, for rezoning or for a proffer condition amendment seeking approval of new residential development or new residential use, including any mixed use development containing a residential component.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-__ duly adopted at a meeting of the City Council meeting held July 12, 2016 at which a quorum was present and voted.

Tonya B. Lacey
Clerk of Council



MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: Doug Fawcett, Director of Public Works
DATE: July 6, 2016
SUBJECT: FY17 Asphalt/Concrete Rehabilitation Program – List of Streets

ISSUE

Adoption of the List of Streets to be rehabilitated during FY17.

RECOMMENDATION

We recommend that the Council adopt the attached resolution approving the List of Streets.

BACKGROUND

The Proposed List of Streets was transmitted to City Council with the Council packet for the June 28 Regular meeting. Another copy of the list is attached.

One pending street rehabilitation project was not included in the list because it is being performed by VDOT rather than the City and no City funds are needed for the project. (The project is being funded by the Regional Surface Transportation System (RSTP) program, with funds awarded to the City for this purpose some time ago.) This project involves the milling and resurfacing of Princess Anne Street from Jefferson Davis Highway/Route 1 to Fauquier Street and represents Phase 2 of improvements to this section of Princess Anne Street. Various curb/gutter/sidewalk repairs were performed during Phase 1. VDOT has awarded a contract to Virginia Paving in the amount of \$651,000 to perform the milling/resurfacing work. The pre-construction meeting was held last week, so the work will likely start very shortly.

Once City Council approves the List of Streets, either as proposed or with modifications, staff will advertise for bids to perform the work and then submit a recommendation for contract award to the Council in the near future.

FISCAL IMPACT

The asphalt/concrete rehabilitation work on the streets included on the list will be funded through a combination of VDOT funds (Primary Extensions and Revenue Sharing programs) and City funds (Revenue Sharing matching funds and other funds in the City's capital budget.)

Attachments: Resolution
List of Streets

”



MOTION:

**July 12, 2016
Regular Meeting
Resolution No. 16-__**

SECOND:

**RE: ADOPTING THE LIST OF STREETS TO BE IMPROVED DURING THE
FY17 ASPHALT REHABILITATION PROGRAM**

ACTION:

WHEREAS, the Department of Public Works has inspected the streets of the City and has prepared a list of streets for rehabilitation through the FY17 Asphalt Rehabilitation Program.

NOW THEREFORE, BE IT RESOLVED, that the Council of the City of Fredericksburg, Virginia does hereby adopt the attached list of streets to be rehabilitated during FY17 and authorizes the City Manager to prepare plans, specifications and bid documents, to secure bids from qualified contractors and to present to the City Council a recommendation for award of contracts to perform the FY17 Asphalt Rehabilitation Program.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk’s Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-__ duly adopted at a meeting of the City Council meeting held July 12, 2016 at which a quorum was present and voted.

|

***Tonya B. Lacey, CMC
Clerk of Council***

City of Fredericksburg
Proposed FY 17 Asphalt Program Street List
June 2016

City of Fredericksburg						
FY17 Asphalt/Concrete Rehabilitation Program						
Proposed List of Streets						
June, 2016						
				VDOT	City	Total
Street	From	To	Treatment	Funds	Funds	Estimated Cost
King Street	McKinney Street	Howison Avenue	Reconstruction		\$45,350	\$45,350
Jeff Davis Highway Service Road	Stafford Avenue	Powhatan Street	Reconstruction		\$46,200	\$46,200
Mahone Street	Hays Street	Entrnace of Shell Station	Reconstruction		\$30,100	\$30,100
Adair Street	Lafayette Boulevard	Raines Drive	Mill & Resurface		\$31,000	\$31,000
Traffic Control/Contingency					\$22,350	\$22,350
Payne Street	College Avenue	Rappahannock Avenue	Reconstruction	\$100,000	\$100,000	\$200,000
Dandridge Street	College Avenue	Rappahannock Avenue	Reconstruction	\$100,000	\$100,000	\$200,000
Caroline Street	Amelia Street	George Street	Mill & Resurface		\$400,000	\$400,000
William Street - West Bound	Westmont Drive	Virginia Partners Bank	Mill & Resurface	\$181,750		\$181,750
Dixon Street - North Bound	Beulah Salisbury Drive	Bridge over Hazel Run	Mill & Resurface	\$292,250		\$292,250
Blue and Gray Parkway	Bridge over Dixon Street	Bridge over Rappahannock River	Mill & Resurface	\$131,900		\$131,900
TOTALS				\$805,900	\$775,000	\$1,580,900



MEMORANDUM

TO: Timothy J. Baroody, City Manager
Mark Whitley, Assistant City Manager
Doug Fawcett, Director of Public Works
FROM: Dave King, Assistant Director of Public Works
DATE: July 5, 2016
SUBJECT: Approval of Washington Avenue Mall Task Force Report and Recommendations

ISSUE

Should City Council approve the Washington Avenue mall task force report and recommendations?

RECOMMENDATION

Staff recommends that City Council accept the Washington Avenue mall task force report and approve the recommendations contained within it.

DISCUSSION

At its March 8, 2016 meeting, City Council appointed a seven person task force for the purpose of reviewing public comments and concerns associated with the City's tree plan for the Washington Avenue mall (see attached council resolution 16-23). This action was in response to a petition submitted to the City outlining concerns over tree plantings on the mall, and a subsequent public forum and public comment period held in February of this year. The City Council directed the task force to:

- Review the public comments that have been submitted to the City with respect to **the current mall tree plan** presented at the February 1, 2016 public forum.
- Review the concerns that have been raised by the Washington Avenue mall petitioners.
- Coordinate with City staff for any supporting information that may be needed during deliberations.
- In consideration of the public comments, concerns of the petitioners, and other relevant information, develop a recommendation that best respects the interests of the at-large community with respect to **the current tree plan**.
- Present a draft recommendation to the Recreation Commission and to the Clean and Green Commission for the purpose seeking any additional input and considerations.
- Present a final recommendation to the City Council no later than July 12, 2016.

The words "... current tree plan" are highlighted above because there has been some confusion by the mall petitioners that the task force was instructed to develop alternative tree plans. The task force did indeed develop an alternative tree plan based upon the "the

current tree plan” and that plan is included in the task force report. Council essentially has two options:

- Option #1: approve the original City tree plan developed by the Clean and Green Commission, or
- Option #2: approve the revised City plan as outlined in the task force report

The petitioners have sought to have the task force step outside its scope of authority to entertain and review a completely new tree plan that was prepared after the task force was commissioned by City Council. That plan, developed by the Commonwealth Heritage Group (CHG plan), was never presented in a public forum for comments nor referenced in the task force’s mission.

Staff believes that the task force completed all of its assignments as directed by City Council, per resolution 16-23. The primary purpose of the task force was to analyze public concerns that had been received by the City over the current tree plan and decide what, if any, changes should be made to the plan. It was never the intent to have the task force ignore the public comments and concerns and serve as a stand-alone design team, or to analyze new plans that had not been submitted to the public for comments (i.e. the CHG plan).

The seven member task force consisted of:

- A city resident representative – **Ms. Jeanette Cadwallender** (elected as task force chair)
- A representative from the Washington Avenue Group – **Mr. Steve Gaske**
- A representative from HFFI – **Ms. Emily Taggart**
- A historic preservation specialist – **Mr. Michael Spencer**
- A representative from the Planning Commission – **Mr. Roy McAfee**
- A representative from the Clean and Green Commission – **Mr. George Solley**
- A representative from City staff - **Mr. Dave King**

The task force met a total of 5 times in March, April, and May and all meetings were open to the public, with an average of 10 – 20 people attending the meetings. The task force presented its recommendations to the Clean and Green Commission on June 6 and to the Recreation Commission on June 16. Both commissions were supportive of the recommendations and offered no comments or revisions.

Attached is a copy of the final report and recommendation of the task force, signed by all of the task force members. The recommendations are shown on pages 6 and 7 of the report. Task force members voted 6 -1 to approve the recommendations. A minority report prepared by Steve Gaske is included with the majority report (attachment B in the task force report) and it includes the design plan prepared by CHG.

Staff wishes to commend the members of the citizen task force for donating their time and services on this matter of great importance to the community. Staff also commends Mr. Steve Gaske for his time and effort to prepare the very thorough minority report. While it is clear that there are differences of opinion with regards to the trees on the Washington Avenue mall, it is also very clear that everyone involved in this process, including those who submitted the petition

to halt the tree plantings, have always had nothing but the best intentions for improving the quality of life for those who live, work, and play in our City.

The matter has now been thoroughly vetted by the City and staff respectfully recommends acceptance and approval of the Washington Avenue tree task force report and recommendations.

The full task force report includes the following attachments:

- Attachment A: Graphic plan showing recommended changes to the tree plan
- Attachment B: A minority report
- Attachment C: Charts representing public comment categories about the tree plan

FISCAL IMPACT

None.

Attachments: Resolution
Tree Task Force Report
Minority Report
City Council Resolution 16-23



**July 12, 2016
Regular Meeting
Resolution No. 16-**

MOTION:

SECOND:

**RE: APPROVAL OF THE WASHINGTON AVENUE TREE TASK FORCE
MAJORITY REPORT AND RECOMMENDATIONS FOR TREE
PLANTINGS ON THE WASHINGTON AVENUE MALL**

ACTION: APPROVED: AYES: 0; NAYS: 0

WHEREAS, the City has an urban tree program for the purpose of planting street trees, including various tree plantings on the Washington Avenue mall; and

WHEREAS, the City had developed a plan to plant trees on the Washington Avenue mall and has implemented that plan since 2008; and

WHEREAS, the City had received a petition in November 2015 from a group of citizens concerned about trees being planted on the mall; and

WHEREAS, a public forum was held on February 1, 2016 to present information about the City's tree plan and allowed for a period of public comment; and

WHEREAS, by virtue of City Council resolution 16-23 a seven-member task force was created for the purpose of reviewing public comments and concerns that had been received concerning the City's tree plan; and

WHEREAS, the task force was chartered by City Council with the following mission statements in accordance with resolution 16-23:

- Review the public comments that have been submitted to the City with respect to the current mall tree plan that was presented at the February 1, 2016 public forum.
- Review the concerns that have been raised by the Washington Avenue mall petitioners.
- Coordinate with City staff for any supporting information that may be needed during deliberations.
- In consideration of the public comments by the community, concerns of the petitioners, and other relevant information, develop a recommendation that best addresses the interests of the community at large with respect to changes to the current tree plan.
- Present the recommendation to the Parks and Recreation Commission and to the Clean and Green Commission for any additional input and considerations.
- Present a final recommendation to the City Council for adoption; and

WHEREAS, the task force has completed its assignments and by a 6 -1 vote of its members has approved their report outlining a list of recommendations; and

WHEREAS, staff recommends approval of the majority report and associated recommendations;

NOW THEREFORE, BE IT RESOLVED, that the Washington Avenue mall task force majority report and associated recommendations are hereby adopted and staff is directed to undertake the recommendations as outlined in the report.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-__ duly adopted at the City Council meeting held July 12, 2016 at which a quorum was present and voted.

Tonya Lacey, CMC
Clerk of Council



**Special Report and Recommendation
By The
Washington Avenue Mall Tree Task Force
To Fredericksburg City Council**

July 12, 2016

DISCUSSION

Tree Program

The City of Fredericksburg has for many decades embraced the idea that tree lined streets are important to the quality of life for residents, merchants, and visitors. The City's commitment to trees has also extended into City parks and other City owned properties, including the Washington Avenue Mall. In recent years, the City has demonstrated this commitment in the following ways:

- 2004 City Council ordinance no. 04-08 (City Code section 66-226) directing the City Manager to plant trees along public streets and other public grounds
- 2005 Street Tree Plan/Inventory recommending increased street tree plantings
- 2011-2013 City Council goal/initiative 4D recommending staff to rebuild the City's urban forest by working with Tree Fredericksburg to plant at least 600 trees per year
- 2012 City Council resolution 12-19 commitment to increase the urban tree canopy by 5% over 10 years
- 2015 Comprehensive Plan recommending increased street tree plantings

As part of the City's overall urban forest program, there have been various studies and plans over the years to restore trees on the Washington Avenue mall. These include (but are not necessarily limited to):

- 1980's inventory and restoration plan
- 1995 effort by the Kenmore Association and property owners along the Washington Avenue mall to restore the mall with trees (Free-Lance Star article dated 12/18/1995)
- 1996 Favretti landscape design plan to restore trees on the mall. This plan was a gift to the City by the Garden Club of Virginia
- 2005 City Street Tree Plan/Inventory recommending additional tree plantings on Washington Avenue

More recently, in 2008 the green committee of the Clean and Green Commission developed a new plan (hereinafter referred to as the “current plan”) for planting trees on the Washington Avenue mall. Local landscape professionals volunteered their time and expertise to develop the plan. With the City beginning to put forth a higher emphasis on street trees and providing greater resources towards street tree plantings in the late 2000’s, City staff began implementation of the current plan that had been adopted by the green committee and Clean and Green Commission.

It is a fact that the 2008 Washington Avenue mall tree planting plan was not submitted to City Council for approval; however it is also a fact that no other tree plantings on public property in the City have ever been submitted to the City Council for official approval. Until recently, such oversight by City Council for tree plantings has never been suggested or anticipated by anyone. City staff have been delegated the authority through City Code (ordinance 04-08) to plant trees and since that time, staff has worked in a collaborative fashion with the Clean and Green Commission, the green committee and Tree Fredericksburg for tree plantings, including the current plan for the Washington Avenue mall, in accordance with Council goals/initiatives, the comprehensive plan and other guiding documents of the City.

The City has had a history of planting trees on the mall. For decades, local garden clubs have been active with various tree plantings on the mall. In the 1950s, these efforts resulted in a large number of dogwood trees being planted on the mall, many of which have now died. In the late 1990s, the Kenmore Association (now operating as the George Washington Foundation) worked with the City to ramp up efforts to establish canopy trees on the mall. Had the trees been planted in time, many of the understory dogwood trees would most likely have survived. In 2005, the City began working with the Kenmore Association and the Fredericksburg Council of Garden Clubs (FCGC) to hold the annual Arbor Day at Kenmore and begin planting memorial trees on the mall. The events have been attended not only by City staff and elected officials, but also by representatives of the George Washington Foundation (formerly Kenmore Association), family members of the honorees and others. In more recent years, collaborative efforts between the Clean and Green Commission and its green sub-committee, Tree Fredericksburg, the FCGC and George Washington Foundation have led to a much more robust effort to plant trees on the mall in accordance with the current plan developed by the green committee in 2008.

In 2002, the Washington Avenue Historic District was listed on the National Register of Historic places because of its collection of monuments and early-20th century homes that are still largely intact. This Historic District had been and continues to be a popular tourist attraction. In 2010 the City adopted a Historic Preservation Plan that emphasizes the importance of preserving viewsheds to historically-significant properties.

Public Input

In November 2015, a petition with over 50 signatures was presented to the Mayor, City Manager and City staff outlining concerns over “excessive” and “dense” tree plantings on the mall, and the “lack of proper consultation, approval, and oversight” for mall tree plantings. In response to the petition, staff postponed further plantings on the mall to allow for a formal public comment period. Staff presented the tree plan at a public forum on February 1, 2016 at the Dorothy Hart

Community Center. The petition group was also given an opportunity to present their concerns to the public at the meeting. Approximately 200 people attended the meeting.

Approximately forty seven citizens spoke at the public forum. Of these, approximately thirty six supported the current tree plan without changes and eleven supported changes to the plan.

After the public forum, a public comment period was held from February 1 – February 15 to allow an opportunity for the public to register comments and concerns regarding the current tree plan. Written comments were accepted via the City’s online comment system, by mail or by hand delivery to the public works department. Two hundred six comments were received during the comment period.

Creation of a Special Task Force

At the March 8, 2016 City Council meeting, Council appointed a seven member special task force for the purpose of reviewing the public comments and, based upon the comments, develop a recommendation as to whether or not changes should be made to the current tree plan. The task force was directed to present its recommendation to the Parks and Recreation Commission and the Clean and Green Commission prior to presenting the final recommendation to City Council at its July 12, 2016 meeting.

The members of the task force are:

- A representative from City staff - **Mr. Dave King**
- A representative from the Planning Commission – **Mr. Roy McAfee**
- A representative from the Washington Avenue Group – **Mr. Steve Gaske**
- A representative from HFFI – **Ms. Emily Taggart**
- A city resident representative – **Ms. Jeanette Cadwallender** (elected as task force chair)
- A representative from the Clean and Green Commission – **Mr. George Solley**
- A historic preservation specialist – **Mr. Michael Spencer**

Council charged the task force with the following:

- Review the public comments that have been submitted to the City with respect to the current mall tree plan that was presented at the February 1, 2016 public forum.
- Review the concerns that have been raised by the Washington Avenue mall petitioners.
- Coordinate with City staff for any supporting information that may be needed during deliberations.
- In consideration of the public comments by the community, concerns of the petitioners, and other relevant information, develop a recommendation that best addresses the interests of the community at large with respect to changes to the current tree plan.
- Present the recommendation to the Parks and Recreation Commission and to the Clean and Green Commission for any additional input and considerations.
- Present a final recommendation to the City Council for adoption.

The task force reviewed the concerns of the petitioners, which were:

- Elimination of open space and impacts to the mall's historical significance, including obstruction of views to monuments, memorials, and homes; and
- Lack of public review and approval process for mall tree plantings.

The petitioners also asked the City to do the following:

- 1) Remove trees that will obstruct sightlines;
- 2) Transplant memorial trees to more appropriate locations; and
- 3) Remediate the disturbed areas

The task force members agreed that the Washington Avenue mall is a prominent historic district. While the Washington Avenue mall was designated in the National Historic Register in 2002, the task force did not find any regulatory statutes that would prohibit the City from planting trees on the mall to maintain the designation.

Analysis of Comments

Although the petition outlined concerns that the current mall tree plan was developed without regard to historic aspects and sightlines, the committee that developed the plan has presented otherwise. There is evidence that the designers considered historical aspects, including an 1862 plat calling out four rows of trees (William Slaughter plat), images of the mall from past years, research of landscaping of similar historic malls in other cities and consultation with long-time residents, and local garden club members of what had been planted on the mall in past decades. At the February 1 public forum, the green committee members who worked on the design plan outlined the special considerations given to historic design aspects, and the historic City Beautiful Movement. They presented material to assure that sightlines of prominent monuments and features would be maintained. The consensus of the task force is that descriptions of the mall tree plantings as a "dense tree planting program" were inaccurate.

Task force member Michael Spencer has recently conducted a cursory study of the history of trees on the mall and found evidence from photos, images, news stories and other information that the mall has had varying numbers and configurations of trees planted on it over the years. It is worth noting that the appearance of the mall at any single point in history should not be construed as the way it has always appeared in the past (or how it should look in the future.)

As stated previously, approximately two hundred six public comments were submitted to the City during the public comment period. An additional seven comments were discovered during a search of City Council emails from November 30, 2015 – February 15, 2016. Adding these comments to the others gives a total of two hundred thirteen public comments that the special task force considered during its review process.

The following table summarizes the comments received:

Number of comments	Nature of Comment	Percentage of Total Comments
191	Support the tree plan without changes	89.7
13	Support minor or moderate changes to the plan	6.1
9	Support significant changes to the plan and/or removal of most trees from the Mall.	4.2

Thus, the ratio of public comments supporting the tree plan without changes, versus comments in favor of at least some changes to the tree plan is nearly 9:1.

A primary point of the petitioners was that the City’s proposed plan would adversely affect the viewshed and historical nature of the Mall. On the topics of historic preservation and the viewsheds of monuments, 1-2% commented that the current plan would have an adverse impact on the mall or was inconsistent with historic preservation and 1-16% commented that it would have a positive impact on the mall or was consistent with historic preservation (see attachment C).

The current review process has been about ensuring openness and fairness for the community and the public has responded with their overwhelming support for the tree plan. It is critical for achieving a fair resolution of the issues that the content and context of comments received from the public bear the significant weight during the formulation of the Task Force recommendations to City Council.

The task force held five meetings to deliberate the issues assigned to it by Council and all meetings were duly advertised and open to the public. Meetings were attended by a moderate number of citizens, generally around 10 – 20 people. The task force presented its conclusions and recommendation to the Clean and Green Commission on June 6 and to the Parks and Recreation Commission on June 16. One comment was received at the Clean and Green Commission for involving the City’s historic preservation planner for trees planted not only in historic districts but also in historic sensitive areas. One comment was received at the Parks and Recreation Commission for making hard copies of tree policies and information available at the Dorothy Hart Community and other relevant public facilities. Both commissions expressed their compliments for the review process and the time and efforts of those who volunteered to serve on the task force.

The mission of the task force with regards to development of a recommendation, as stated in the City Council’s commissioning on March 8, is clear: “In consideration of the public comments by the community, concerns of the petitioners, and other relevant information, develop a recommendation that best addresses the interests of the community at large with respect to

changes to the current tree plan.” The members of the task force have therefore worked diligently to present a recommendation that serves the interests of the community at large, while also remaining mindful of the concerns outlined in the tree petition.

RECOMMENDATION

The task force respectfully offers the following recommendation to City Council:

1) Changes to the current tree plan:

- a) Remove three ‘Little Gem’ magnolias (*Magnolia grandiflora*) from north side of Hugh Mercer monument and three from the north side of the Religious Freedom monument and restore area with grass. Complete by end of 2016.
- b) Reevaluate view of the Religious Freedom monument with respect to the cherry trees after removal of the ‘Little Gem’ magnolias. Staff should perform this review and recommend any further changes regarding the cherry trees to the Clean and Green Commission for their consideration and approval.
- c) Plant two New Harmony Elms (*Ulmus americana*) and two Red Oaks (*Quercus rubra*) at southern end of the center median per the current tree plan. Complete by end of 2016.
- d) Postpone planting of six Red Oaks and two New Harmony Elms in the center median as shown on the current plan until existing trees in this area have died and been removed.
- e) Leave all other existing tree plantings in place.

2) Tree maintenance (ongoing activities):

- a) Ensure proper pruning and care of growing trees so that sight lines to the monuments are maintained.
- b) Remove dead or dying trees as necessary and replace them with tree types per the tree plan.

The recommended changes to the Washington Mall tree plan are shown on the attached drawing (Attachment “A”).

In addition to the Washington Avenue mall trees, the task force recognizes that there have been concerns raised about the general process for approving tree plantings. The task force offers these suggestions for improving the process for future tree plantings:

- 1) Develop and publish clear objectives of the Clean and Green Commission and the Parks and Recreation Commission regarding tree plantings and maintenance.
- 2) Publish annual tree-planting schedules to invite public review and comments, and allow for sufficient time to make any necessary changes prior to plantings.
- 3) Consult with the City’s Historic Resources Planner for tree planting decisions in historic districts and historic sensitive areas.
- 4) Prepare a Memorandum of Understanding between the City and Tree Fredericksburg for approval by City Council.
- 5) Publish frequently asked questions (FAQ) and other tree related information on the City website such as (but not limited to):

Tree Task Force - Special Report and Recommendation

July 12, 2016

Page 7 of 8

- a) Who to call to report tree problems
- b) How to request that a tree be planted
- c) List of approved street trees
- d) Annual tree planting goals and initiatives
- e) How to be involved in tree plantings
- f) Tree City USA and Arbor Day information

Last but not least, the task force recommends that the City Council commend Tree Fredericksburg and the City's Public Works Department and Parks Department staff for:

- 1) Increasing the City's tree canopy goals and initiatives as outlined by past City Councils, the 2005 street tree report, the City's comprehensive plan and other directives.
- 2) Planting trees that are appropriate for the conditions where they are planted.
- 3) Involving volunteers in the planting and care of urban trees and giving the community a sense of ownership of its urban forest.
- 4) Providing a non-profit arm that supports the City's tree planting goals.

In summary, upon receipt of the tree petition outlining concerns for recent tree plantings on the Washington Avenue mall, the City halted further mall tree plantings and implemented a review and approval process that allowed for the public to weigh in. This process resulted in a public forum to present information to the public; a public comment period that included an opportunity for people to voice their comments at the public forum as well as submit comments during the public comment period from February 1 – 15; and the formulation of a special tree task force whose mission was to review the public comments and develop a recommendation for City Council whether or not changes should be made to the tree plan.

This review process has been adopted by City Council and it has offered all citizens an opportunity to register their viewpoints concerning the mall tree plan.

The consensus of the tree task force is that the community at large is highly supportive of the current Washington Avenue mall tree plan (as well as the current tree program throughout the city) and that the concerns outlined in the tree petition have been fully reviewed and at least partially addressed by the recommendations outlined above. This is especially true with regards to the concern over the public review and approval process.

TASK FORCE MEMBER SIGNATURES

I concur with the conclusions and recommendations contained in this report.



Dave King



Roy McAfee



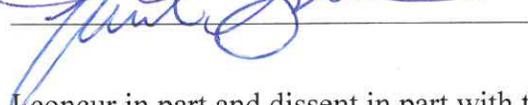
Emily Taggart



Jeanette Cadwallender



George Solley



Michael Spencer

I concur in part and dissent in part with the conclusions and recommendations in this report. My reasons for dissenting in part are contained in Attachment B.



Steve Gaske

Attachments:

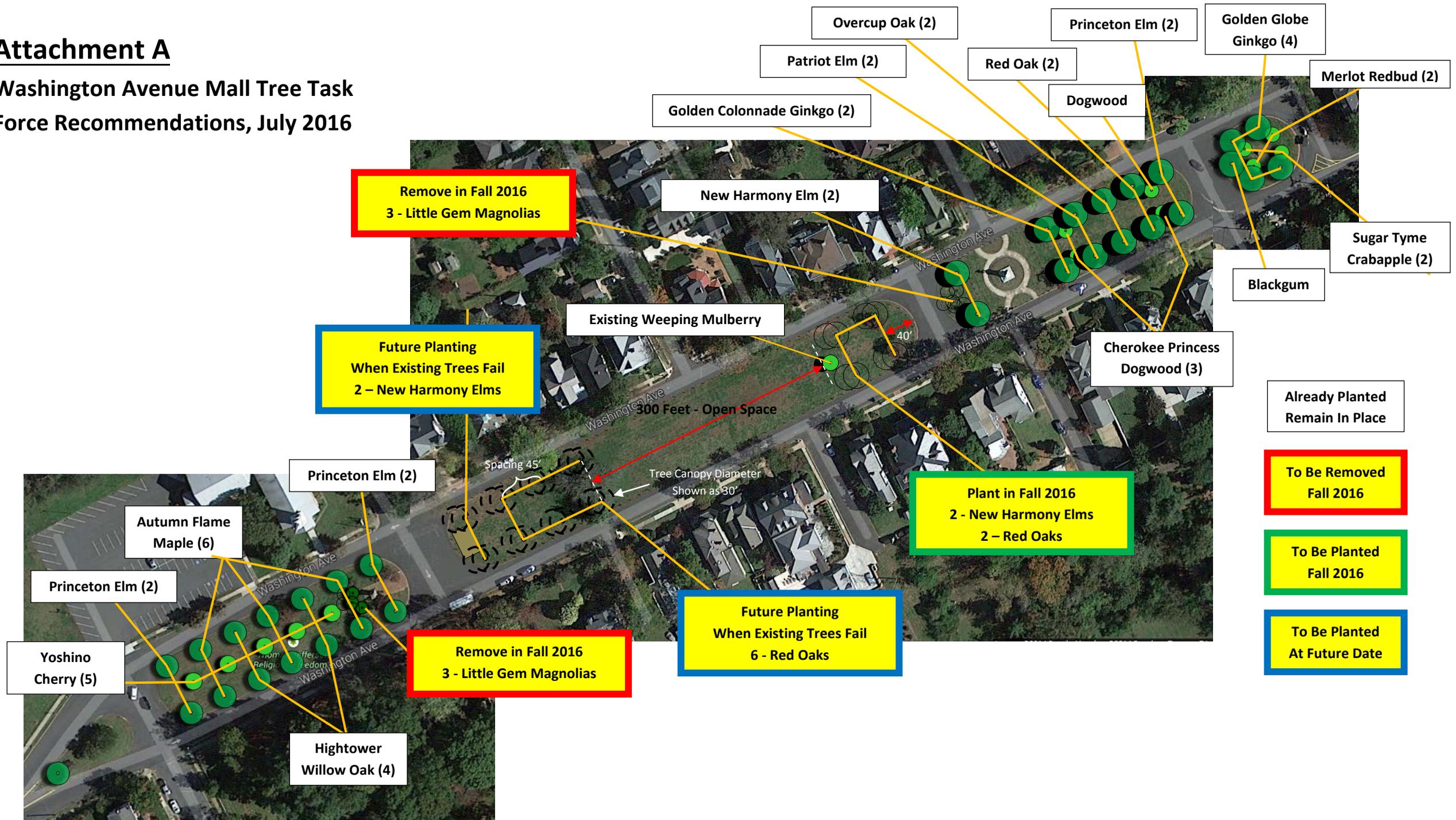
Attachment A: Recommended changes to 2008 Washington Avenue mall tree plan (graphic)

Attachment B: Dissenting Opinion

Attachment C: Public Comment Charts

Attachment A

Washington Avenue Mall Tree Task Force Recommendations, July 2016



Attachment B

The following 78 pages
contain the minority report

Minority Report of the Washington Avenue Tree Task Force

This minority report is being submitted in dissent to the recommendations of the task force majority. It also requests that the City Council adopt the modifications to the current tree plan recommended by Commonwealth Heritage Group (“CHG”), a nationally renowned landscape architecture firm that specializes in historic properties. The CHG modifications described in **ATTACHMENT 1** consist of a proposal for **48 trees** on the Mall **strategically placed so as to open up key sightlines** to structures within the historic district. In comparison, the current plan calls for **72 trees** on the Mall located in a way that unreasonably encroaches on the viewshed of the historic district. Although Mr. Spencer signed the majority report he also reviewed the plan modifications recommended by Commonwealth Heritage Group and concluded that their proposal would appropriately address issues of Washington Avenue’s historical significance and integrity. The CHG recommendation represents an aesthetically pleasing compromise between the desire for more trees, and the necessity to preserve key sightlines within the Historic District.

As discussed below, a majority of the task force members took the position that consideration of the Petitioners’ requests, as well as the modifications to the current plan recommended by CHG, are “outside of the scope” of the City Council’s assignment to the task force and therefore could not be considered or recommended by the task force. Nevertheless, the majority report recommends removing 6 gem magnolia trees from the Mall and planting 12 additional large oak and elm trees. Curiously, the majority’s proposed *increase* in the number of trees currently on the Mall has been referred to as a “compromise.”

The majority’s position that recommending insignificant changes to the current plan is *within* the scope of the task force, but that the Petitioners’ request and the CHG recommendations are both *outside* of the scope of the task force is illogical and untenable.

This Minority Report is organized in the following sections:

<u>Section</u>	<u>Page</u>
I. Petition, Task Force Scope, and Commonwealth Heritage Group Recommendation	2
II. Summary of Commonwealth Heritage Group Recommendation	5
III. Analyses of Tree Locations, Density and Sightlines	9
IV. City Policies That Were Compromised In Implementing the Current Plan	12
V. Comments on Majority Report	14
VI. Conclusions and Recommendation	18

ATTACHMENT 1 – Commonwealth Heritage Group Analyses and Recommendation

- A. CHG Washington Avenue Planting Design Approach
- B. CHG Sightline Analysis and Recommended Modifications
- C. CHG Historical Analysis of Washington Avenue Historic District

ATTACHMENT 2 – Current Plan Effects on Historic Character and Viewscapes

I. Introduction to the Petition, Task Force Scope, and Commonwealth Heritage Group Recommendation

In November 2015, a group of petitioners from the vast majority of homes within a block of the Washington Avenue Historic District mall became alarmed at the increasingly large number of trees that were being planted on the mall. Recognizing that the type and density of the trees would block key sightlines to historic monuments and homes and fundamentally alter the character of the Historic District in a negative way, the residents presented a petition asking that “all or most” of the trees planted on the Mall in recent years be removed. The petitioners also asked the City to appoint a committee to develop a more appropriate landscape design plan that will not obstruct sight lines to historic structures.

Prior to submitting the petition, residents met with City staff and were told that the city arborist had reviewed only the 10 memorial trees that had been planted on the Mall and that no written approvals or recorded votes approving any of the Mall trees planted in recent years exist. Subsequent to receiving the petition in November 2015, City staff produced a Google Earth schematic of a tree plan that was drawn in 2013 or later. It was originally claimed that the post-2013 schematic was developed in 2010 behind closed doors by certain unnamed individuals, but the claimed date was subsequently revised to 2008. There is no evidence that this plan was ever publicized or shown to anyone in the neighborhood around the Mall to provide notice or solicit input from neighborhood residents. Moreover, in the three months between December 2015 and February 2016, City staff has provided three different versions of the post-2013 schematic that was supposedly developed in 2008.¹ Although it is unknown at this time which recently-drawn, rapidly-changing schematic is the “2008 plan,” for purposes of the Task Force discussions the December 2015 and January 2016 versions were ignored, and the February 2016 version was treated as the unapproved “current” plan.

In response, the City held a public forum on February 1, 2016 to seek input from the public and then the City Council passed a resolution appointing a seven-member Task Force to look into the matter. As will be discussed herein, a majority of the Task Force interpreted the City Council resolution in a way that, on procedural grounds, prevented the Task Force from even considering the possibility of recommending adoption of the petitioners’ requests.

At the first two task force meetings a majority of the Task Force insisted on a creative interpretation of the words of the City Council resolution:

“In consideration of the public comments by the community, concerns of the petitioners, and other relevant information, develop a recommendation that best addresses the interests of the community at large with respect to changes to the current tree plan.”

A majority of the Task Force took the position that the words “**develop a recommendation ... with respect to changes to the current tree plan**” do not permit the Task Force to recommend any specific changes to the unapproved current plan or to give any consideration to the Petitioners’ request (i.e., remove “all or most of the trees planted in the past two years”) or any other alternative plans.

¹ In December 2015 the “2010” plan had 12 magnolia trees to be planted on the mall. In January 2016 the “2008” plan had 9 magnolia trees. And by February 2016 the “2008” plan had 6 magnolias.

When provided a link to the video of the March 8 Council meeting where various members of this Council said they wanted the task force to develop a plan, and one Councilor said he wanted to see more than one plan option. The Chair of the task force responded that:

“The council video which you sent was interesting and while comments to which you refer are in the City Council’s discussion, they were not added to the mission statements by Council and therefore do not constitute a part of our assignment.”²

In the course of the deliberations, a motion was made to simply go back to the City Council to ask for clarification as to whether the Task Force is authorized to recommend changes to the current plan. That motion was defeated 5-1 and the Task Force officially adopted a “don’t-ask-don’t-tell” policy concerning its decision that recommending change to the current plan is outside the scope of the Task Force’s scope authorized by the City Council.

Next a motion was made saying that the members of the Task Force did not feel sufficiently qualified in landscape architecture to recommend changes to the City’s existing plan. That motion passed unanimously 6-0 and it was established that the Task Force was not qualified to recommend changes to the existing plan – and it follows that the Task Force members were not qualified to render judgment on the current plan either.

In response to the acknowledged lack of expertise, a member of the Task Force (Mr. Gaske) asked for time at the next meeting for a professional landscape architecture firm to assist the Task Force by presenting the results of its analysis of the Washington Avenue Mall. That request, and the offer of professional assistance to the task force, was rejected by a majority of the members of the task force who determined that no outside parties would be allowed to address the task force.

At subsequent meetings, Mr. Spencer conducted a comprehensive analysis of the trees that were on the Mall during the period of historical significance cited in the listing of Washington Avenue in the National Register of Historic Places. This analysis established that various tree plantings occurred throughout the period of historic significance, but that the Mall was predominantly an open, grassy area with a sprinkling of mostly small trees throughout this time period. For example, during the mid-century period a large number of small Dogwood trees were on the Mall. At no point was there ever more than a handful of large, canopy trees on the Mall. In contrast, the current plan calls for **56** large canopy trees, plus six gem magnolias and 10 ornamental trees. In other words, nothing even remotely resembling the current plan has ever existed on this historic Mall.

Mr. Gaske, with the assistance of Mr. King, also calculated the size and density that the trees in the current plan will achieve at maturity. That analysis established that the current plan would provide **100 percent canopy coverage** over the areas to be planted.³ Mr. Gaske also conducted a viewshed analysis that established that the scale and size of trees presented to the public in the City staff’s Google Earth diagram, and the artists’ rendering, are much smaller than the trees actually will be at maturity. That analysis focused on how views of monuments and historic homes are and will be obstructed in the current plan. It is included as **ATTACHMENT 2** of this minority report. Finally, Mr. Gaske presented the viewshed analyses conducted by CHG, and the modifications to the current plan recommended by CHG.

² Letter from Jeanette Cadwallender to Task Force, April 1, 2016.

³ The City plan

Despite the majority's determination that the task force cannot recommend changes to the current plan because such changes are "outside of the scope" of the wording in the City Council resolution, possible changes to the current plan were discussed and the majority ultimately recommended removing six gem magnolia trees recently planted on the Mall and going forward with planting 12 additional large canopy trees.

When it was proposed that the CHG professional recommendation be included in the Task Force report as an option for the City Council to consider, the Chair and several other members insisted that it was already settled that recommending changes is outside of the scope of the Task Force's authority. Indeed, the Chair of the Task Force was also quoted in the Free-Lance Star:

*"I think that [Harrison] was disappointed that **the task force was not tasked with developing a plan ... There already is one.**"⁴*

In other words, she took the position that the outcome of the task force deliberations was pre-determined by the wording of the City Council resolution before the deliberations began.

Similarly, the City employee representative on the Task Force wrote:

*"Respectfully, I believe that including information you've suggested about **the Commonwealth plan is not only outside the scope of our assignment per City Council, but is biased information that only furthers the position and viewpoints of the petitioners, not the community at large (as we are tasked to do).**"⁵*

As a result of the majority's insistence that its interpretation of the City Council resolution had already settled the fact that recommending changes to the current plan is outside the scope of the Task Force, the option of CHG's professionally-designed modifications was removed from the Task Force report. These recommended modifications are being presented herein as part of a minority report.

It should be stressed that because a majority deemed that both the Petitioners' request, as well as the CHG modifications, are outside the authorized scope of the Task Force, the majority report does not constitute any sort of reasoned adjudication or consideration of the Petitioners' concerns and requests.

For that reason, the City Council should disregard the majority report recommendations and, instead, adopt the modifications recommended by nationally renowned professional historic preservation landscape architects from the Commonwealth Heritage Group.

⁴ Free-Lance Star. May 22, 2016, page C4.

⁵ Letter from Dave King, June 14, 2016.

II. Summary of Commonwealth Heritage Group Recommendation

The Historic Preservation Landscape Architects from Commonwealth Heritage Group recommend modifying the current plan by retaining 48 trees on the Mall, situated so as to preserve key sightlines within the Washington Avenue Historic District. In contrast, the current plan calls for 72 trees on the Mall, with no apparent regard for sightlines or the viewshed of the Historic District. The differences between the plans are summarized in Table 1 and the following diagrams.

Figure 1: Commonwealth Heritage Group (48)

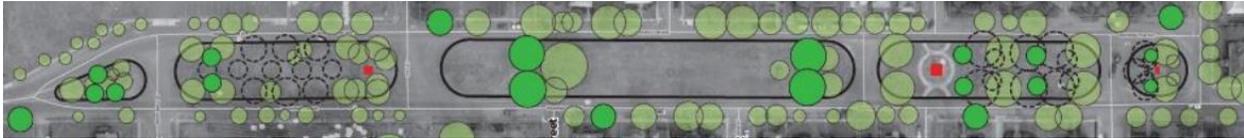


Figure 2: Current Plan (72)



Note: "Current Plan" trees are not drawn to scale. Nearly all trees will be significantly larger at maturity.

The CHG recommendation also calls for 69 trees in the utility strips of the 4-block stretch of the Washington Avenue Historic District, while the current plan apparently calls for 64 trees in the utility strips. In total, the CHG recommendation would put 117 City trees within the 4-block Historic District, while the current plan would put 136 City trees in that 4-block stretch.

This difference of 19 City trees may not seem like a lot when one is talking about such a large number of City trees in such a small space, but the most important differences are that the CHG modifications would:

- 1) Showcase the northside view of the Religious Freedom Monument which is prominently displayed on the peak of a hill from that side;
- 2) Greatly increase the angles and positions from which the Mary Washington Monument can be seen and admired;
- 3) Preserve the iconic views of the Hugh Mercer statue from the sidewalk at the south end of the Mall, and preserve some of the diagonal views of that statue that are prominently featured in literature promoting historic Fredericksburg;
- 4) Unblock the view of Kenmore from the west side of the street, and preserve the view of historic homes across the Mall from the sidewalk entrance to Kenmore;
- 5) Clean out some of the "rats nest" of overplanting on Lewis Circle around the G.R. Clark Memorial (9 trees of varying sizes in a tiny circle); and
- 6) Preserve some diagonal views and partial panoramic views of historic homes and structures in order to preserve some measure of openness and cohesion to the overall character of the Historic District.

The Commonwealth Heritage Group analysis of key sightlines within the Historic District and the advantages of the CHG modifications are demonstrated in greater detail in the CHG report which is included as **ATTACHMENT 1** to this minority report.

At no point in its history has there ever been more than a handful of large, canopy trees on the Mall. For most of its history, and certainly the past 30 years it has contained a tiny number of large trees and varying numbers of small Dogwood trees.

At no point in this process has anyone explained what was *wrong* with the primarily open, grassy Mall. Nor has anyone explained who or *why* it was deemed so important for the current plan to eliminate the integrated viewshed of monuments and homes that display a distinctive period in Fredericksburg's history. Perhaps the only affirmative arguments made in favor of the unapproved current plan is that it will provide shade and beautiful trees to the Mall.

However, the CHG proposal with 48 trees contains exactly the same characteristics. In fact, the current plan has so many large trees packed closely together that they provide massively redundant shade in the sense that one could get virtually the same amount of mid-day shade on the Mall with a fraction of the number of trees in the current plan.

Because the CHG recommendation can achieve the claimed goals of shade and trees on the Mall in an aesthetically pleasing manner with far less obstruction of the viewshed in the Historic District, it is a more reasonable alternative and should be an acceptable compromise for the City Council to adopt.

TABLE 1			
Commonwealth Heritage Group Proposed Modifications			
Island	Planting Area ~ Acres	Current Plan <i>To be transplanted</i> <u>To be removed</u>	CHG Modification
Lewis Circle	0.10	9 Trees: 4 Ginkgo (50'x35') 2 Redbud (18'x17') 2 Crabapple (18'x15') 1 <i>Black Gum</i> (50'x25')	6 Trees: 2 Ginkgo (50'x35') 2 Redbud (18'x17') 2 Crabapple (18'x15')
Mercer Island	0.44 ⁶	19 Trees: 6 Elms: 2 Princeton (65'x50') 2 Patriot (45'x30') 2 New Harmony (70'x65') 4 Dogwoods (25'x20') 2 <i>Ginkgo</i> (45'x25') 2 <i>Overcup Oak</i> (50'x42') 2 <i>Red Oak</i> (60'x50') 3 <i>Gem Magnolia</i> (26'x9')	10 Trees: 6 Elms: 2 Princeton (65'x50') 2 Patriot (45'x30') 2 New Harmony (70'x65') 4 Dogwoods (25'x20')
Center Island	0.46 ⁷	16 Trees: 8 Red Oak (60'x50') 4 <i>New Harmony Elm</i> (70'x65') 2 Pre-Existing Dogwoods 2 Pre-Existing Canopy Trees	10 Trees: 2 Maple (45'x35') 2 <i>Ginkgo</i> (45'x25') 2 Pre-Existing Dogwoods 2 Pre-Existing Canopy Trees
Religious Freedom	0.53	22 Trees: 4 Princeton Elm (65'x50') 6 Maple (45'x35') 5 Yoshino Cherry (40'x35') 4 <i>Willow Oak</i> (60'x35') 3 <i>Gem Magnolia</i> (26'x9')	12 Trees: 2 Princeton Elm (65'x50') 4 Maple (45'x35') 2 Yoshino Cherry (40'x35') 4 Pre-Existing Dogwoods
Canal Wedge		6 Trees: 1 New 5 Pre-Existing	9 Trees: 4 New 5 Pre-Existing
TOTAL MALL TREES		72	48

Utility Strips		64	69
Total City Trees in Hist. Dist.		136	117

Because the CHG plan recommends transplanting trees to other locations on Washington Avenue between William Street and the Canal – including transplanting some trees within the Mall, and

⁶ Excludes area bounded by Mercer statue sidewalks.

⁷ Excludes area reserved for playing field.

transplanting some trees to nearby utility strips – CHG proposes no net loss of trees currently on the Mall other than the six gem magnolia trees. Thus, they have addressed the desire to meet the City’s goal of 10,000 trees while also preserving key sightlines within the Historic District.

If the Council feels that additional changes to CHG’s recommended modifications are required, particularly with regard to memorial trees, or if transplanting certain mall trees to nearby utility strips is not optimal, an additional task force composed of accredited landscape architects including CHG and historic preservationists should be formed to refine the CHG option.

III. Analyses of Tree Locations, Density and Sightlines

The City staff's Google Earth diagram of the unapproved current plan shown in the preceding section does not show the trees drawn to scale and does not show the size of trees at maturity.⁸ For example, most of the canopy trees were depicted as being about ½ to 2/3 of their true size:

**Table 2
Staff Diagram Understatement of Canopy Tree Sizes**

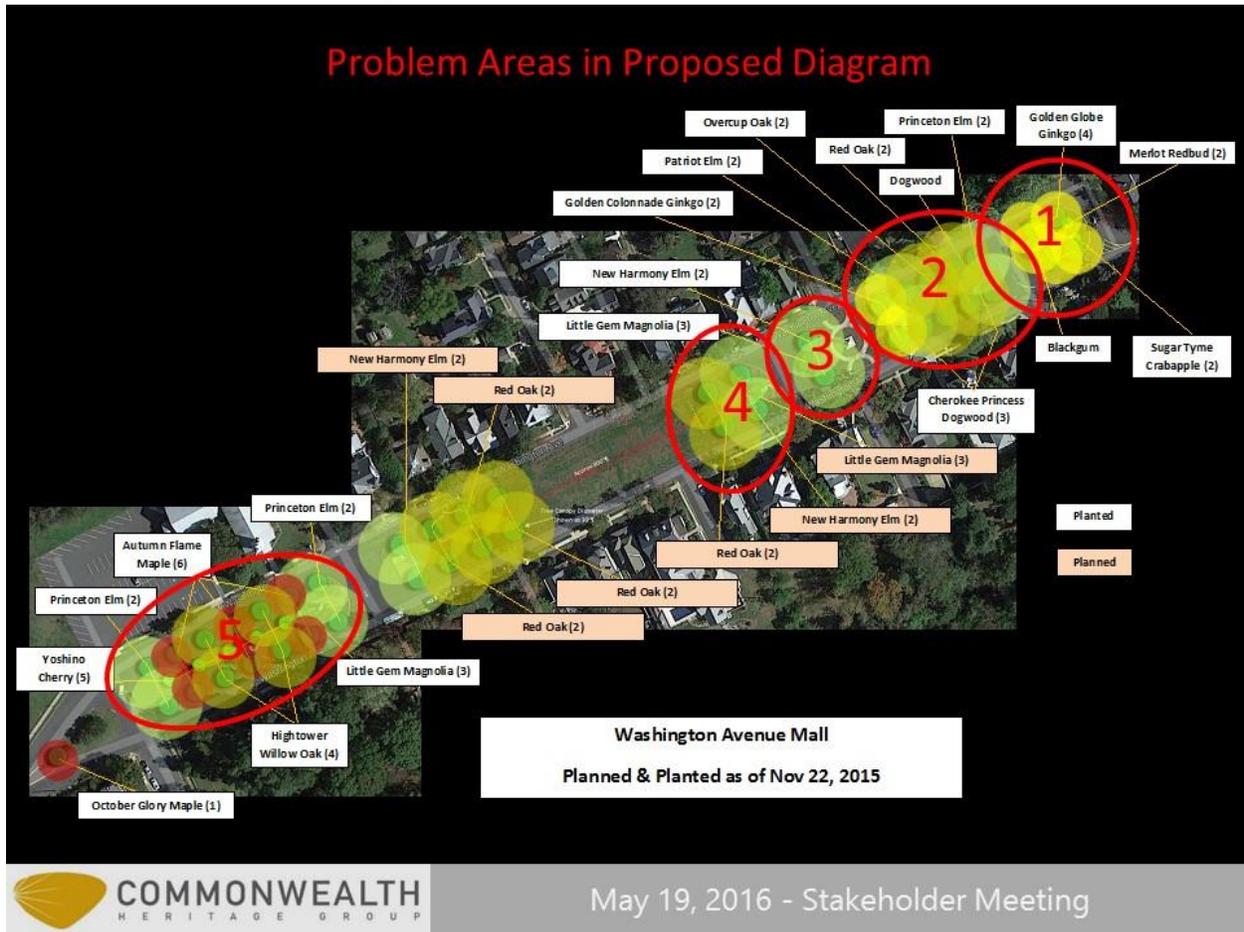
	Canopy Spread - Feet				Ratio: Diagram/ Reality
	Number of Trees	Width at Maturity	Staff Diagram Widths	Amount of Understatement	
New Harmony Elm	6	65	30	(35)	0.46
Red Oak	10	50	30	(20)	0.60
Princeton Elm	6	50	30	(20)	0.60
Yoshino Cherry	5	35	22	(13)	0.63
Overcup Oak	2	42	30	(12)	0.71
Hightower Willow Oak	4	35	30	(5)	0.86
Golden Globe Ginkgo	4	35	30	(5)	0.86
Autumn Flame Maple	6	35	30	(5)	0.86
Patriot Elm (13 yrs.)	2	30	30	0	1.00
Golden Colonnade Ginkgo	2	25	30	5	1.20
Blackgum (Sourgum)	1	25	30	5	1.20

Because the public was shown a diagram of the current plan, and an artists' conception drawing, that materially underrepresented the true size of these trees at maturity, people who attended the February 1 meeting and who submitted comments in support of the "current plan" likely did not understand the current plan or the reason that the Petitioners objected to the inappropriate size and density of trees that were being planted in the center of the Historic District.

The professional landscape architects from Commonwealth Heritage Group re-drew the staff's schematic of the current plan to show the correct scale of how that plan will look when the trees mature:

⁸ Similarly, the City staff prepared an artists' rendering of the tree tunnel intended for the south side of the Mercer statue, but that artists' rendering also showed trees much smaller than their mature size. Moreover, that rendering was taken from a little-traveled road cut-through in front of the Lewis Circle tree mass that will block iconic views that walkers have enjoyed from the southern sidewalk and that automobile passengers have enjoyed from the southern road entrance to the Washington Avenue Historic District.

Figure 3: Current Plan Drawn to Scale



According to Commonwealth Heritage Group:

“This immediately clarified where the proposed plantings have a negative effect on the integrity of the historic district because they block expansive views of the monuments and to the historic houses that give the district its significance:

1. Dense plantings at Lewis Circle block views to Mercer Monument
2. Dense canopy and understory planting block views to Kenmore and Mercer Monument
3. Too many large trees block views to Mercer Monument from the south
4. Too many large trees block views to Mercer Monument from the north
5. Dense understory plantings block views to Religious Freedom monument”⁹

⁹ Commonwealth Heritage Group presentation, May 19, 2016.

ATTACHMENT 1 contains the detailed analyses of key sightlines conducted by the Commonwealth Heritage Group historic preservation landscape architects.

In addition, Mr. Gaske calculated that the current plan would produce **100 percent canopy coverage** over the majority of the Mall, which would be far in excess of the amount required to provide ample shade on the Mall.¹⁰

Table 3
Density of Canopy Coverage in the Current Plan

	# Trees			
	Lewis	Mercer	Center	Religious
	9	19	15	22

	Canopy Coverage - Sq. Feet			
	Lewis	Mercer	Center	Religious
Canopy Coverage – Sq. Feet	5,147	21,302	29,172	22,477
Land Area – Sq. Feet	4,418	23,025	42,750	23,250
Less: Statue Circle, Play Field		3,900	22,500	
Planting Area	4,418	19,125	20,250	23,250

Potential Canopy Coverage	116%	111%	144%	97%
(Canopy Coverage/Planting Area)				

Mr. Gaske’s viewshed analysis also utilized the City staff examples from other cities (e.g., Richmond, Savannah) that represent a template for what the current plan is trying to achieve for the Washington Avenue Mall. Those examples clearly show that sightlines and viewsheds will be blocked. Moreover, the examples from other cities consist solely of a uniform type of canopy tree with no understory trees.

In contrast, the current plan for Washington Avenue mall would also place numerous understory trees under the thick canopy tree coverage and would create far greater blockage of the viewshed than the Richmond and Savannah examples. This Viewshed analysis is included as **ATTACHMENT 2** of this minority report.

These analyses demonstrate that the current plan will block key sightlines within the Historic District, thereby obstructing the viewshed of monuments and historic properties within this important Fredericksburg historical resource. This outcome is entirely inconsistent with the City’s 2010 Historic Preservation Plan and is contrary to the cultural, tourism, commercial and aesthetic interests of the City.

¹⁰ A land area with mature tree canopy coverage density between 60% and 100% is defined as “forest.”

IV. City Policies That Were Compromised In the Course of Implementing the Current Plan

The individuals who have been engaged in implementing the unapproved “current plan” have disregarded a number of policies and procedures. For example:

- The 2007 Comprehensive Plan designated Washington Avenue Mall as a “Preservation Area” consisting of four blocks of “**Grassy median and monuments.**”¹¹
 - No formal authorizations exist to change this designation.
- The 2015 Comprehensive Plan also describes the Washington Avenue Historic District as being a “residential neighborhood with **distinctive mall.**”
 - No formal authorizations from any government body exist to change the “distinctive” character of the mall.
- The 2010 Historic Preservation Plan emphasizes the importance of preserving viewsheds to historically-significant properties.
 - That this policy was disregarded is demonstrated in the CHG professional historic preservation landscape architects’ viewshed analysis, Mr. Gaske’s viewshed analysis,¹² and common sense combined with an understanding of the size the trees will be at maturity.
 - According to the 2002 listing of Washington Avenue Historic District on the National Register of Historic Places “the avenue encompasses a series of **grassy medians**” with memorials that are “sited to take advantage of sightlines and topography.” The conversion of the Mall to forest ignores and seeks to fundamentally alter those characteristics.
- The 2015 Comprehensive Plan expresses several City goals and policies concerning projects undertaken within individual neighborhoods:
 - *“Preserve the character of the City’s neighborhoods, by respecting and maintaining their functional design.”*
 - *“Ensure the residential areas of the city continue to comprise a collection of distinct and attractive neighborhoods, each possessing a sense of place, history, and shared identity.”¹³*
 - *“Those persons who will actually live within and experience the environment being built, the users, are the focus of these principles [of neighborhood design]: ... **Ensure that the visual image of the environment reflects the community’s values and character.**¹⁴*
 - *“Respect the integrity and the character of the City’s neighborhoods”¹⁵*

¹¹ Fredericksburg Comprehensive Plan adopted September 25, 2007, page 126. Note: other protected areas are described differently (e.g., Old Mill Park is “Open space, playing fields, ...”; Hazel Run is “Wooded area with wetlands”). Speaking hypothetically, if a private organization can convert the Washington Avenue Mall protected area to woodland and urban forest without any written approvals from any branch of City government, can other private organizations clear-cut the Hazel Run wooded protected area without written approvals from the City?

¹² Attachments 1 and 2 of this minority report.

¹³ 2015 Comprehensive Plan, page 11.

¹⁴ 2015 Comprehensive Plan, page 90.

¹⁵ 2015 Comprehensive Plan, page 96.

- The unapproved current plan obviously is intended to fundamentally change the design, distinct sense of place, history, shared identity, integrity and character of the neighborhood. The current plan's visual image for the environment does not reflect the community's value and character.
- Residents of **85 percent of the homes** in the Washington Avenue neighborhood signed a Petition objecting to these changes. Although these are the "persons who will actually live within and experience the environment being built," the neighborhood was never notified or consulted concerning this project¹⁶ and the task force did not give any greater weight to the concerns of the neighborhood. Instead, the task force gave less weight to concerns of the neighborhood by deeming their requests to be outside the permitted scope of the task force.

¹⁶ Although certain individuals have claimed that Washington Avenue neighbors were consulted in advance about this plan, no one has confirmed this and nearly all of the still-living people who were supposedly consulted deny it. It appears likely that the City was misled regarding the neighborhood notice and consultation.

V. Comments on Majority Report

There are several areas where the majority report should have been edited to present an accurate, unbiased description of certain issues.

- 1) *“The City of Fredericksburg has for many decades embraced the idea that tree lined streets are important to the quality of life ...”*

Comment:

The majority report should also note that the Petitioners’ request and the CHG modifications both call for Washington Avenue to be a “tree-lined street.” Both proposals call for **more than 60 City trees in the utility strips** along the 4-block Mall. Washington Avenue Historic District can be a tree-lined street without massive overplanting of the Mall in the center of the District.

- 2) *2005 City Street Tree Plan/Inventory recommending additional tree plantings on Washington Avenue.*

Comment:

The 2005 City Street Plan does not mention Washington Avenue Mall. Page 16 of the 2005 Tree Plan calls for an eventual total of 161 trees in the Washington Avenue corridor. At this time, there are *more than* 161 trees in the utility strips and along the sidewalks. Consequently, every tree planted on Washington Avenue Mall in recent years is in excess of the trees that were authorized in the 2005 Tree Plan.

- 3) *More recently, in 2008 the green committee of the Clean and Green Commission developed a new plan (hereinafter referred to as the “current plan”) for planting trees on the Washington Avenue mall. Local landscape professionals volunteered their time and expertise to develop the plan.*

Comment:

No one has ever produced any written documents, minutes, or votes of approval concerning this process. We have never seen an historical analysis or a sightline analysis (similar to the CHG analyses) that was conducted when this particular plan was supposedly drawn up in 2008-2010. Nor have we seen any landscape architects’ drawings of the current plan that were made prior to the post-2013 Google Earth drawings at the earliest. Because it was not publicized or vetted with the neighborhood or general public, it is unknown who selected the people who were allowed to be a part of this private process or the nature of the involvement of those individuals.

- 4) *It is a fact that the 2008 Washington Avenue mall tree planting plan was not submitted to City Council for approval; however it is also a fact that no other tree plantings on public property in the City have ever been submitted to the City Council for official approval.*

Comment:

This statement focuses on City Council approval and omits the additional fact that no City staff employee ever provided a written approval, and there are no recorded votes or written authorizations from any City Commission approving the current plan. Thus, the project went forward without official authorization of *any kind* – City Council or otherwise.

There is an ordinance that prohibits private individuals or organizations from planting on City property without authorization. In this case, the fact that such a large number of trees were planted in an historically-sensitive area by a private organization without official approvals of any kind suggests that the City ordinance may have been violated.

- 5) *Although the petition outlined concerns that the current mall tree plan was developed without regard to historic aspects and sightlines, the committee that developed the plan has presented otherwise.*

Comment:

Again, no one has produced any written documents from the 2008-2010 time period to verify this. Moreover, the Commonwealth Heritage Group sightline analysis, and Mr. Gaske's viewshed analysis, indicate that if the designer(s) of the current plan considered historic aspects and sightlines, they ultimately chose to ignore those factors. (See comment 6).

To appreciate the difference that the city's plan will have on the look and character of the Historic District one should review the pictures from the February 1 community meeting in which the city provided pictures of Monument Avenue in Richmond and streets in Savannah as examples of what is intended for the Washington Avenue Historic District. (See **Attachment 2** of this minority report). Those pictures obviously block views of structures on those streets and create a significant barrier between the two sides of the street. But those pictures are inadequate examples because the Fredericksburg plan infills the understory with numerous ornamental trees and large cherry trees that do not exist in the Richmond and Savannah models. Thus, the city's current plan will create a greater barrier and obstruction of viewshed than the Richmond and Savannah examples touted at the February 1 meeting.

- 6) *At the February 1 public forum, the green committee members who worked on the design plan outlined the special considerations given to historic design aspects, and the historic City Beautiful Movement. They presented material to assure that sightlines of prominent monuments and features would be maintained.*

Comment:

This is contradicted by the CHG and Gaske sightline analyses (**Attachments 1 and 2**) that considered the actual size that the trees will be at maturity. CHG identified a number of key sightlines within the Historic District that would be blocked by the current plan, and they recommended modifications that would unblock those sightlines while retaining most of the trees contained in the current plan.

Nothing like the CHG sightline analysis was presented by green committee members at the February 1 meeting. The post-2013 Google Earth sketch of the current plan and the artists' rendering of the southside of the intended Hugh Mercer tree tunnel they presented at the February 1 meeting showed trees at 1/2 to 2/3 of their mature size so that the public could not tell how much the trees would block sightlines when mature. Those misleading materials do not provide "assurance" that sightlines will be maintained.

- 7) *Task force member Michael Spencer has recently conducted a cursory study of the history of trees on the mall and found evidence from photos, images, news stories and other information that the mall has had varying numbers and configurations of trees planted on it over the years.*

Comment:

Mr. Spencer's comprehensive analysis, as well as that of CHG, indicate that several different configurations of trees, including many small ornamental trees (i.e., Dogwoods), have existed on the mostly grassy Mall in the past, but that no more than a handful of large, canopy trees have ever existed there. In this respect, the current plan – with 56 large canopy trees, 13 understory, and six gem magnolia trees – is a dramatic departure from anything that has ever existed there. Thus, the unapproved current plan will dramatically alter the look and character of the Historic District.

- 8) *Thus, the ratio of public comments supporting the tree plan without changes, versus comments in favor of at least some changes to the tree plan is nearly 9:1.*

Comment:

This "9:1" ratio is a cherry-picked number that excludes the 73 petitioners. The task force deliberations discussed the fact that because virtually no one will know that it ignores the existence of the 73 petitioners, presenting this ratio in this manner is likely to mislead many people regarding the relative number of people who formally took a position on this issue. Nevertheless, the majority report did not modify the calculation to include petitioners and, predictably, this misleading ratio has already been quoted in the Free-Lance Star.

- 9) *The current review process has been about ensuring openness and fairness for the community and the public has responded with their overwhelming support for the tree plan.*

Comment:

It is impossible to claim on the one hand that the City Council resolution did not permit the task force to consider the petitioners' requested changes, or even the modifications proposed by CHG, and also claim that this process was "fair." It was no more fair than the Red Queen's declaration of "sentence first, verdict later" that was parodied in *Alice in Wonderland*.¹⁷

In addition:

- The claim of "overwhelming support for the tree plan" is only true if one continues to ignore the neighborhood petitioners who oppose the plan and the other 28,000 citizens who have not weighed in on this issue.
- We don't know how many of the people who submitted comments understood that the scale of trees was drastically understated in the post-2013 Google Earth diagram and the artists' rendering of the intended tree tunnel on the south side of the Hugh Mercer statue.

¹⁷ According to the City staff representative on the task force:

"... the Commonwealth plan is not only outside the scope of our assignment per City Council, but is **biased information that only furthers the position and viewpoints of the petitioners, ...**"

Refusing to include information in the report simply because it furthers the position of one particular disfavored party is not "fairness."

- We don't know how well people who do not live near the Mall understand how the current plan affects the various functions and uses of the Historic District.
- We don't know how many people in the City would prefer the balanced compromise designed by Commonwealth Heritage Group.

10) *The members of the task force have therefore worked diligently to present a recommendation that serves the interests of the community at large, while also remaining mindful of the concerns outlined in the tree petition.*

Comment:

The members of the task force worked diligently on a scope of work that was deemed to exclude any possibility of recommending that the petitioners' request be granted. Thus, whatever purpose was served by the task force scope, that purpose did not include giving fair consideration to the Petitioners' concerns.

11) *The consensus of the tree task force is that the community at large is highly supportive of the current Washington Avenue mall tree plan (as well as the current tree program throughout the city) and that the concerns outlined in the tree petition have been fully reviewed and at least partially addressed by the recommendations outlined above. This is especially true with regards to the concern over the public review and approval process.*

Comment:

Again, one cannot claim that the Petitioners' request is outside of the scope of the task force and also claim that the petitioners' concerns were fully reviewed and addressed. Nor can it be said that a reasonable public review and approval process **on the merits** was followed when the task force defined its scope as essentially accepting the "current plan" as a *fait accompli* and excluded alternative plans on **procedural** grounds.

For the reasons already described above, there is no basis for saying that the "community at large is highly supportive of the current plan."

VI. Conclusions and Recommendation

By declaring all significant changes to the current unapproved plan – including the Petitioners’ requests – to be “Outside Of Its Scope” on procedural grounds, the Task Force did not give fair or reasonable consideration to the merits of the Petitioners’ concerns.

The Commonwealth Heritage Group recommended modifications to the current unapproved plan is a highly desirable compromise that should be adopted by the City Council.

This Minority Report is submitted by:

Steve Gaske
Steve Gaske

6/30/16
June 30, 2016

Washington Avenue Planting Design Concept Plan



300 West Main Street, Suite 201
Charlottesville, Virginia 22902

Fredericksburg, Virginia
May 19, 2016

Historical Analysis: The Historical Analysis was developed to further our understanding of the original intent and subsequent development of Fredericksburg's Washington Avenue between William Street and the Rappahannock Canal. In this way we could evaluate the effect of recent tree plantings on designed viewsheds to the monuments installed along its length and the Mary Washington Monument at the intersection of Washington Avenue and Pitt Street.

In 2002, the Washington Avenue National Historic District was listed on the National Register of Historic Places. The historic district was deemed historically significant for its status as Fredericksburg's only historic monumental avenue, for its collection of high-style residences constructed around the turn of the twentieth century, and for its collection of monuments with artistic and commemorative importance. These memorial works were described as sited to take advantage of broad views from along Washington Avenue and the flat topography of the ridge along which the avenue was laid out. The form of the avenue is also significant as an expression of nationwide trends in civic planning and the work of commemorative organizations led by women for improved urban design.

Design Concept Plan: Our design approach, informed and developed through historical analysis, is based on the following key concepts:

- There is historical intent in the placement and location of the monuments, so they can be seen from a variety of viewpoints in both directions along Washington Avenue.
- Contributing features to the historic district include the collection of high-style residences and the collection of monuments with artistic and commemorative importance. Open viewsheds to these features should be provided from various vantage points along Washington Avenue.
- Washington Avenue is experienced through movement either through walking along the sidewalks, or riding in a carriage, a vehicle, or the trolley. The boulevard is aligned south/north and the experience of Washington Avenue is in both directions. The visual experience should be one of changing spatial patterns, with alternating open space and tree plantings.

- The extent of the Washington Avenue planting design concept should be from William Street to the south and the Rappahanock Canal to the north.

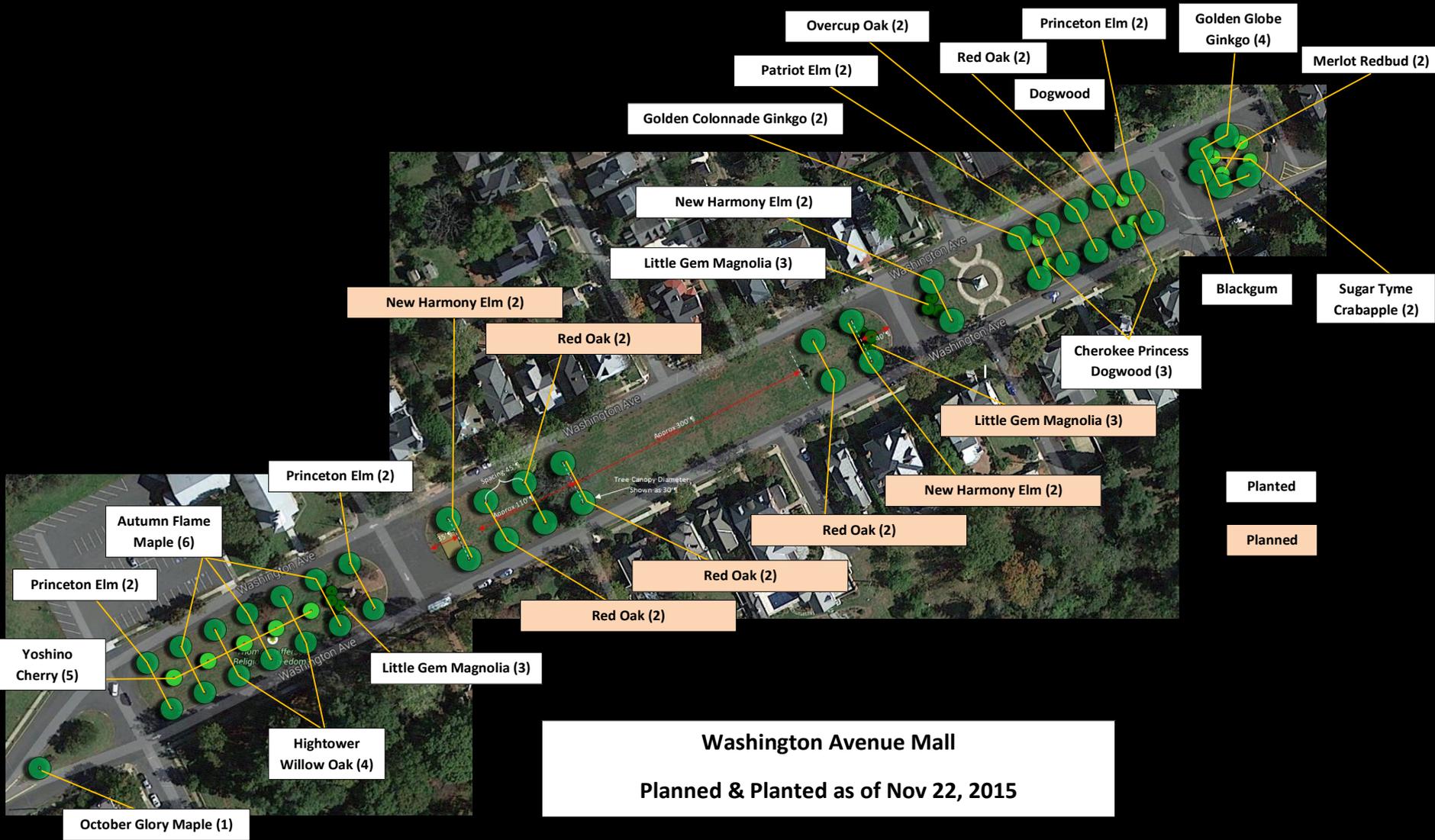
Based on these concepts, we developed a planting plan with the following features:

- ***Preservation of existing street trees and trees within the medians that predate the year 2000.*** This includes the trees located in the utility corridor, some of which are recent plantings and the older trees identified through historical photographs and still extant in the medians. Examples of the older trees are dogwoods in several medians, and the mulberry and two other large trees in the long, open median.
- ***Establishment of strategic viewsheds*** to the monuments and to the architecture of the neighborhood. This was accomplished ***by proposed relocation of large canopy trees to other areas within the project boundary***, thus reducing density of plantings that currently screen views to the monuments and the neighborhood architecture. Strategic viewsheds were designed for movement along Washington Avenue in both directions.
- ***Preservation of memorial trees*** but with strategic relocation within the same median. Two memorial trees were relocated to open views from the sidewalk looking northeast on axis to Kenmore and two additional ones were relocated to further open the viewshed to the Mercer Monument.
- ***Removal of the six Little Gem magnolias***, an evergreen tree used more appropriately for screening of features due to its opaque form and structure. These were removed to keep viewsheds open in both directions to the Hugh Mercer Monument and the Religious Freedom Monument. These trees could be relocated elsewhere in a more open setting or for strategic screening outside the Washington Avenue project boundary.
- ***No introduction of new trees***, the plan relocates existing trees along Washington Avenue from William Street to the Rappahanock Canal, some within the utility corridor and some within the medians.

Washington Avenue Mall Historic Landscape Analysis



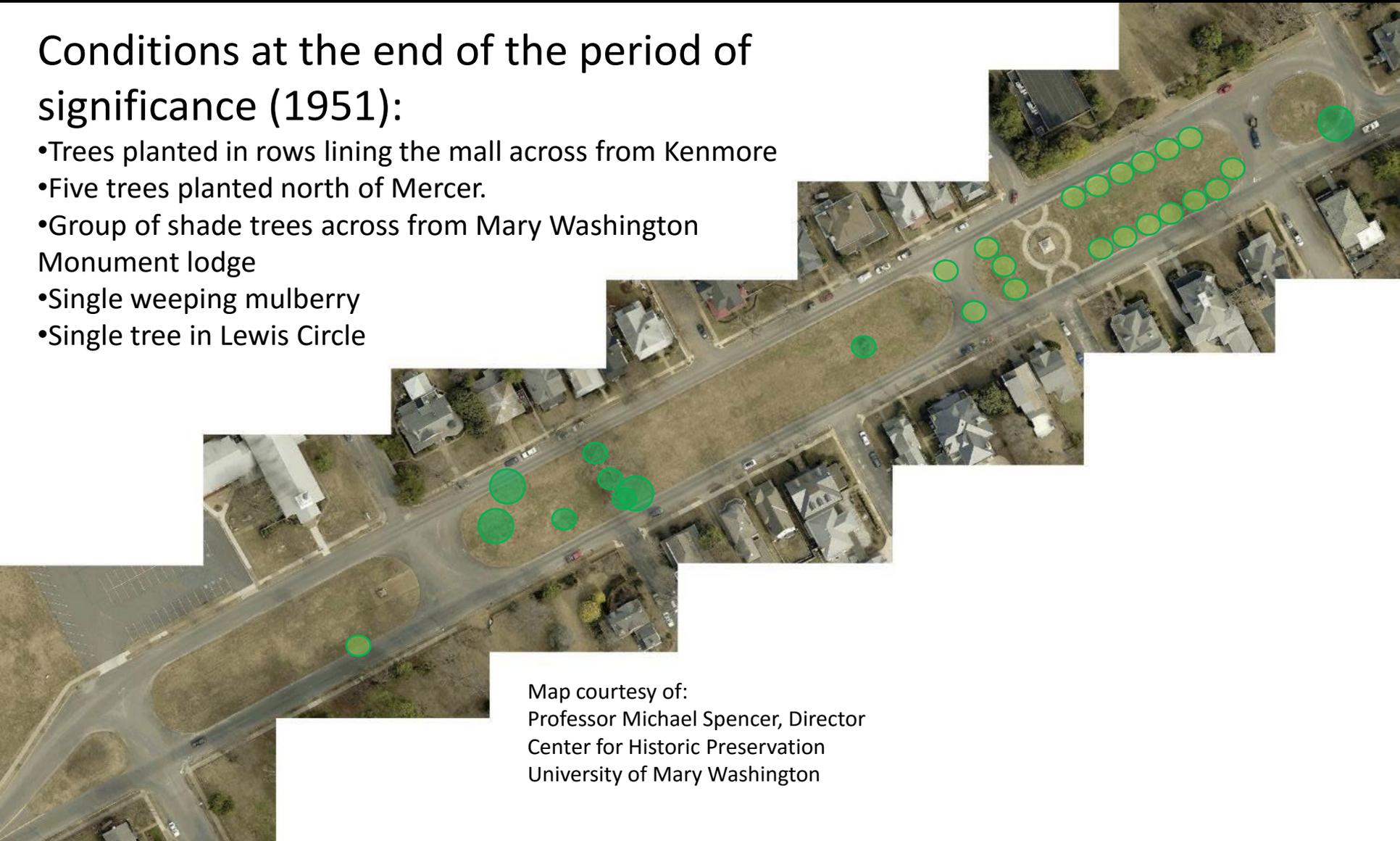
Tree Planting Diagram



Analysis

Conditions at the end of the period of significance (1951):

- Trees planted in rows lining the mall across from Kenmore
- Five trees planted north of Mercer.
- Group of shade trees across from Mary Washington Monument lodge
- Single weeping mulberry
- Single tree in Lewis Circle



Map courtesy of:
Professor Michael Spencer, Director
Center for Historic Preservation
University of Mary Washington

CHG Slide Notes

When we look for solutions for contemporary needs in historic landscapes, we look to conditions during the period of significance for guidance:

- Complicated by change to the landscape over time, but we see a consistent pattern
- With the exception of the very early years of the avenue, until the 1920s, when the roads were paved, the central block of the avenue has remained open and has been used heavily for large events and unstructured play
- Trees have been maintained generally in two concentrated areas at the north and south ends of the avenue and have allowed for open views to both the Mercer and Mary Washington Monuments.

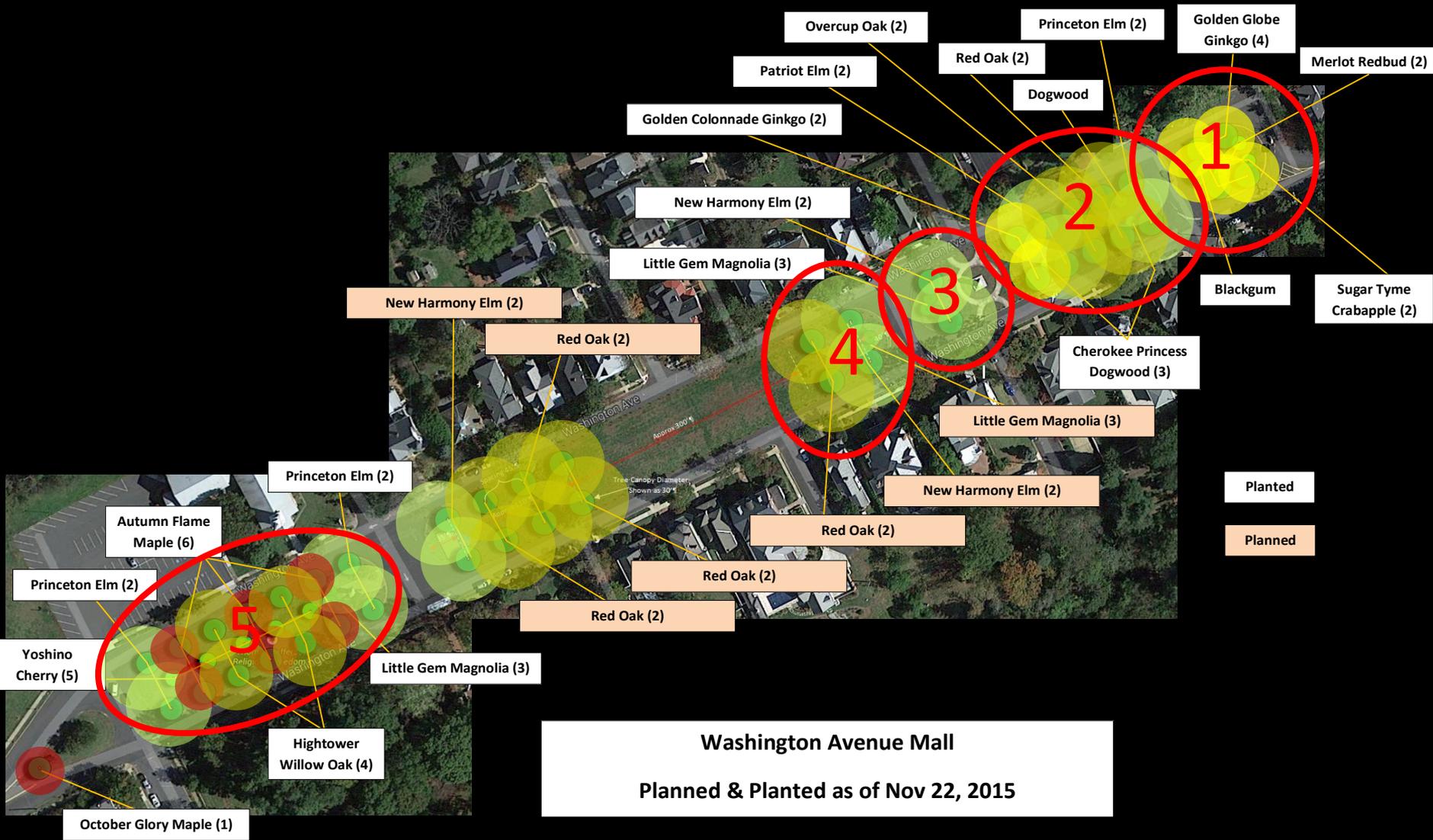
CHG Slide Notes (Cont.)

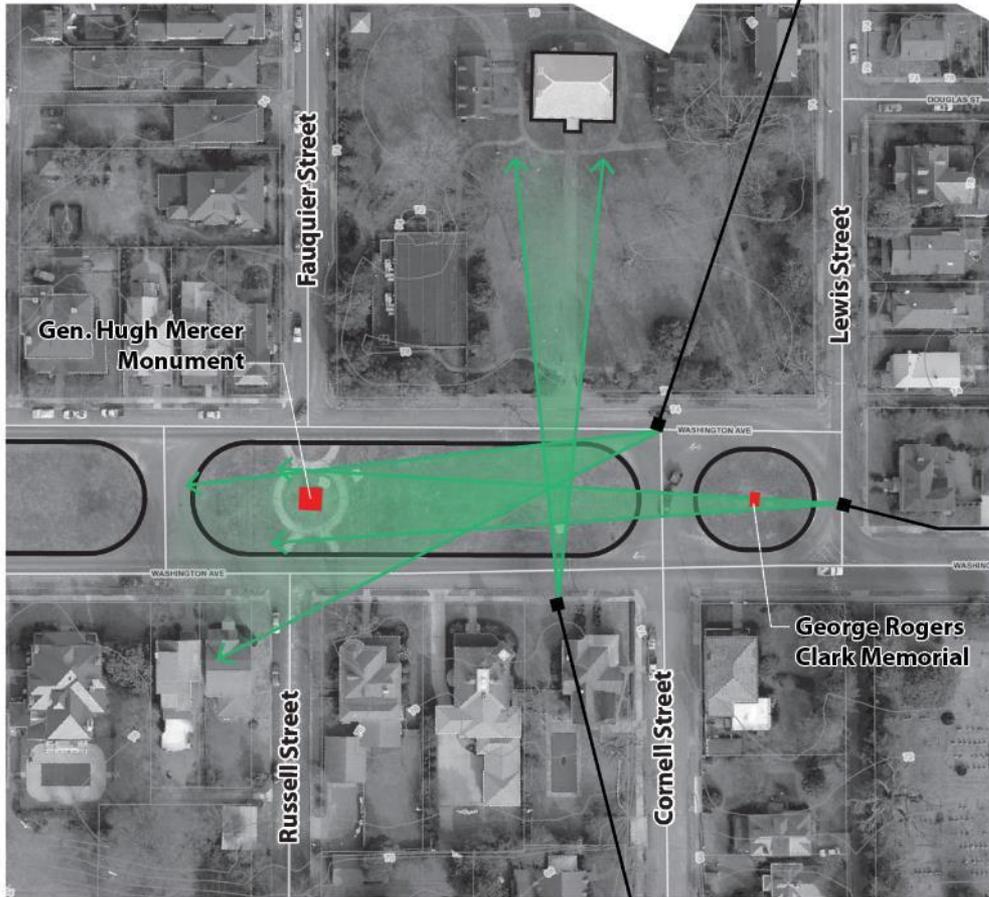
The proposed tree diagram did not show the trees at full maturity, so we added mature spread. This immediately clarified where the proposed plantings have a negative affect on the integrity of the historic district because they block expansive views of the monuments and to the historic houses that give the district its significance:

1. Dense plantings at Lewis Circle block views to Mercer Monument
2. Dense canopy and understory planting block views to Kenmore and Mercer Monument
3. Too many large trees block views to Mercer Monument from the south
4. Too many large trees block views to Mercer Monument from the north
5. Dense understory plantings block views to Religious Freedom monument

How do we evaluate these viewsheds?

Problem Areas in Proposed Diagram





View from intersection of Washington Avenue and Cornell Street, looking northwest toward the Gen. Hugh Mercer Monument



View from Lewis Street, looking north toward George Rogers Clark Memorial and Gen. Hugh Mercer Monument



View from Washington Avenue, looking northeast toward Kenmore

VIEWSHEDS SOUTHERN BLOCKS



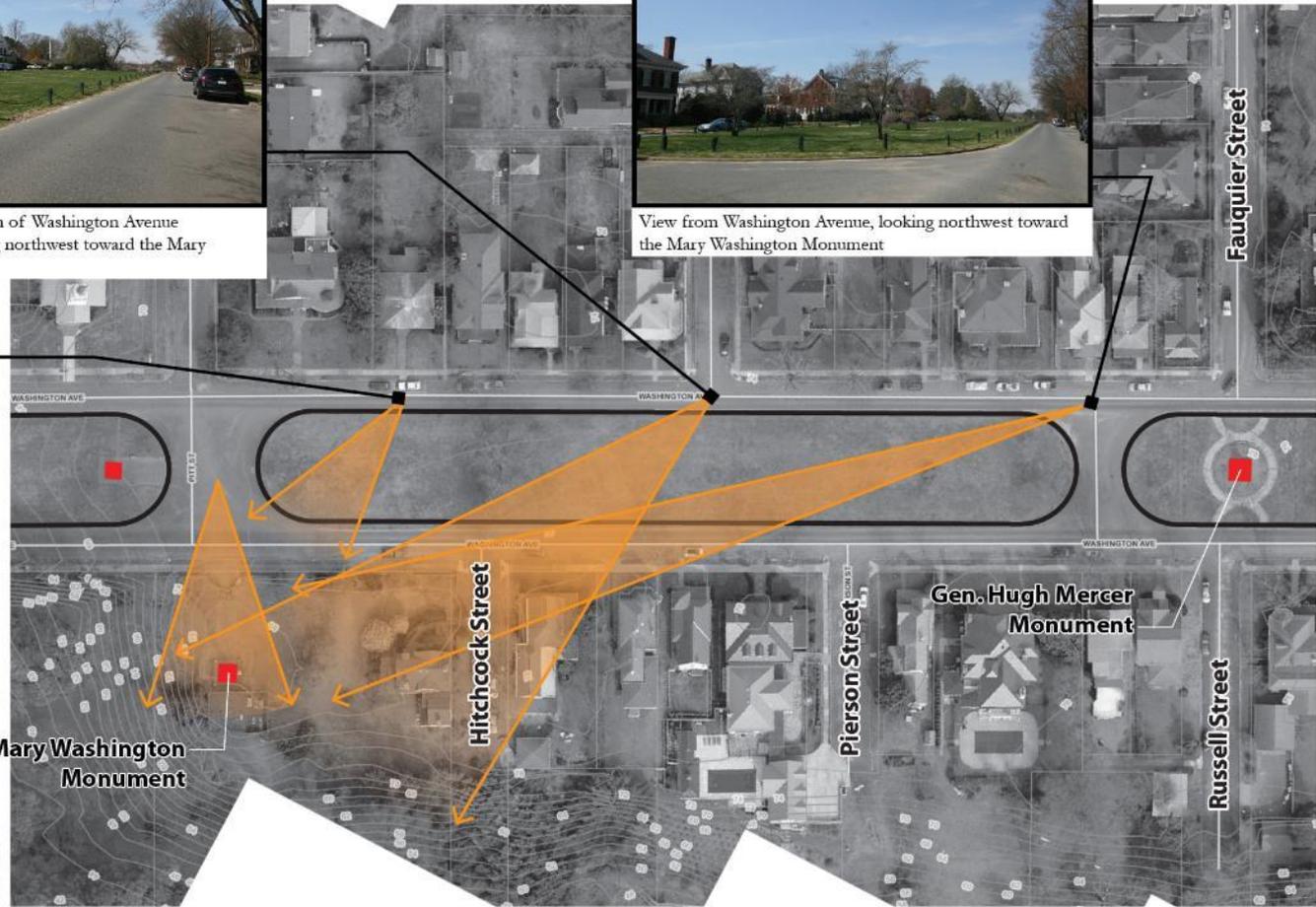
View from the intersection of Washington Avenue and Hawke Street, looking northwest toward the Mary Washington Monument



View from Washington Avenue, looking northwest toward the Mary Washington Monument



View from Washington Avenue, looking west toward the Mary Washington Monument



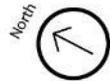
VIEWSHEDS CENTER BLOCKS – COMMEMORATIVE VIEWS TO MARY WASHINGTON MONUMENT



View from the intersection of Washington Avenue and Pitt Street, looking southeast



View from the intersection of Washington Avenue and Hitchcock Street, looking southeast



View from the intersection of Washington Avenue and Pierson Street, looking southeast

VIEWSHEDS CENTER BLOCKS – OTHER VIEWS



View from the north end of the Washington Avenue Mall, looking southeast



View from the intersection of Mary Ball Street and Washington Avenue, looking southeast

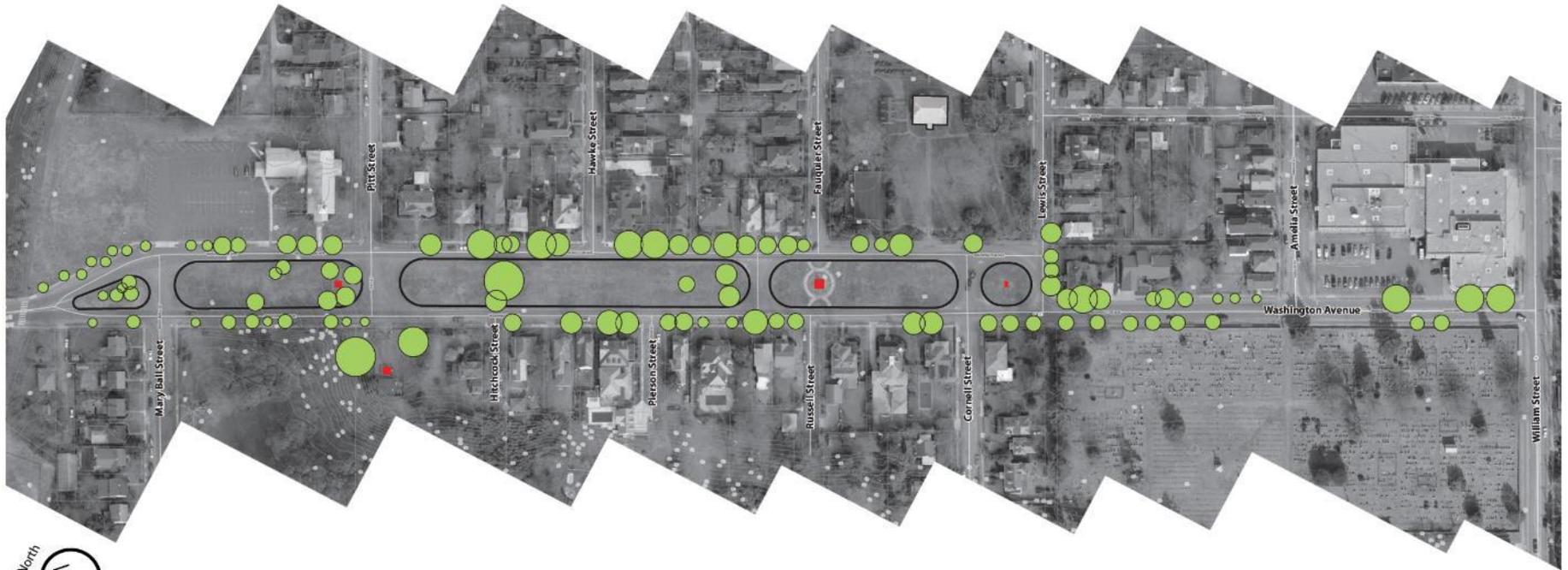


View from First Christian Church, looking southwest toward the Mary Washington Monument

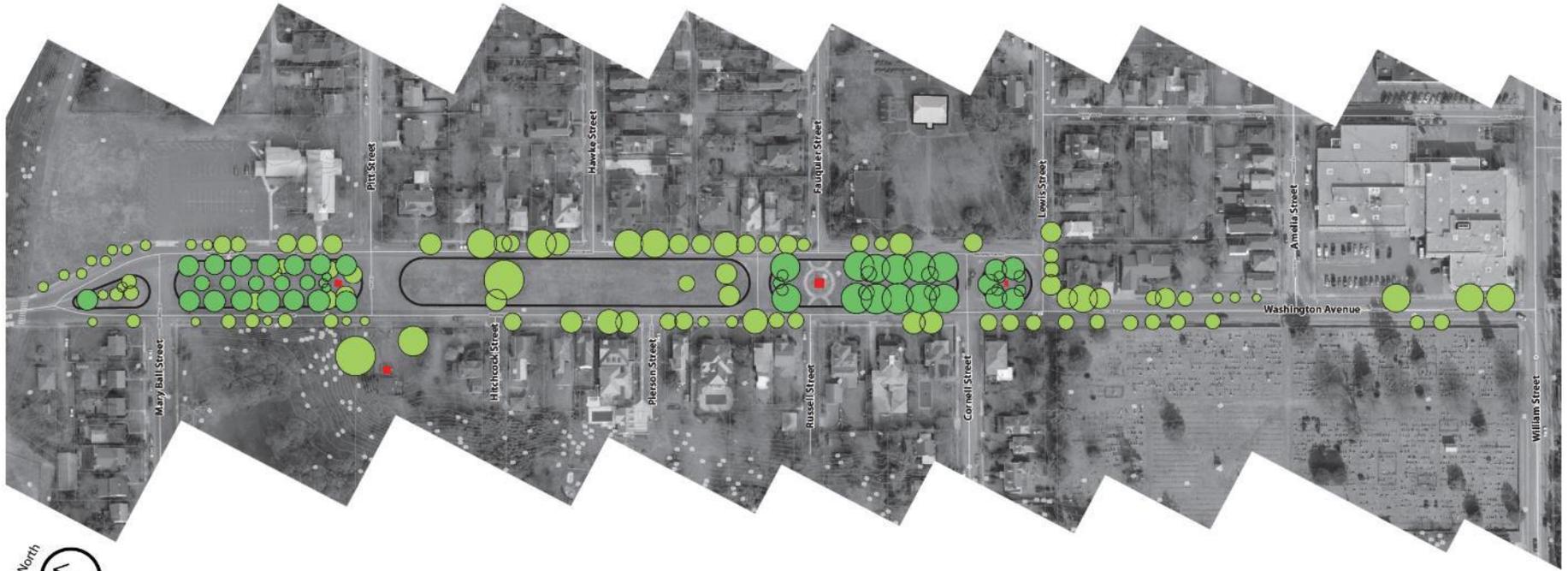


View from the intersection of Pitt Street and Washington Avenue, looking northwest

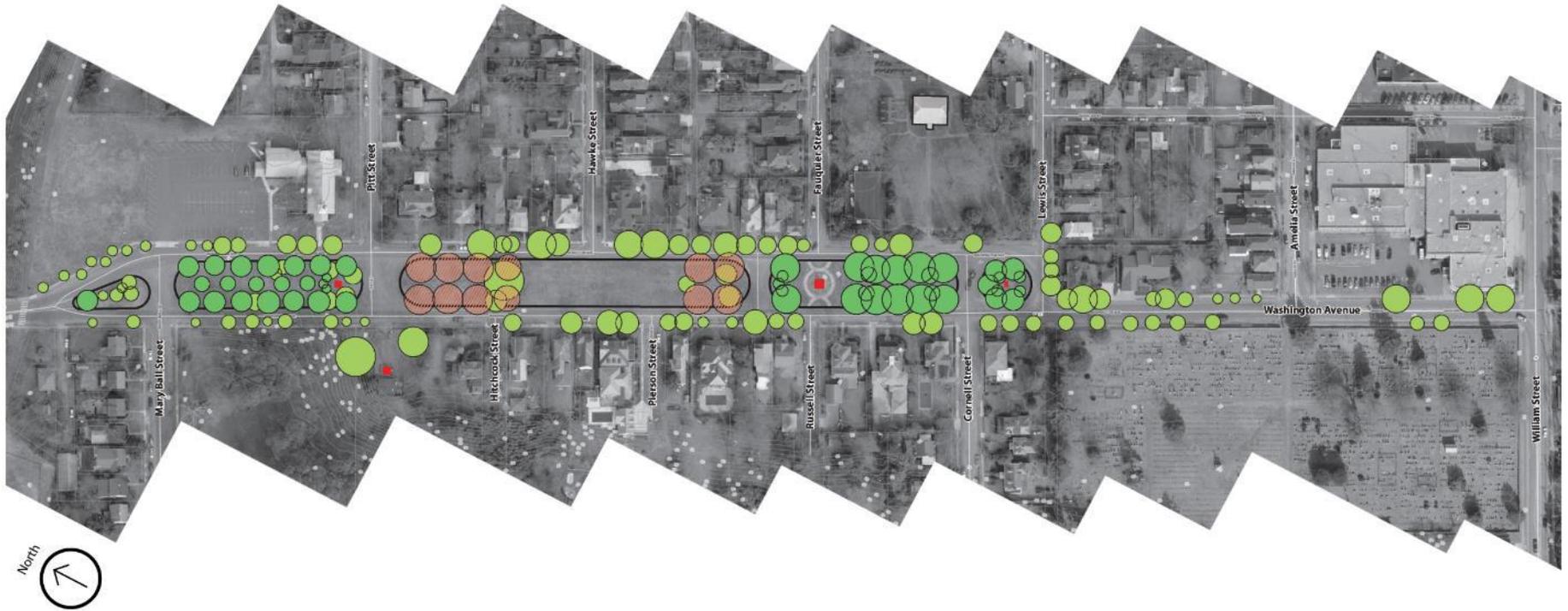
VIEWSHEDS NORTHERN BLOCKS



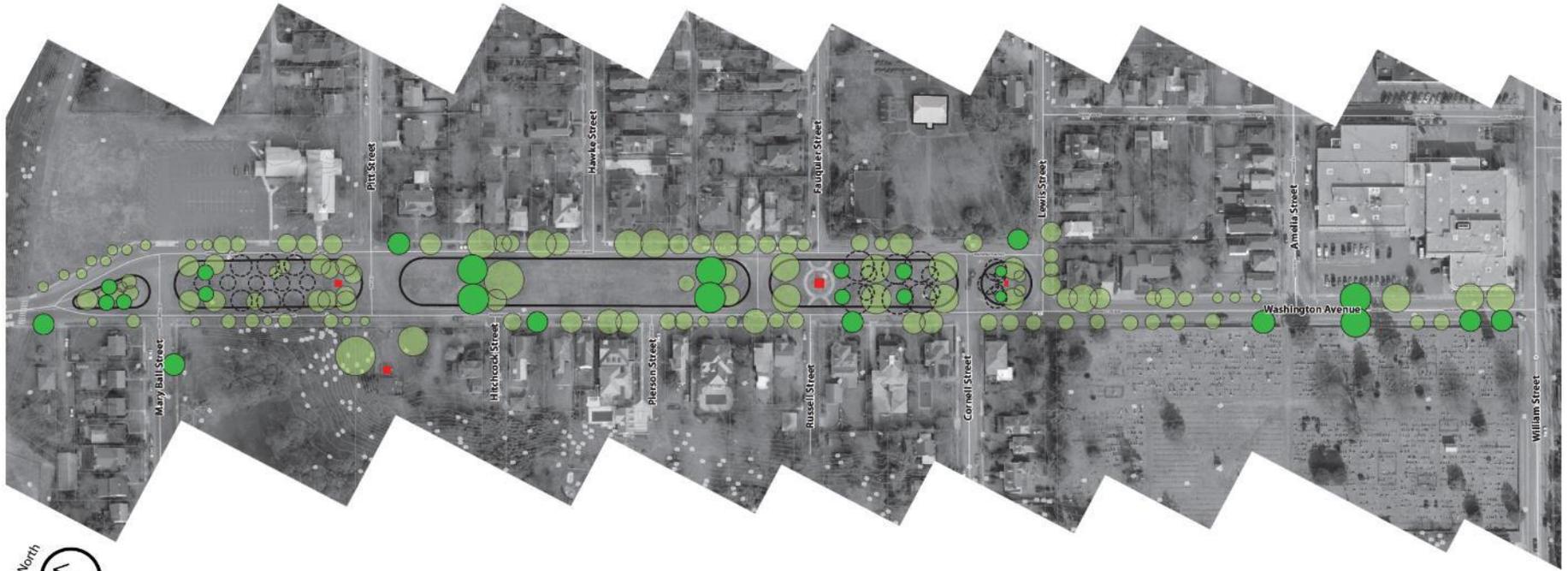
EXISTING TREES



EXISTING TREES



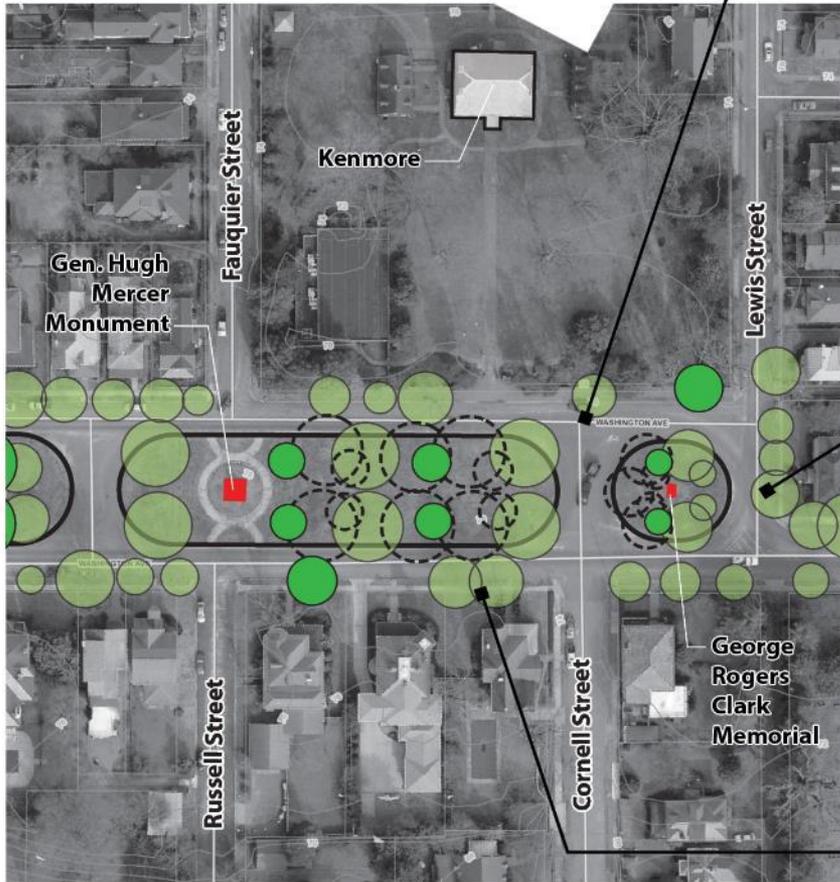
EXISTING TREES and PROPOSED ON DIAGRAM SKETCH



PROPOSED TREE LOCATIONS



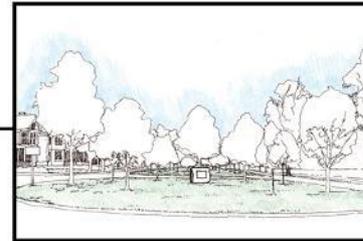
PROPOSED TREE LOCATIONS BETWEEN WILLIAM STREET AND LEWIS STREET



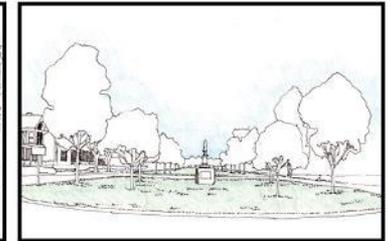
Before: View from intersection of Washington Avenue and Cornell Street, looking northwest toward the Gen. Hugh Mercer Monument.



After: View toward the Gen. Hugh Mercer Monument, with trees relocated out of the viewshed.



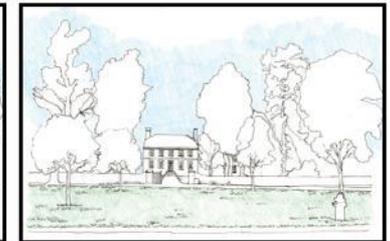
Before: View from Lewis Street, looking north toward George Rogers Clark Memorial and Gen. Hugh Mercer Monument.



After: View toward George Rogers Clark Memorial and Gen. Hugh Mercer Monument, with tree relocated out of the viewshed.



Before: View from Washington Avenue, looking northeast toward Kenmore. View is blocked by trees.

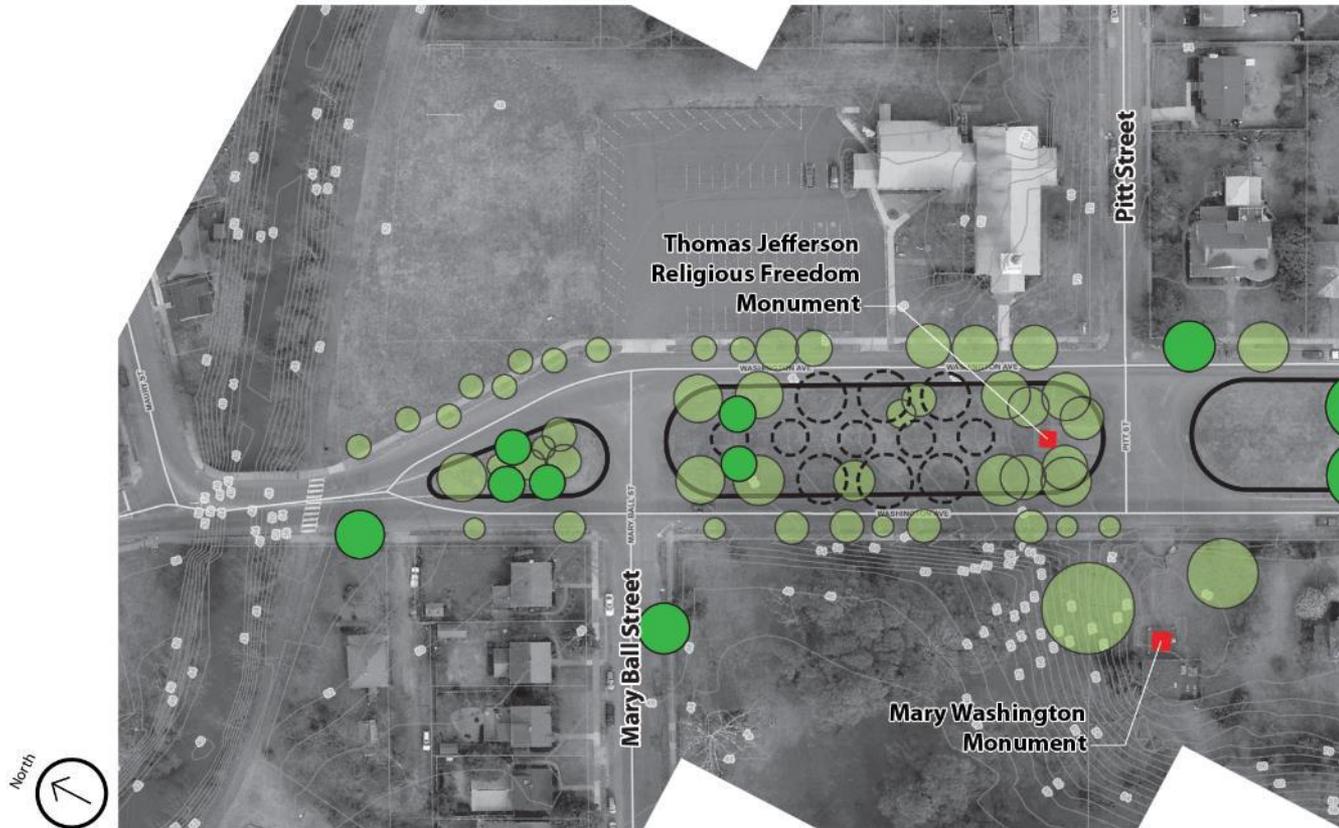


After: View toward Kenmore with trees relocated out of the viewshed.

PROPOSED TREE LOCATIONS SOUTHERN BLOCKS



PROPOSED TREE LOCATIONS CENTER BLOCK



PROPOSED TREE LOCATIONS NORTHERN BLOCKS



COMMONWEALTH
H E R I T A G E G R O U P

Washington Avenue Planting Design Historical Analysis

Fredericksburg, Virginia



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Charlottesville, Virginia 22902
(434) 979-1617
www.commonwealthheritagegroup.com

July 1, 2016

Introduction

This analysis was developed to further understanding of the original intent and subsequent development of Fredericksburg's Washington Avenue Mall, located between William Street and the Rappahannock Canal as background by which to evaluate the effect of recent tree plantings on designed viewsheds to the monuments installed along its length and the Mary Washington Monument at the intersection of Washington Avenue and Pitt Street. In addition, the analysis provides the historical background for the design of the avenue that is missing from the current Washington Avenue Historic District National Register of Historic Places nomination. If the nomination is revised, the Washington Avenue Mall should be listed as a contributing feature to the district, based on this information.

Evolution of the Washington Avenue Mall

The design of Fredericksburg's elegant Washington Avenue has its roots firmly planted in the ideals and values expressed in Pierre L'Enfant's grand plan for Washington, D.C., begun in 1791. L'Enfant was heavily influenced by French Baroque ideals and appreciation for Classical form as expressed in monumental French landscapes, such as Versailles. The urban form of the boulevard—a broad avenue typically characterized as having a turf mall in the middle with flanking rows of trees—emerged as cities redeveloped medieval fortifications into tree-lined pedestrian allées for public enjoyment.¹

The plan for Washington Avenue was initially laid out in 1859, when the Kenmore Farm was sold to developer, Franklin Slaughter (Figure 1). The boulevard form of Washington Avenue expanded the gridded layout of the original core of Fredericksburg, established in 1721.² The plat for Slaughter's development gave Washington Avenue its name and labeled it as "An Avenue from Plank Road to Monument, 150 feet wide with four rows of trees." It is clear from the plan, its description, and the orientation of residential lots to the broad boulevard, that it was intended to become a promenade leading northward from Plank Road—once the principal road into Fredericksburg—to the Mary Washington Monument. However, with the onset of the Civil War, the plans for the development were shelved for three decades. No documentation has been located that suggests that the proposed tree planting was implemented when the avenue was finally constructed in the 1890s.

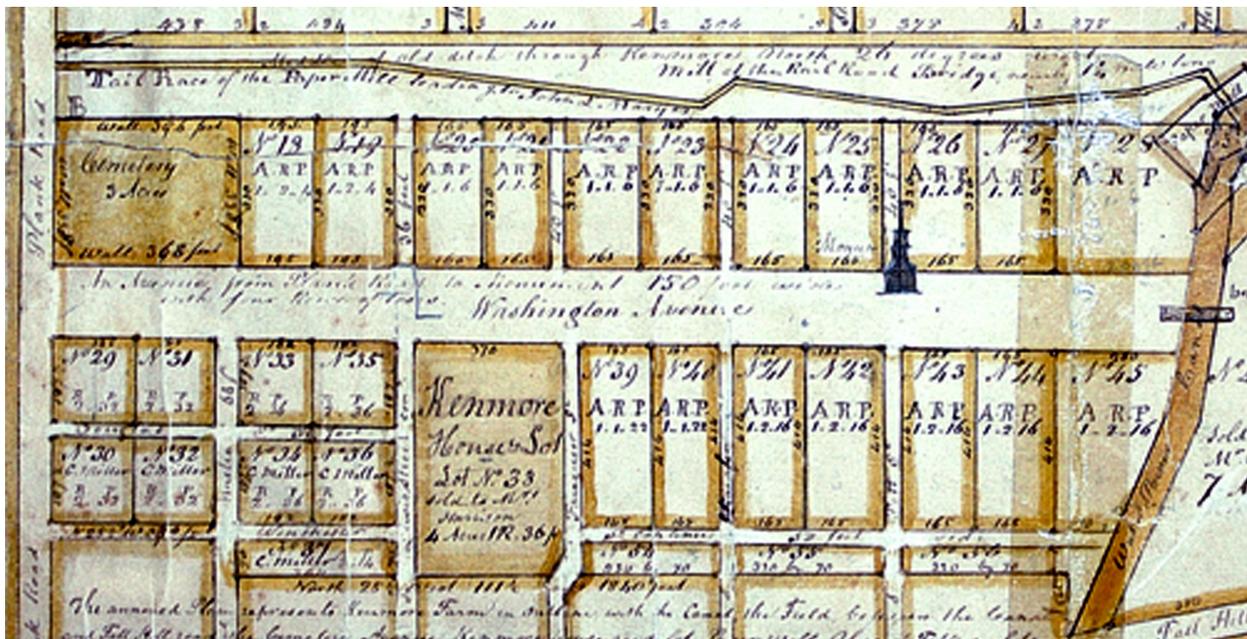


Figure 1. Kenmore Plat, 1859, showing aout of Washington Avenue.

1 The French word "boulevard", related also to the Dutch word, "bolwerk," or, in English usage, "bulwark," originally referred to the flat summit of a rampart, or, defensive wall.

2 The grid was used throughout the British colonies as an efficient and expedient form for colonial towns, and was used for laying out many other colonial towns, including Baltimore, Annapolis, Richmond, Petersburg and Jamestown.

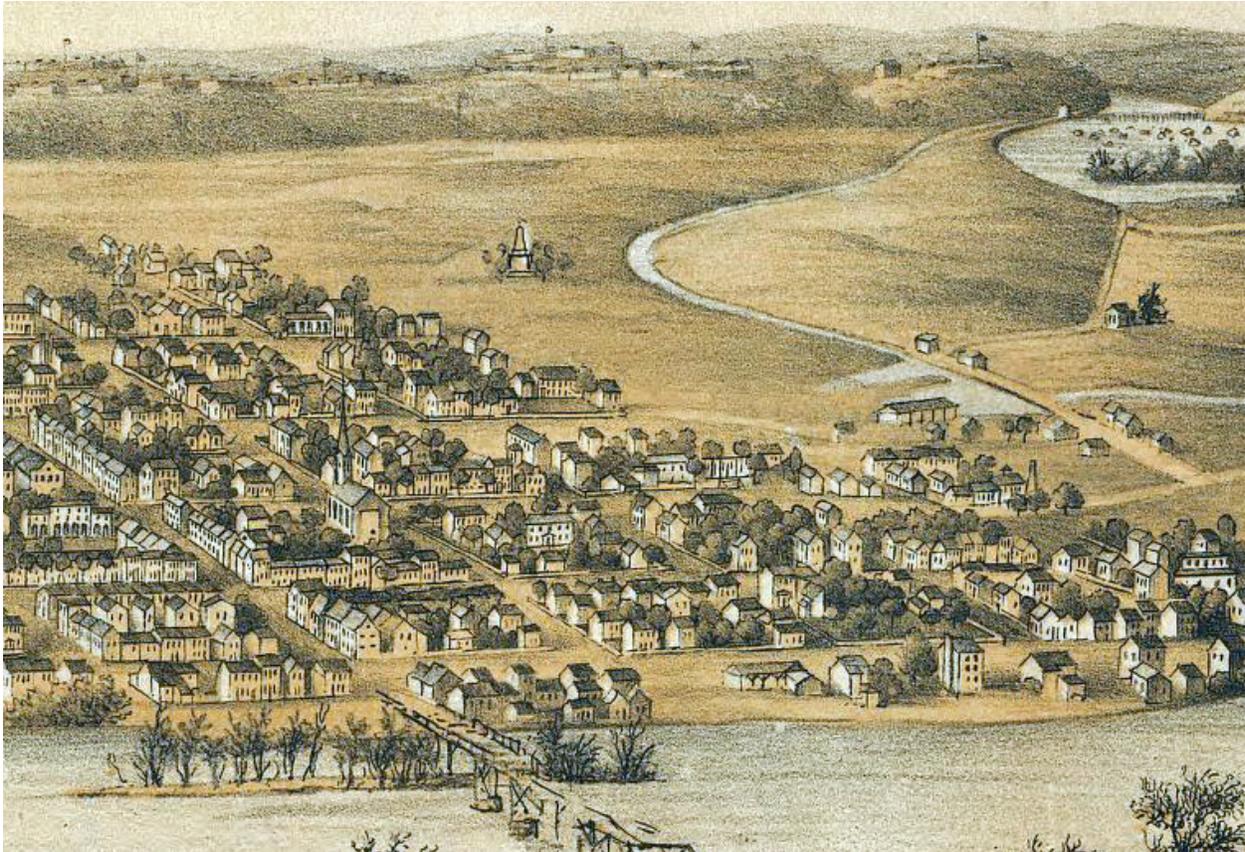


Figure 2. Detail from the View of Fredericksburg VA, November 1862, by E. Sachse & Co., of Baltimore. Library of Congress.

It is not surprising that street trees were part of the original vision for Washington Avenue. Fredericksburg's 1862 "Bird's Eye View" showed the larger area around the Mary Washington Monument as an open, mostly tree-less expanse (Figure 2). The entire site for Washington Avenue was known by some as the "Kenmore Plain," an open stretch of farmland, likely pasture that was part of the Lewis farm, which was later renamed "Kenmore."³

Mary Ball Washington had selected for her burial place a site close to a natural rock outcrop that she used to visit during her stay at her daughter's farm. At the time, it was the Lewis farm, later renamed Kenmore. When Mary Washington died in 1789, her family set a small marker at the grave, which has since been removed. The Gordon family, who named the farm "Kenmore," later established their family cemetery next to the grave. In the 1820s, a proposal was made to relocate Mary Washington's remains to Mount Vernon, but instead, descendents led a local movement to erect a larger monument at her grave in Fredericksburg. Its design comprised a miniature Greek temple set on a broad stone pedestal and topped with a stone obelisk (Figure 3). A bust of George Washington was to have been set



Figure 3. Mary Washington Monument, 1864. The large stone between the monument and the soldier is the damaged obelisk that was toppled during the Civil War. Library of Congress.

3 Fredericksburg Area Tourism Department, "Walk Through History--Washington Avenue" (http://www.librarypoint.org/walk_through_history_washington_avenue, accessed April 28, 2016).

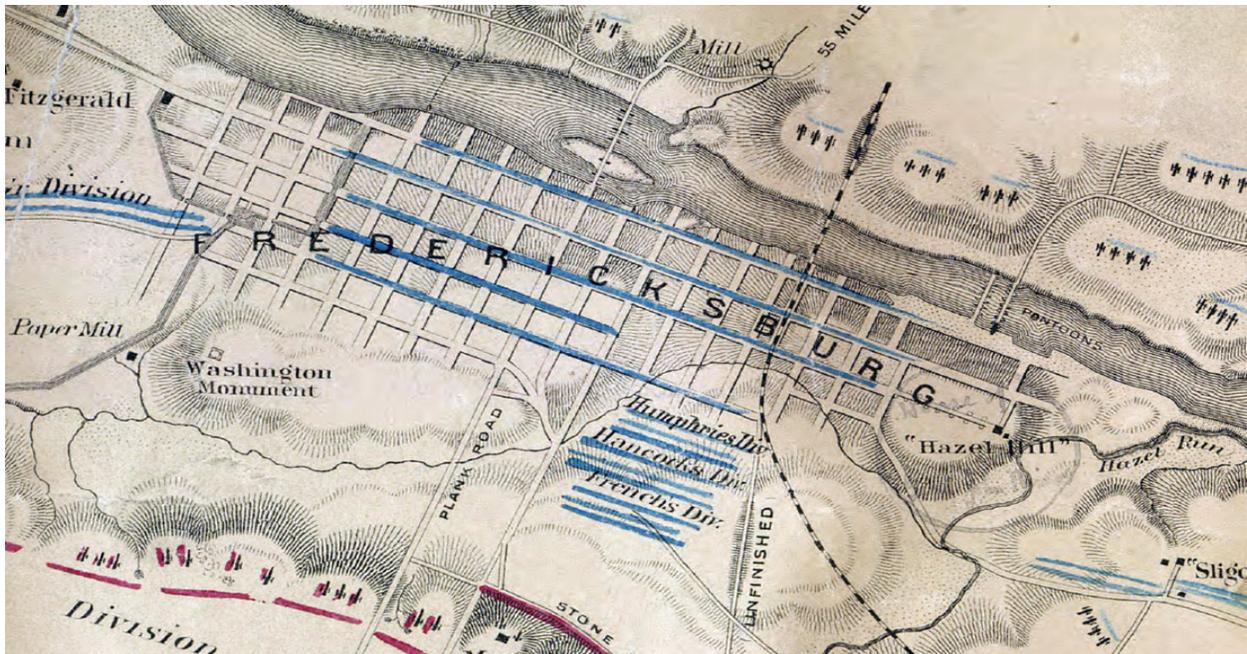


Figure 4. Detail from the Map of the Battle of Fredericksburg, 1862. The Mary Washington Monument is located center left, between the opposing armies.

atop the obelisk, but the monument was never completed. It stood at that location for over sixty years, serving as a prominent Fredericksburg landmark. Its prominence was noted in records of the Battle of Fredericksburg (Figure 4).

It was not until 1875, ten years after the end of the war, that Slaughter's land was finally sold to George Shepherd for development. Just a year before, a congressional committee had been established to evaluate both the unfinished George Washington Monument in Washington, D.C., and the Mary Washington Monument in Fredericksburg. A government engineer examined the Mary Washington Monument and reported that it had been heavily damaged from taking crossfire between Confederate and Union troops during the Civil War and should be rebuilt. However, federal funding was never appropriated for the project and the idea lay dormant for another fifteen years.

In 1890, Shepherd, under pressure from local citizens, deeded Lot 25, containing the Mary Washington Monument, to the Fredericksburg Mary Washington Memorial Association (Figure 5). Shortly after, the owner of lots 26 and 27 also donated those tracts to the association, although they later were deeded to

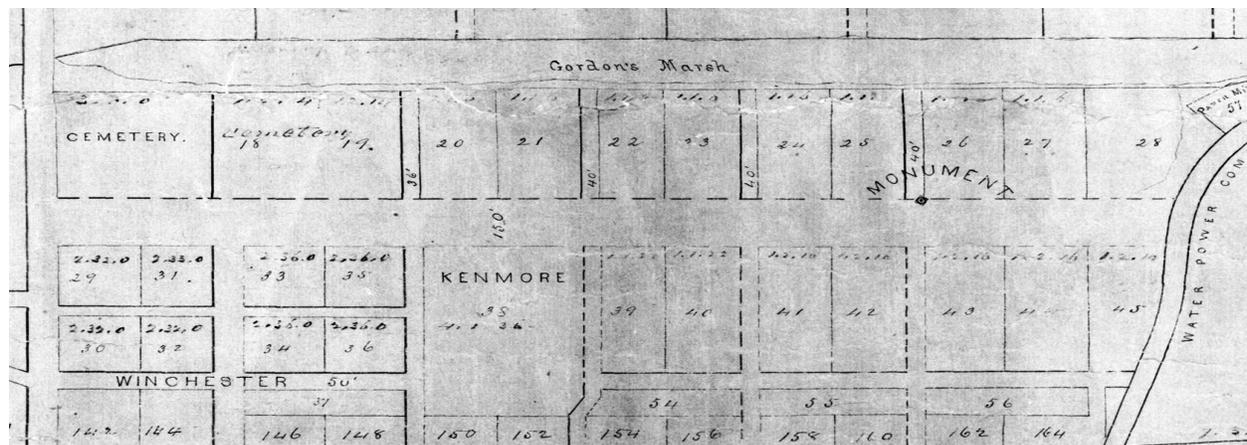


Figure 5. Detail from 1867 W.F. Gordon survey of Fredericksburg, showing location of the Mary Washington Monument on Lot 25. To its right are lots 26 and 27, now Memorial Park.

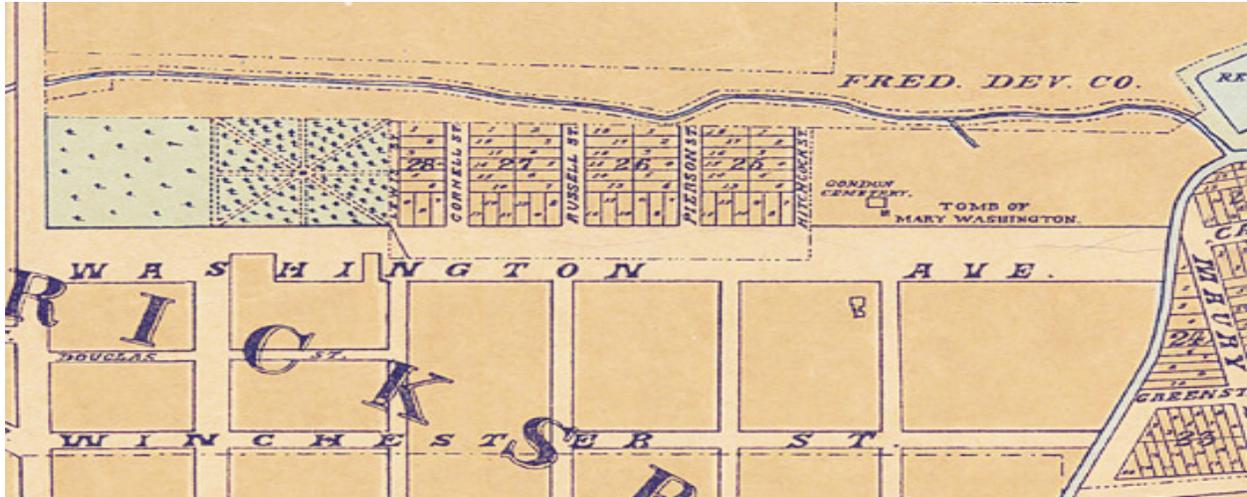


Figure 6. Detail, Fredericksburg Development Company's 1891 plat of streets, showing Washington Avenue and the locations of buildings that already intruded into the 150' right-of-way.

the City of Fredericksburg to become what is now Kenmore Park. The local group, along with the National Mary Washington Memorial Association, raised enough money to commission and build a new monument themselves, without government funding; it was completed in 1894. Interestingly, the monument is oriented so that it faces south, towards Plank Road, rather than eastward to Washington Avenue. This suggests that the boulevard was established as a ceremonial approach to the monument from the south.⁴

Still, Washington Avenue remained undeveloped. The national economic depression of 1893 led many real estate ventures to fail and slowed others. The Fredericksburg Development Company, which had sold Shepherd his Washington Avenue lots, managed to stay in business and finally, in 1891, began the process of dedicating the development's public streets (Figure 6). Unfortunately, owners of lots within the planned Washington Avenue right-of-way between Plank Road and Lewis Street had already erected buildings across from the cemetery and were unwilling to remove their buildings and relinquish the full, planned, 150' right-of-way for the avenue. To this day, the first two blocks of Washington Avenue retain only a 60'



Figure 7. Detail, 1916 street plat for Washington Avenue and intersection streets. Blocks were re-numbered using the system still in use today. The location of the Mary Washington Monument is not indicated in this plan.

⁴ Oddly enough, though, the stone caretaker's cottage that was constructed in 1896 south of the monument, blocks views to the base of the monument from the west side of the avenue.

right-of-way, so that the original idea of a ceremonial approach to the Mary Washington Monument from Plank Road was never fully realized. A plat dated 1916 shows the final block and street layout of the avenue (Figure 7).

The first house constructed on the boulevard that remains today was built in 1891 at 1301 Washington Avenue. After that, development of the avenue lagged for three more years until 1894, when construction on the Mary Washington Monument caretaker's lodge commenced (Figure 8). It was completed in 1896 and seven more residences were completed on the avenue between that year and 1898. The avenue had begun to take shape, but what would become the mall remained a broad, unpaved space until after the turn of the century.

The optimism felt about seeing the first house go up on Washington Avenue led local businessman, J.S. Potter, to visualize a "strip of land 60 feet wide extending the length of the avenue...reserved in its centre for shade trees, general and hardy flowering shrubbery, meandering walks and a fountain or two which would cost but a trifle...".⁵ The Mary Washington Monument Association spearheaded a planting campaign for the mall in 1896, receiving and planting donated ornamental trees, roses, and honeysuckle (Figure 9).⁶ Prior to that, the only vegetation on the mall, except grass, was a row of trees that lined the west side in front of the Mary Washington Monument (Figure 10). These trees were removed when the avenue was regraded after 1906.

The second building campaign along Washington Avenue took place between 1903 and 1912 filling most of the open lots with houses. During this time, the boulevard form of the avenue was established. A deed recorded in 1908 depicts the layout of the mall, with a map entitled, "Diagram Showing Established Grades, Washington Avenue, Fredericksburg, Virginia" (Figure 11). Although it does not precisely reflect its built conditions in terms of the layout of the mall's blocks, the drawing shows the location of the General Hugh Mercer Monument, complete with its curbs and curving walkways. The statue had stood on the avenue since 1906 when it was erected by the U.S. War Department and its setting was designed as a symmetrical composition of curving and straight walkways, arranged around the axis of Fauquier Street. The plan of Washington Avenue also describes the flat graded surface of the avenue, averaging less than ½% slope, which contributes to its open spatial quality.

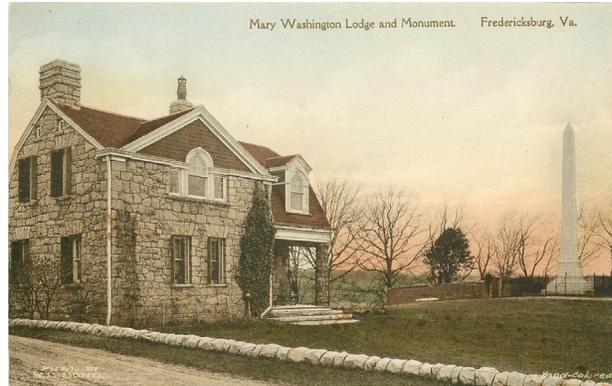


Figure 8. Postcard from ca. 1915, showing the 1894 Mary Washington Monument and its 1896 caretaker's lodge.



Figure 9. Postcard from 1912. The view, looking north, shows a bed or roses to the south of the Hugh Mercer Monument and six trees lining the Mercer Block on either side.



Figure 10. The only trees on the Washington Avenue mall prior to 1896 stood in front of the Mary Washington Monument.

5 J. S. Potter, "Mary Washington Avenue." *The Free Lance*, March 10, 1891, pg. 3.

6 *The Free Lance*, March 31, 1896, pg. 3; *The Free Lance*, March 31, 1896, pg. 3

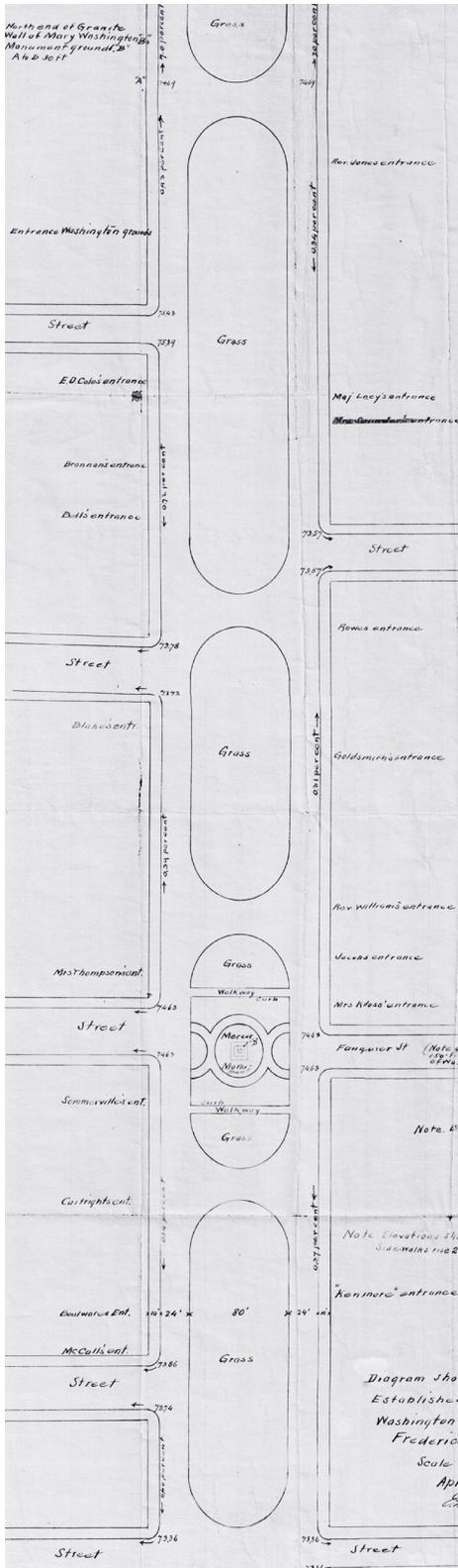


Figure 11. 1908 layout of the Washington Avenue Mall blocks, drafted by engineer, E. D. Meyers, Jr.

Historic images of the monument show that Washington Avenue remained unpaved well into the twentieth century, at least not before 1909 (Figure 12).⁷ A photograph of the completed Mary Washington Monument and the caretaker's lodge show that the memorial lot had been bordered along the avenue with a substantial rusticated, quarter-round granite curb (see Figure 8). It is likely that the avenue remained unpaved into the 1920s, when a new preservation initiative towards saving Kenmore was started. Along with their successful purchase of Kenmore from a developer, the Kenmore Association, a group formed from members of the Fredericksburg Mary Washington Memorial Association and the newly-formed Washington-Lewis Chapter of the Daughters of the American Revolution, involved the Garden Club of Virginia to restore its gardens. It is possible that this initiative also inspired a paving campaign for the avenue, or it could have been inspired by the installation of the George Rogers Clark Monument, erected at the southernmost block of the mall, now Lewis Circle, in 1929, or both events.

When the road was finally paved, the last of the trees planted along the edges of the Washington Avenue mall around the turn of the 20th century were removed. By the time the U.S. Soil Conservation Service documented Virginia in 1937, there were only nine trees left on the mall (Figure 13). These included a few clustered across from Hancock Street, two or three large trees across from a point midway between the Mary Washington Monument and the caretaker's house, and the weeping mulberry that still stands today. Weeping mulberries were popular, exotic plants in the late nineteenth and early twentieth centuries and the advanced age of that tree may indicate a planting date early in the development of the avenue.

The Garden Club of Virginia became active on the avenue again in 1937, when they partnered with the Fredericksburg Mary Washington Monument Association to renovate the monument



Figure 12. Photo of the newly-completed General Hugh Mercer Monument and Washington Avenue, ca. 1910.

⁷ *Municipal Journal and Engineering*, September 22, 1909, 439. GoogleBooks; accessed April 5, 2016.



Figure 13. 1937 aerial of Washington Avenue. Provided by Michael Spencer, University of Mary Washington.

grounds. The Garden Club of Virginia commissioned landscape architect, Alden Hopkins, to develop a plan. Hopkins designed a plan to re-grade the property, add a brick wall along its boundary, and install brick stairs to, and a brick walkway around, the monument (Figure 14). This arrangement strengthened the visual relationship between the avenue and the monument by directing pedestrian access along a formal axis perpendicular to the monument from the public sidewalk. New plantings framed the view of the monument from the avenue (Figure 15).⁸

By 1953, trees had been planted within the mall in front of Kenmore and at least one tree or large shrub stood in Lewis Circle (Figure 18). Additionally, three trees stood on the north side of the Mercer Monument and two stood to their north. These trees could likely be attributed to activities of the Mary Washington Memorial Association or the Garden Club of Virginia. The mulberry stands on its own in the next block north and the same shade trees stand surviving from 1937.

A comparison of aerial photographs suggests that the dogwood trees that survive on the mall today are remnants of a planting that occurred between 1963 and 1969 (Figures 16 and 17). While some attribute this planting to Charles Gillette, no plan has been located, nor has this been verified through any documentation.

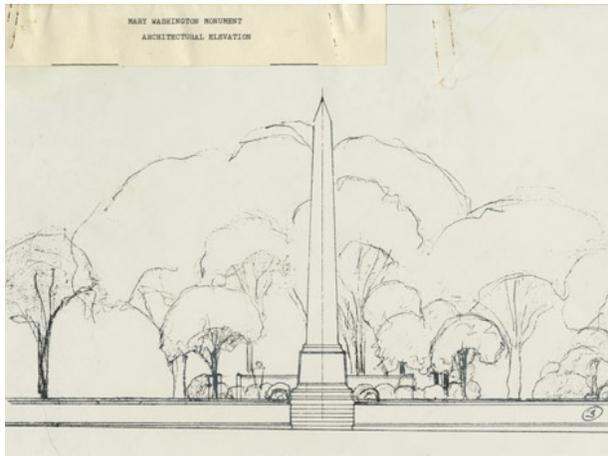


Figure 14. Alden Hopkins' 1937 drawing showing street view of monument, wall, stairs, and plantings.

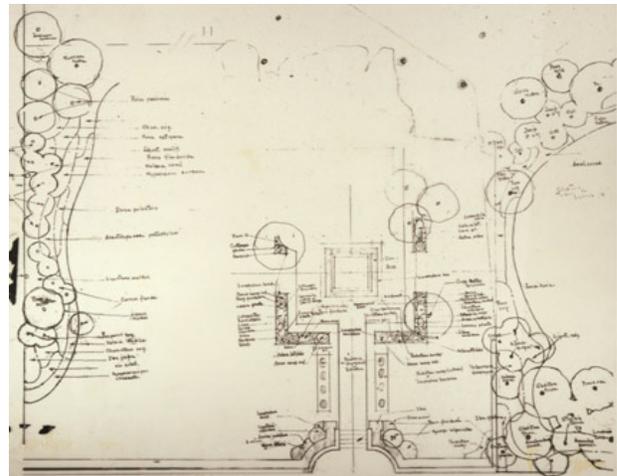


Figure 15. Alden Hopkins' 1937 planting plan for the Mary Washington Monument site.



Figure 16. Aerial photo from 1963. Michael Spencer.



Figure 17. Aerial photo from 1969. Michael Spencer.

⁸ Virginia Historical Society, Mary Washington Monument, Historic American Landscape Survey, VA-61. Library of Congress; accessed April 5, 2016.



Figure 18. 1953 aerial of Washington Avenue. Spotsylvania County Information Services.

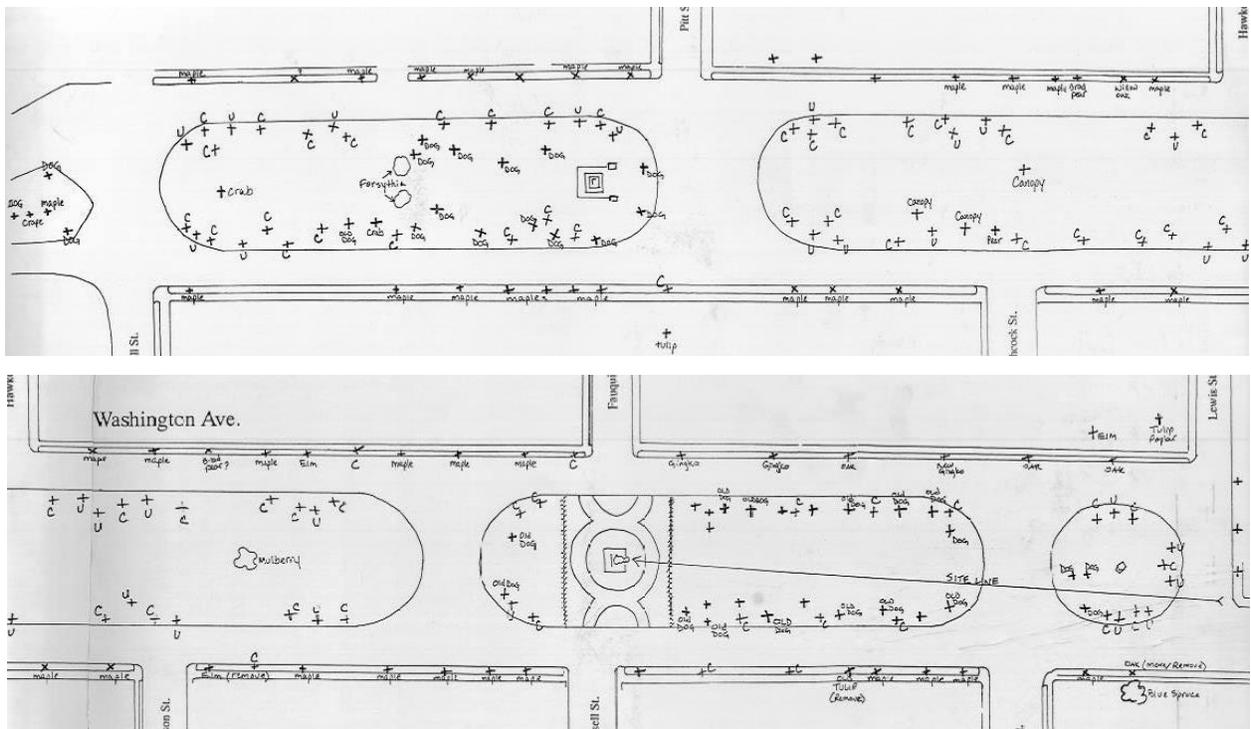


Figure 20. Washington Avenue tree planting scheme, 1980s. City of Fredericksburg. Proposed trees are indicated by a "C" for canopy and a "U" for understory.

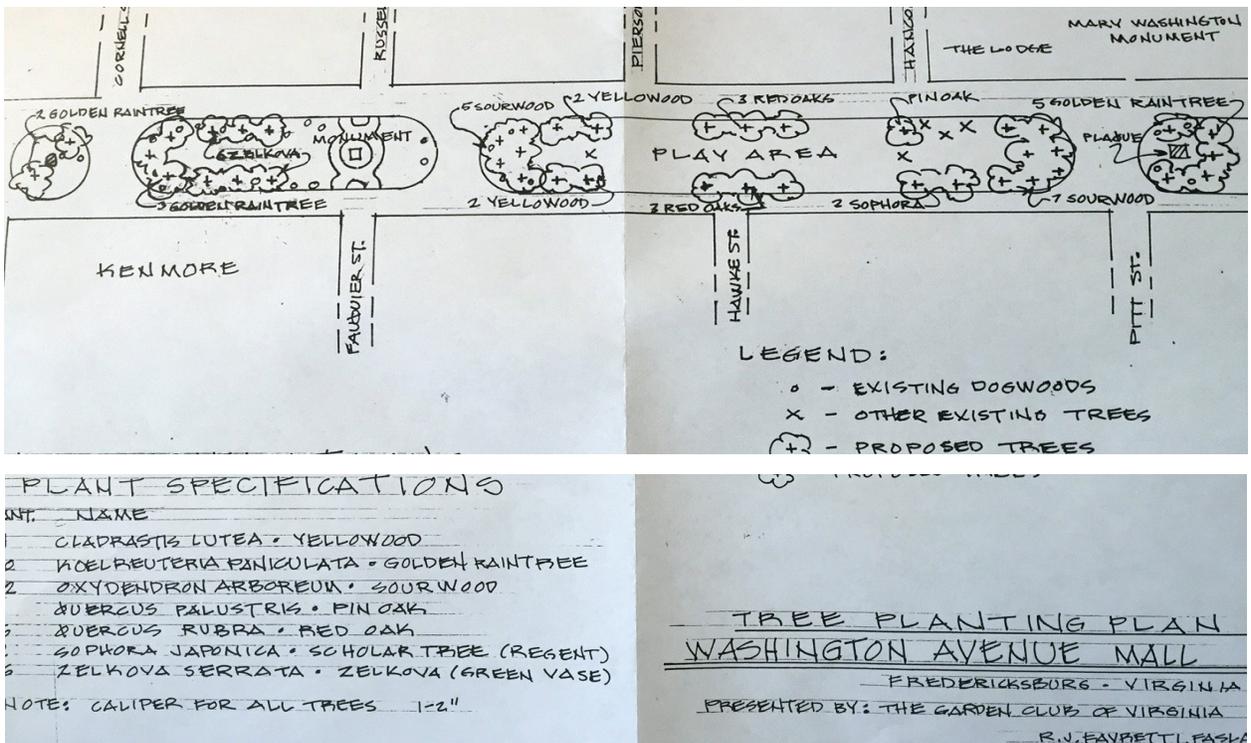


Figure 21. Rudy Favretti's 1996 tree planting plan for Washington Avenue.

edges of the mall, was a dramatic departure from the established palette of species, introducing golden rain tree—which is potentially invasive, zelkova—which is used extensively in Washington, D.C., red oak, pin oak, sourwood—a native understory tree, Japanese pagoda tree (sophora), and yellowwood—also a native. It is not known what inspired the commissioning of the plan or why it was not implemented, but none of those trees are on the mall today.

In 2002, the Washington Avenue National Historic District was listed on the National Register of Historic Places. The historic district was deemed historically significant for its status as Fredericksburg’s only historic monumental avenue, for its collection of high-style residences constructed around the turn of the twentieth century, and for its collection of monuments with artistic and commemorative importance. These memorial works were described as sited to take advantage of broad views from along Washington Avenue and the flat topography of the ridge along which the avenue was laid out.¹¹The form of the avenue is also significant as an expression of nationwide trends in civic planning and the work of commemorative organizations led by women for improved urban design.¹²

The period of significance established for the national historic district is c. 1775 to 1951. This end date for the significance of the historic district appears to have been based on a date 50 year prior to the date of the submittal of the nomination, which is typical practice. If applied to the significance of plantings within the Washington Avenue Mall, then plantings that were installed after 1951 are not considered contributing to the historic district. By extension, if restored to most closely reflect its character from the period of significance, the mall would most closely resemble its appearance in 1937 (see Figure 13).

Recently, new initiatives to improve Fredericksburg’s urban forest have inspired local debate over the location and role of trees within the Washington Avenue Mall (Figure 22). In 2008, Tree Fredericksburg formed as a non-profit partner with the city to implement tree planting goals throughout the city. Around 2010, a street tree assessment report was commissioned by the City of Fredericksburg to evaluate the city’s

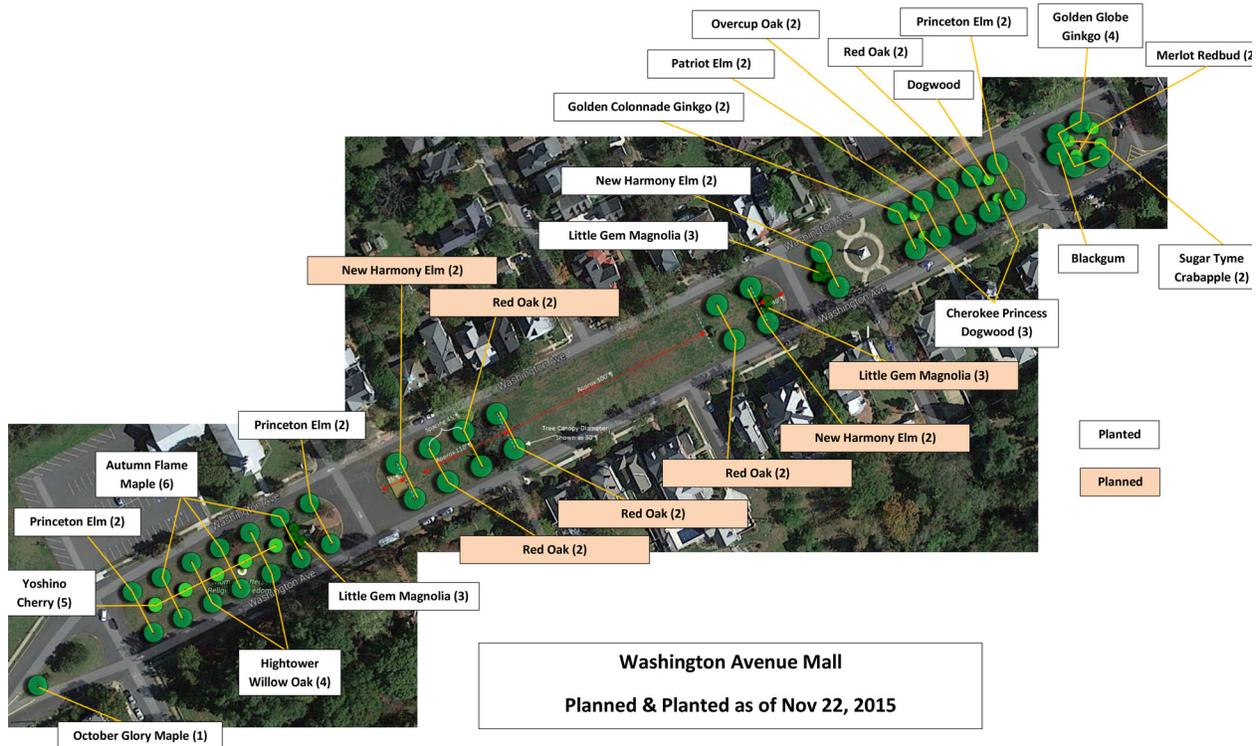


Figure 22. Planting plan developed by an unknown person and utilized for planting by Tree Fredericksburg.

11 Edna Johnston and Kathryn Gettings Smith. National Register of Historic Places, “Washington Avenue Historic District, Fredericksburg, Virginia.” 2002, Section 7, Page 4.
 12 Ibid, Section 8, Page 19.

trees and their value. The report, published in 2012, reported on the benefits of trees to community and recommended continued planting of large canopy trees with increased species diversity.¹³ Subsequently, the City Council passed a resolution to increase the city's tree canopy by 5% over the next ten years for a total of 10,000 additional trees.

As early as 2012-2013, Tree Fredericksburg commenced planting trees on the outer border of the Washington Avenue mall and, in 2015, planted magnolias and elms in selected locations in the mall interior (see Figure 22 and Figures 23-24). As the trees already planted began to take hold and leaf out, homeowners on Washington Avenue and tour guides became concerned that the new trees would block traditional views to the avenue's monuments and to the collection of fine, turn-of-the-century houses that line the avenue. Tree Fredericksburg reported that they are following a plan based on a planting plan



Figure 23. This 2016 view of the General Hugh Mercer Monument is blocked by a tree planted directly behind the George Rogers Clark Monument. CHG.



Figure 20. This 2016 view of the General Hugh Mercer Monument is blocked by large shade trees planted within the Mercer block. CHG.

13 Eric Wiseman and Julie Bartens, Street Tree Assessment Report, Fredericksburg, Virginia (Blacksburg: Virginia Tech Department of Forest Resources and Environmental Conservation, 2012).

by Charles Gillette, but the Gillette plan has not been located and it is believed that the 1980s plan was mistakenly identified as a Gillette plan. The Tree Fredericksburg plan is unique when compared to that and previous plans prepared for the Washington Avenue Mall: it includes, in addition to shade trees lining both sides of the mall, small ornamental trees aligned between those rows down the center of the mall. The black gum, the magnolias, and the ginkgos are species not shown in previous plans, including the 1980s plan.

Viewscape Effects of the Proposal to Change the Historic Look and Character of the Washington Avenue Historic District

Steve Gaske

May 2016

Washington Avenue

1st Christian Church

Religious Freedom Monument

Center Island

Kenmore Plantation

Lewis Circle
G.R. Clark Memorial



Mary Ball Park

Mary Washington Monument

Hugh Mercer Statue

Excerpts from Fredericksburg 2010 Historic Preservation Plan

The preservation of historic buildings and streetscapes requires an eye towards the historic context of each property as an entity of its own time and place. As such, zoning laws should be amended to allow Fredericksburg zoning requirements to be more context-driven when dealing with historic properties and neighborhoods to **avoid out-of-character development and retain neighborhood cohesion and theme.** (p. 28)

- ***Preservation***

The act or process of applying measures necessary to sustain the existing location, design, setting, workmanship, materials, **feeling or association of an historic property or viewshed.** (p. 52)

- ***Viewshed***

The visual area of potential effect of a historic property that contribute to its setting, feeling and association, including its landscape and streetscape. The viewshed of historic properties often extends well beyond their boundaries and is **often an important contributing element to their historic significance.** (p. 54)

Excerpt from Fredericksburg 2007 Comprehensive Plan, page 72

Historic Preservation Goals

Goal 1: Heritage Resources

The City will continue to recognize, protect, and interpret significant architectural, historical, and archaeological resources that are part of the community's heritage.

Goal 2: Historical Experience

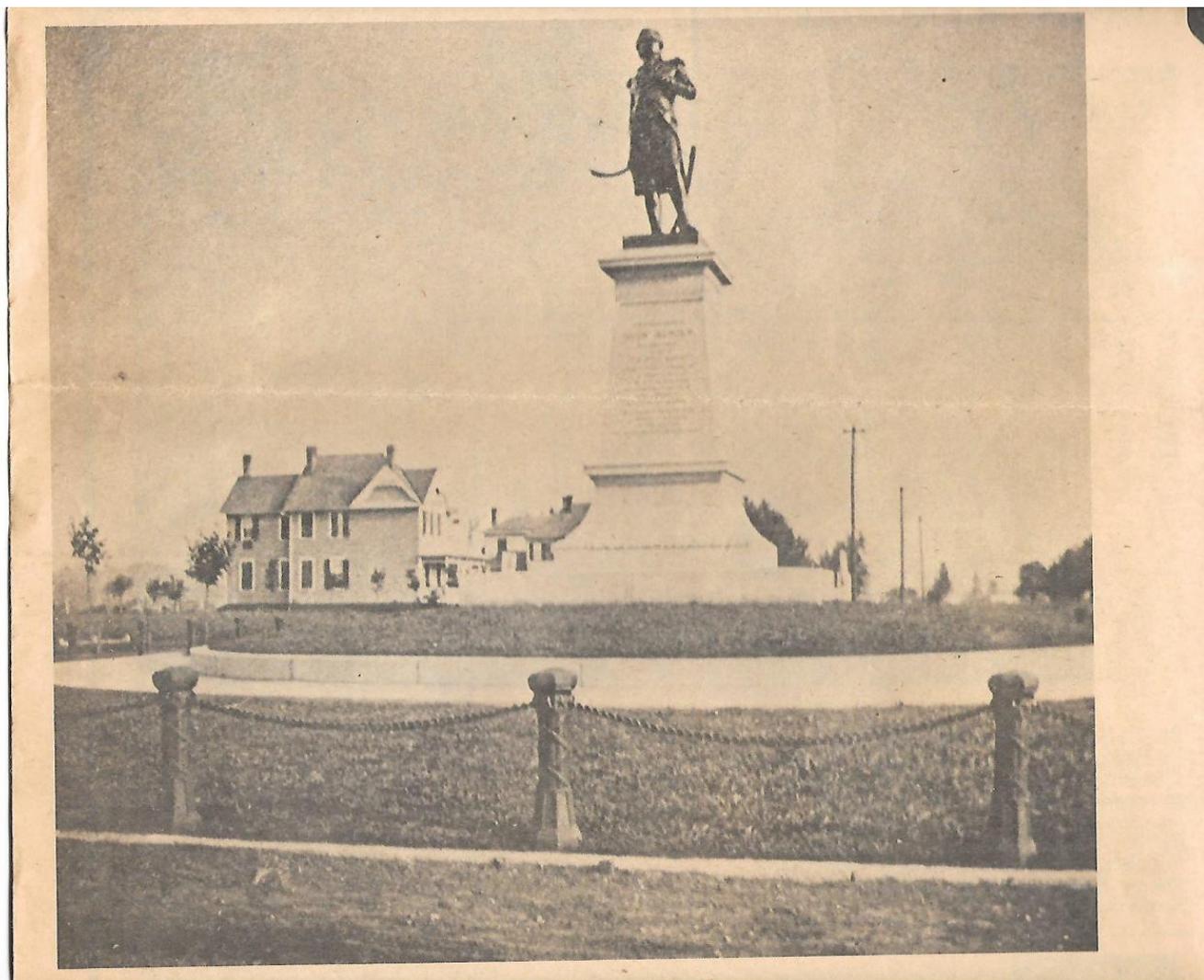
Fredericksburg's cultural heritage will be preserved in a manner that enhances the active connection between residents and the City's past, and provides visitors to the City with an authentic historical experience.



ADOPTED — SEPTEMBER 25, 2007

FREDERICKSBURG COMPREHENSIVE PLAN

Mall 1907 c.a.



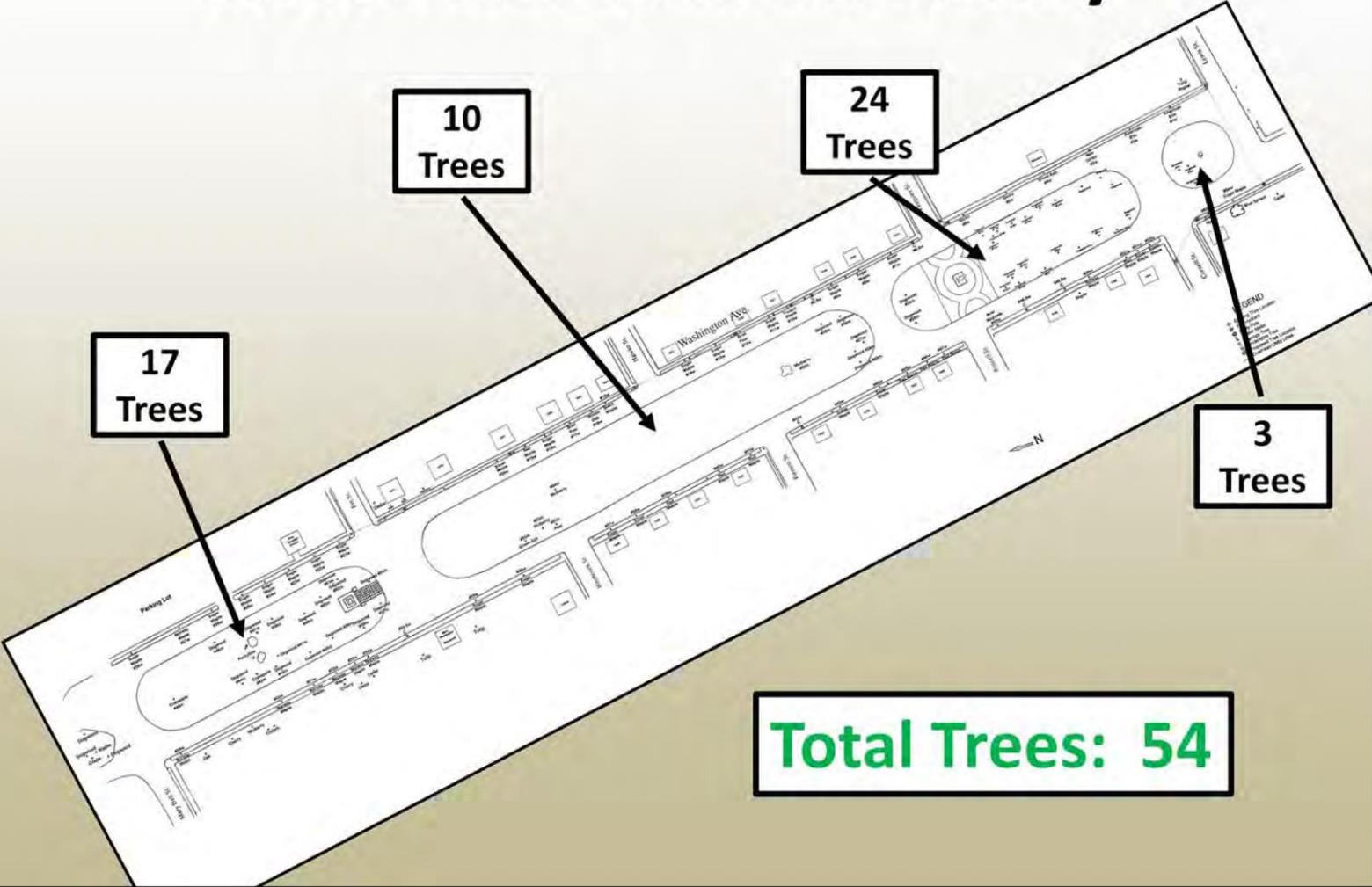
1937 Aerial Photo



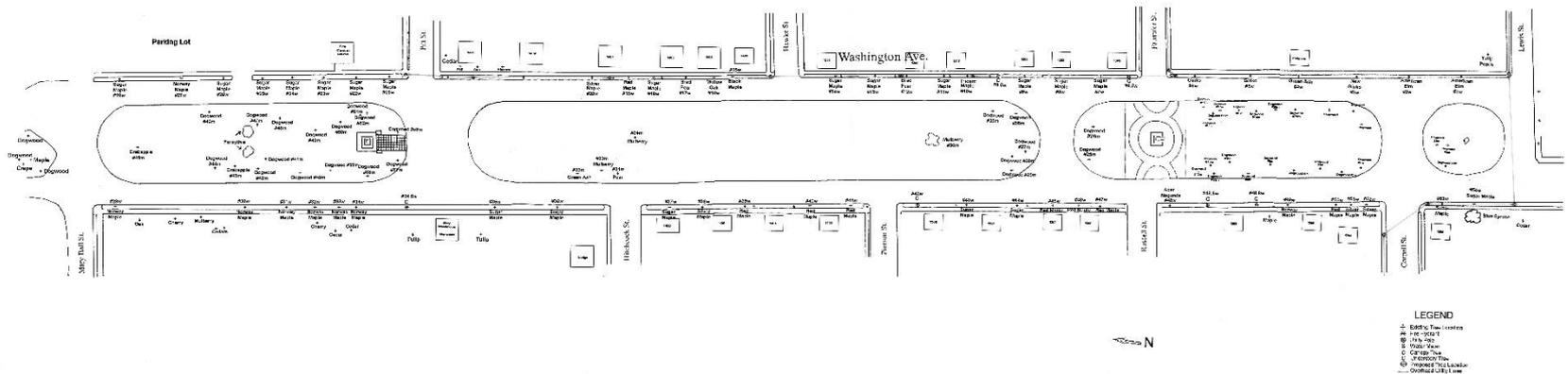
1953 Aerial Photo



Circa 1980 Tree Inventory



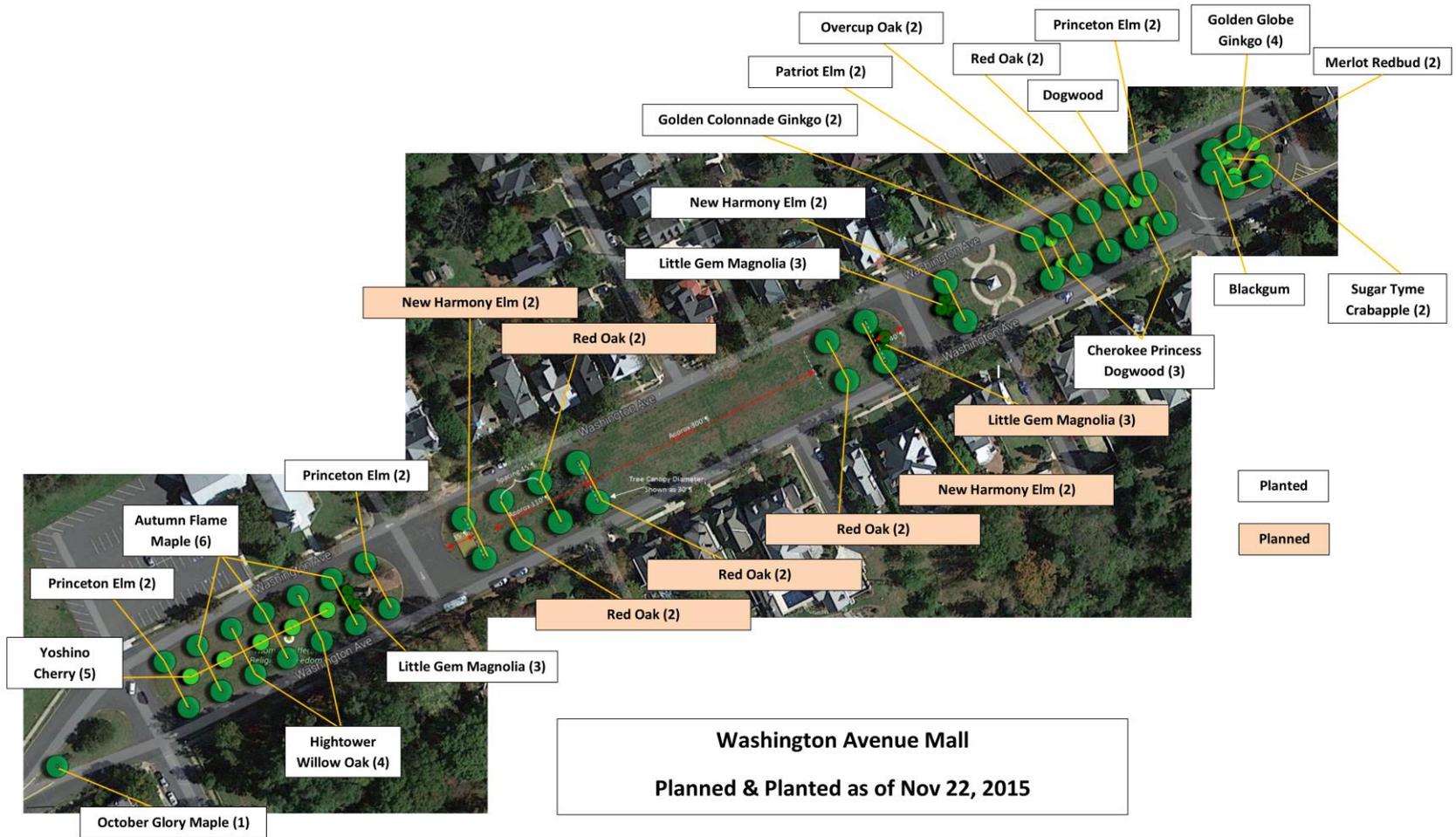
1980 Mall Tree Inventory



Dogwood
 Mulberry
 Crabapple
 Green Ash
 Pear

# Trees - 1980 Inventory				
Lewis	Mercer	Center	Religious	TOTAL
3	23	5	15	46
		3		3
			2	2
		1		1
		1		1
3	23	10	17	53

Sightlines



Current Plan

# Trees - 2010 Plan					
	Lewis	Mercer	Center	Religious	TOTAL
Large Canopy	5	12	12	19	48
Gem Magnolia		3	3	3	9
Ornamental	4	4			8
TOTAL	9	19	15	22	65

Change in the Character of the Mall

	1980 v. Current		Increase
	1980 Inventory	Current Plan	
Large Canopy	2	48	46
Gem Magnolia	0	9	9
Ornamental	51	8	(43)
TOTAL	53	65	12

Viewscape N.E. – Early 1900's



Viewscape N.E. - 2014



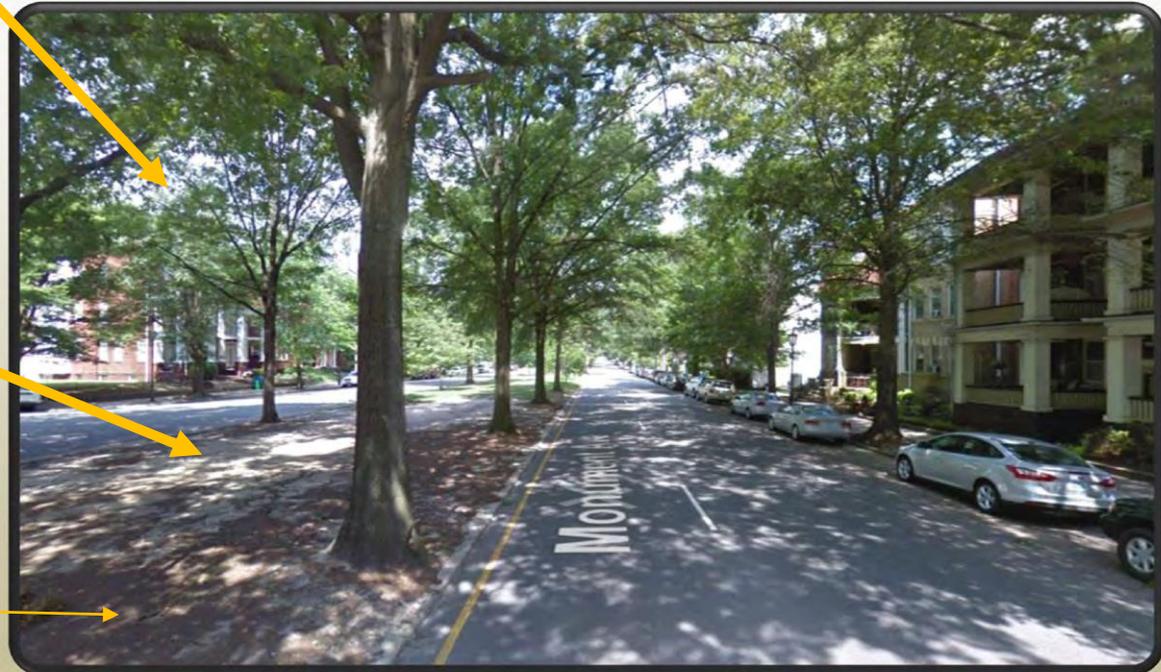
Viewshed Example

Homes with Distinctive Historic Period Architecture?

Space to fill in with understory cherry, dogwood and crabapple?

Grass?

Grand Avenues Monument Ave – Richmond



Viewscape from Kenmore Gate - 2015



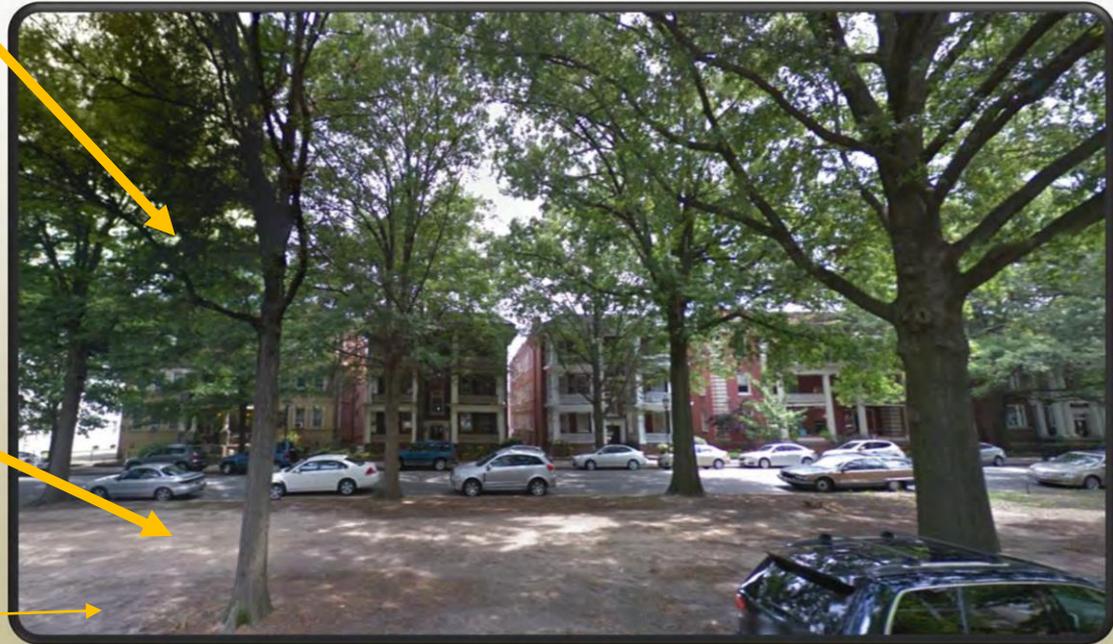
Viewshed Example

Monument Avenue Richmond

Homes with
Distinctive Historic
Period Architecture?

Space to fill in
with understory
cherry, dogwood
and crabapple?

Grass?



Viewscape: MW Monument



Planned New
Harmony Elm

Viewscape Looking NorthWest



Elm

Ginkgo

Magnolia
Screen

Elms and
Red Oaks

New
Harmony
Elm

Viewshed Example

Grand Avenues Oglethorpe Avenue – Savannah

Homes with
Distinctive Historic
Period Architecture?

Why shrubs and
flowers? Why not
infill with trees like
cherry, dogwood
and crabapple
instead?



Viewscape: Looking South



Elms and
Magnolia Screen

Elms and
Red Oaks

Viewscape from South

From Sidewalk
and Main Roadway

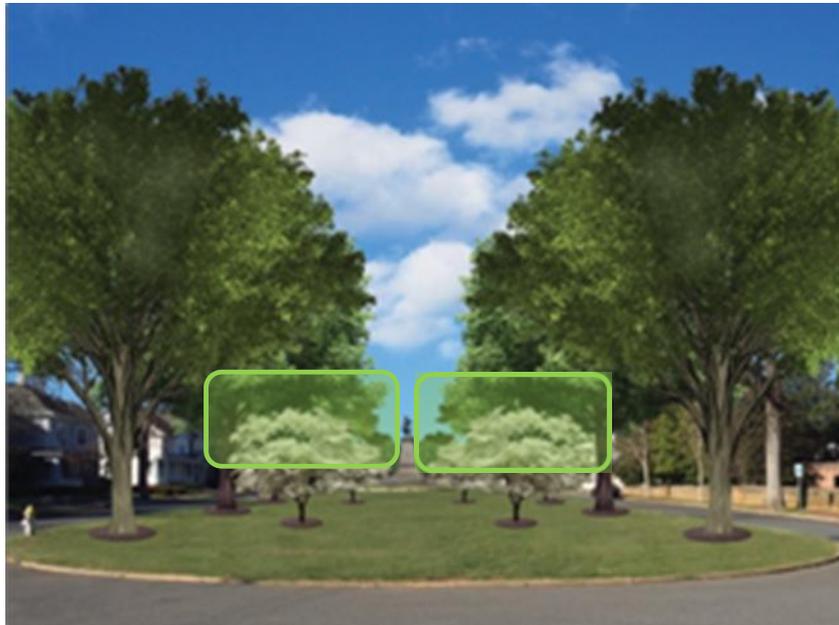


From Cornell St. Roadway Cut-through
On North Side of Lewis Circle



Viewscape: Mercer Tunnel

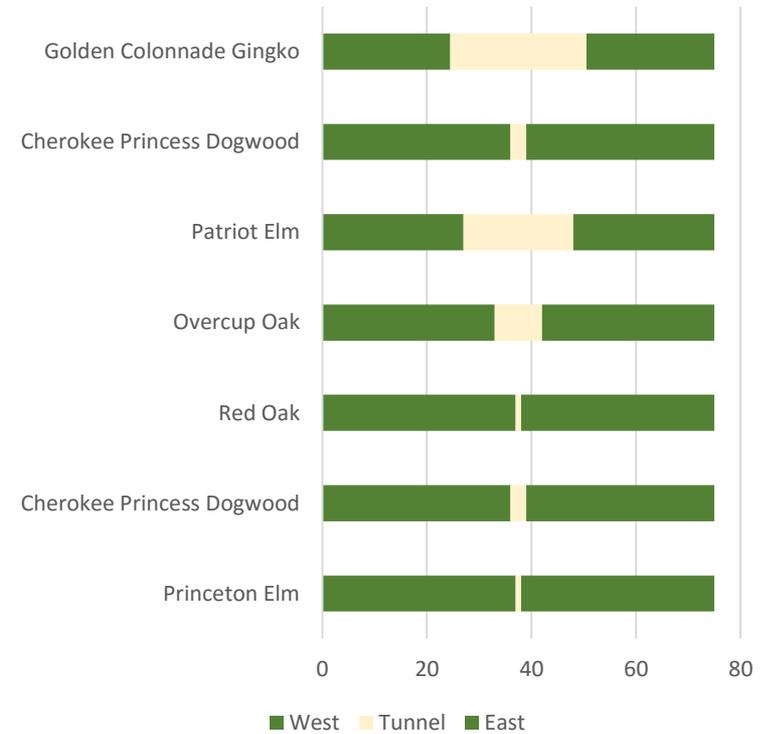
From Cut-Through Roadway
On North Side of Lewis Circle



Mature Dogwoods

Mature Trees

Mercer Island South Viewing Tunnel



Viewscape: Religious Freedom Viewing Tunnel

New Trees at Year 2



Maximum Canopy Coverage

	Most Likely Median	
	Height	Spread
Red Oak	60	50
Overcup Oak	50	42
Hightower Willow Oak	60	35
Princeton Elm	65	50
New Harmony Elm	70	65
Patriot Elm (13 yrs.)	45	30
Golden Globe Ginkgo	50	35
Golden Colonnade Ginkgo	45	25
Little Gem Magnolia	26	9
Blackgum (Sourgum)	50	25
Autumn Flame Maple	45	35
Yoshino Cherry	40	35
Dogwood	25	20
Cherokee Princess Dogwood	24	22
Merlot Redbud	18	17
Sugar Tyme Crabapple	18	15

Single Tree
Coverage-sq.ft.

1,963
1,385
962
1,963
3,318
707
962
491
64
491
962
962
314
380
227
177

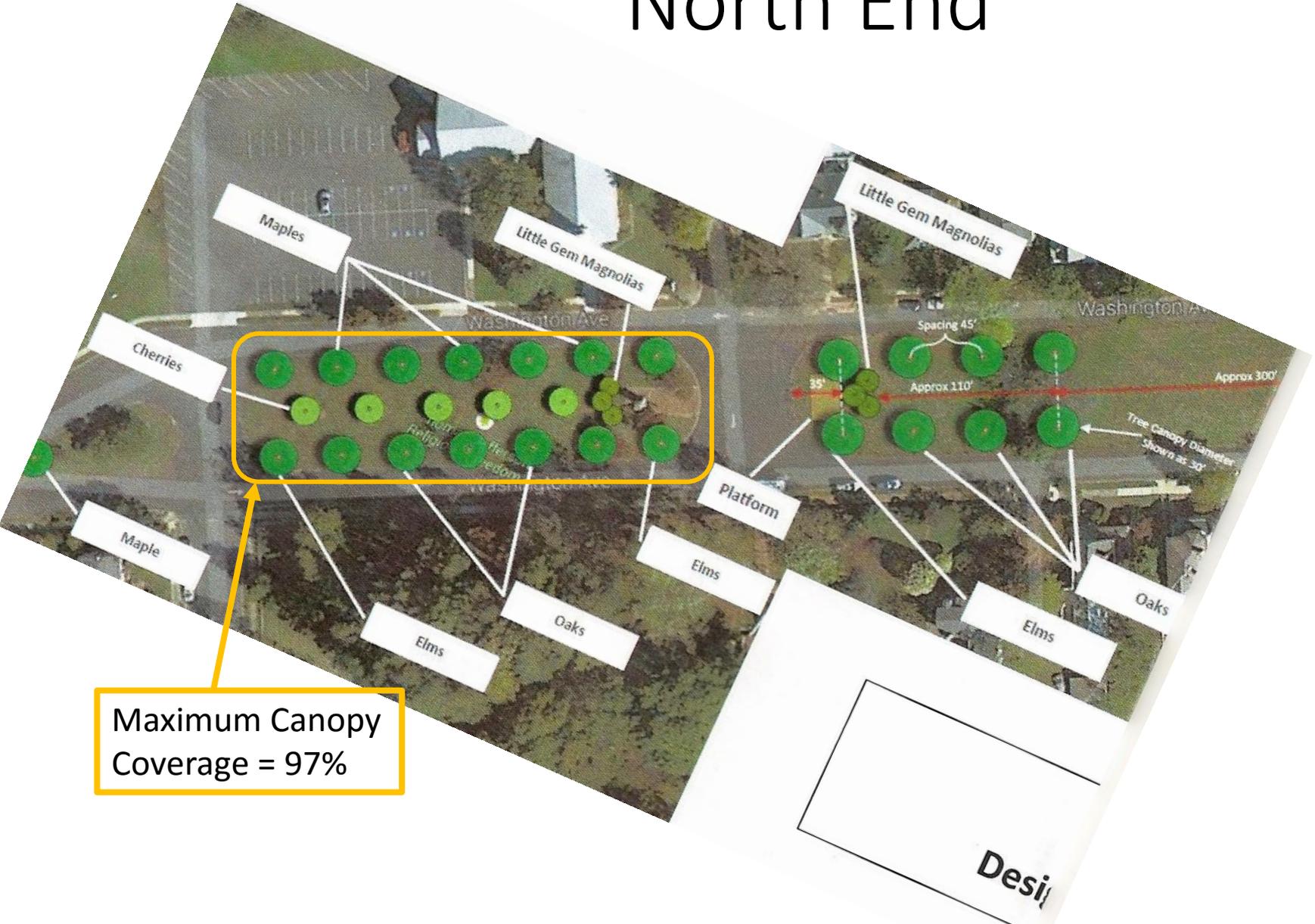
TOTALS

# Trees				Coverage - Sq. Feet			
Lewis	Mercer	Center	Religious	Lewis	Mercer	Center	Religious
	2	8		-3,927	15,708		
	2			-2,771			-
			4	-	-		-3,848
	2		4	-3,927			-7,854
	2	4		-6,637	13,273		
	2			-1,414			-
4				3,848	-		-
	2			-982			-
	3	3	3	-191	191	191	
1				491	-		-
			6	-	-		-5,773
			5	-	-		-4,811
	1			-314			-
	3			-1,140			-
2				454	-		-
2				353	-		-
9	19	15	22	5,147	21,302	29,172	22,477

Summary of Maximum Coverage

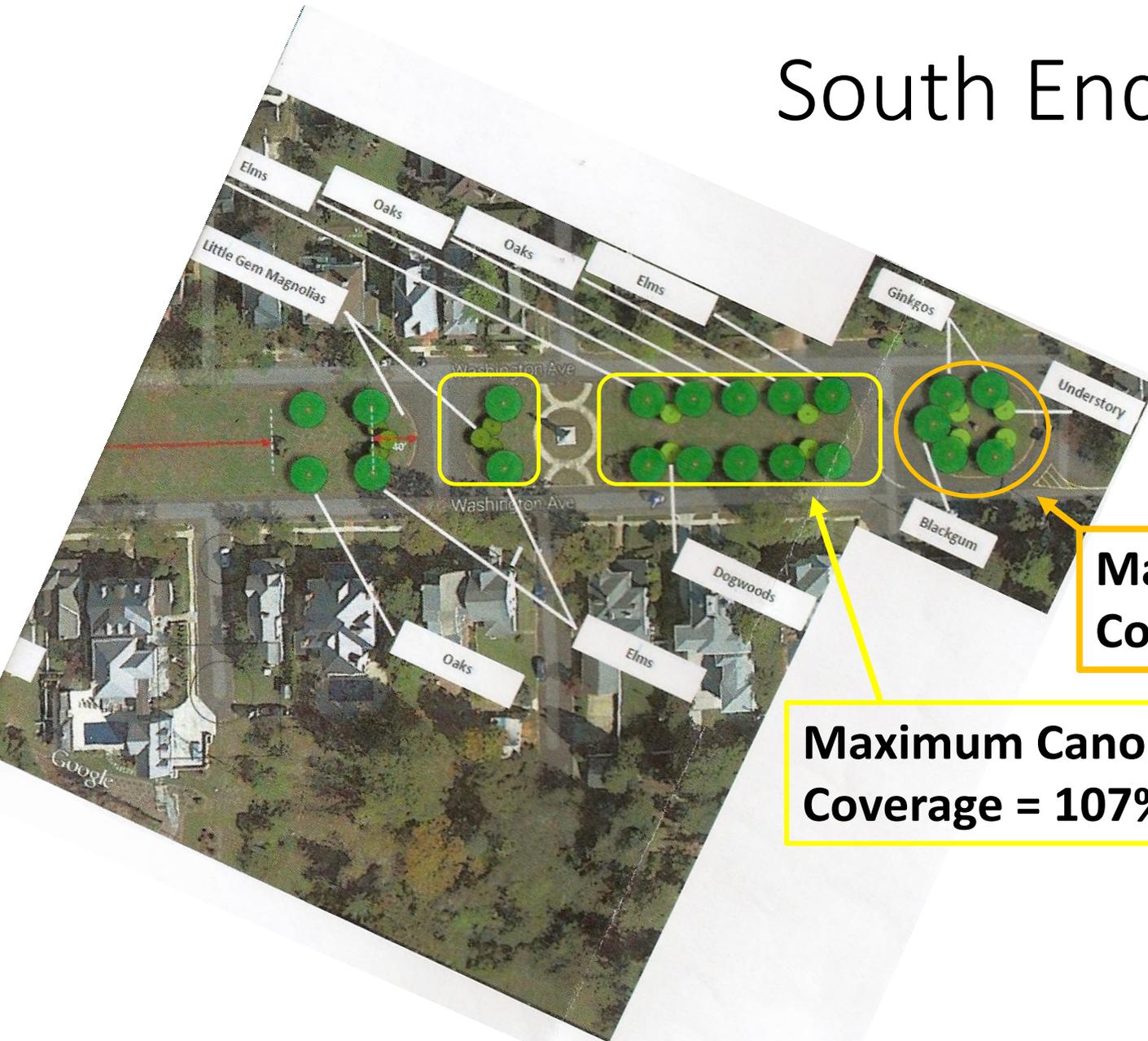
	# Trees				Coverage - Sq. Feet			
	Lewis	Mercer	Center	Religious	Lewis	Mercer	Center	Religious
TOTALS	9	19	15	22	5,147	21,302	29,172	22,477
Land Area					4,418	23,025	42,750	23,250
Less: Statue Circle, Play Field						3,900	22,500	
Planting Area					4,418	19,125	20,250	23,250
Coverage Index (Max Coverage/Planting Area)					116%	111%	144%	97%

North End



Maximum Canopy Coverage = 97%

South End



Maximum Canopy Coverage = 116%

Maximum Canopy Coverage = 107%

Caveats on Maximum Coverage

- Canopy coverage cannot exceed 100%
 - When branches merge they generally stop growing in that direction
 - Understory trees will be partially overlapping in coverage provided by canopy trees
- High Maximum Coverage means that some trees can be removed without noticeably affecting the amount of shade in an area
- Mixing of many trees of different heights and shapes will block sight lines at multiple levels
 - Many large canopy tree trunks will be > 3 feet in diameter, creating a “picket” effect obstructing sight lines starting at ground level

Attachment C

The next 13 pages contain
pie charts of the public
comments analysis

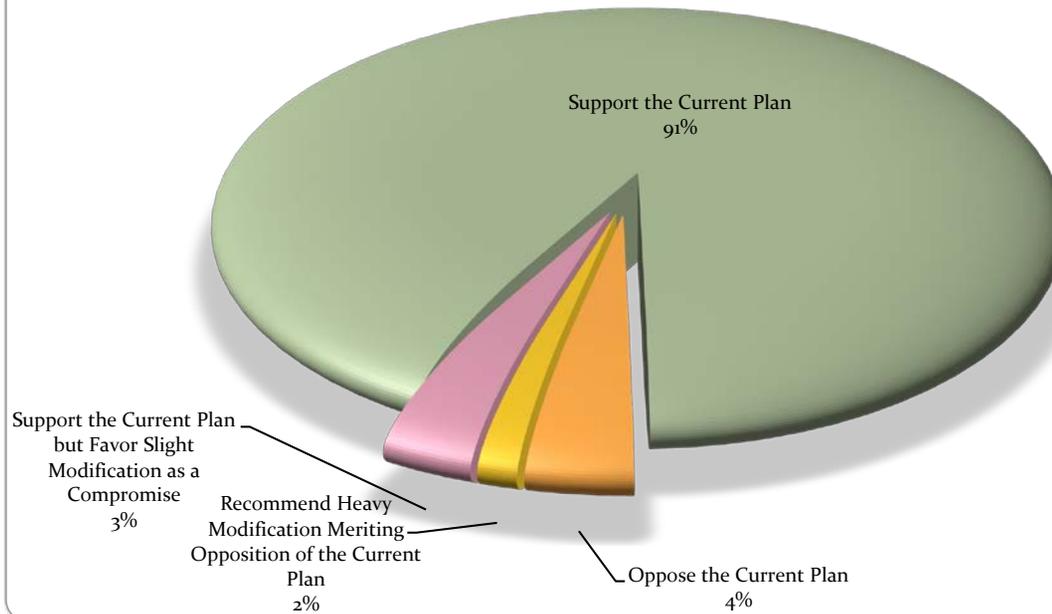
Attachment C

Response Category	Amount
Support the Current Plan	188
Oppose the Current Plan	8
Recommend Heavy Modification	
Meriting Opposition of the Current Plan	3
Support the Current Plan but Favor Slight Modification as a Compromise	7

94% support the Current Plan or Slight Modification for the sake of Compromise

6% oppose the Current Plan, or recommend such heavy modification they really oppose.

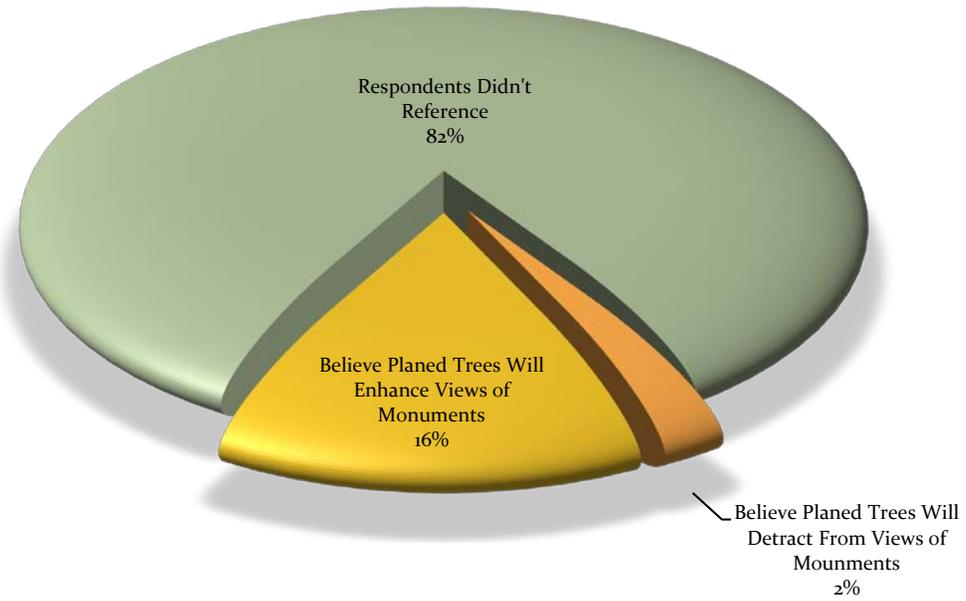
Responses Catagorized as Supporting, or Not Supporting, the Current Plan



Attachment C

Category	Amount
Respondents Didn't Reference	169
Believe Planed Trees Will	
Detract From Views of Mounments	5
Believe Planed Trees Will	
Enhance Views of Monuments	32

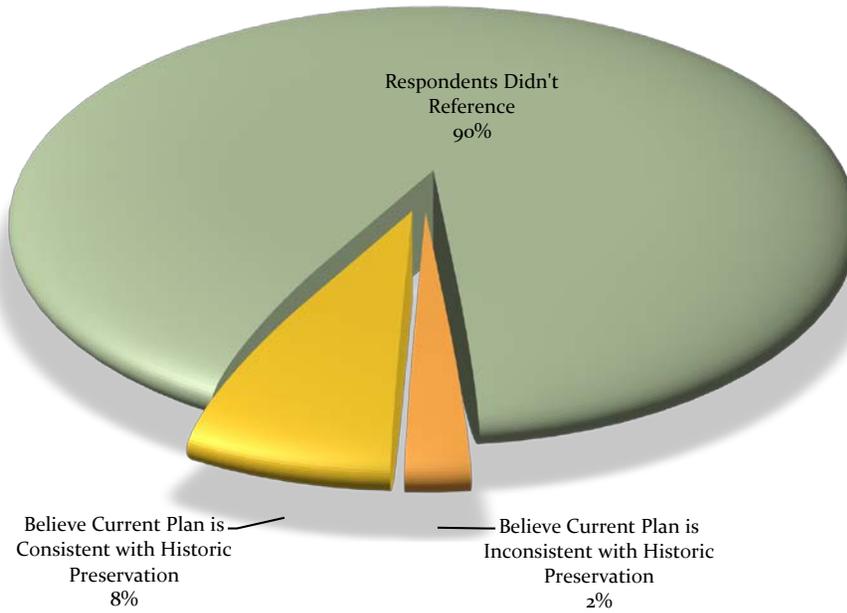
Responses Referencing Views of Monuments



Attachment C

Category	Amount
Respondents Didn't Reference	190
Believe Current Plan is Inconsistent with Historic Preservation	5
Believe Current Plan is Consistent with Historic Preservation	16

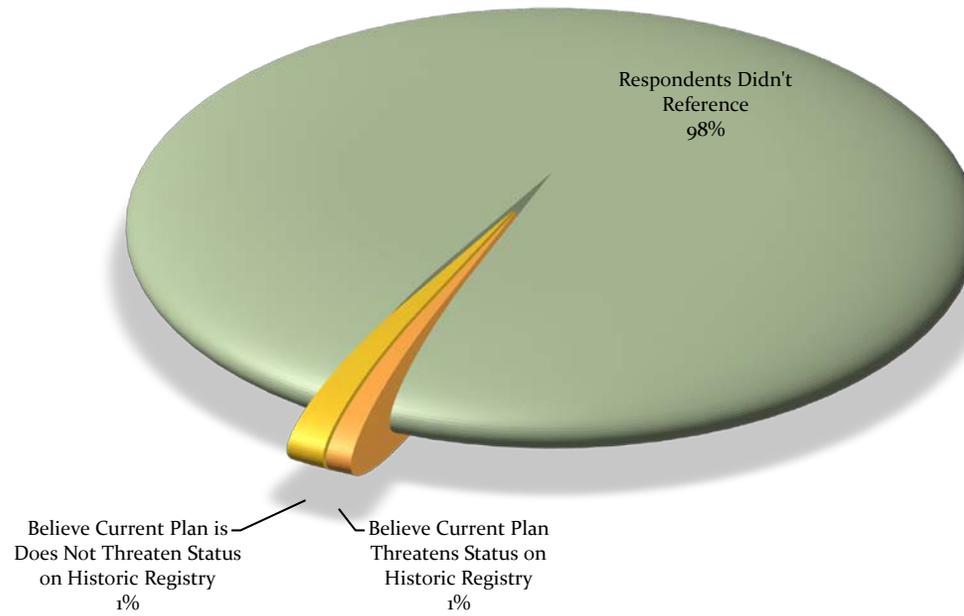
Responses Referencing Historic Preservation



Attachment C

Category	Amount
Respondents Didn't Reference	203
Believe Current Plan Threatens Status on Historic Registry	2
Believe Current Plan is Does Not Threaten Status on Historic Registry	3

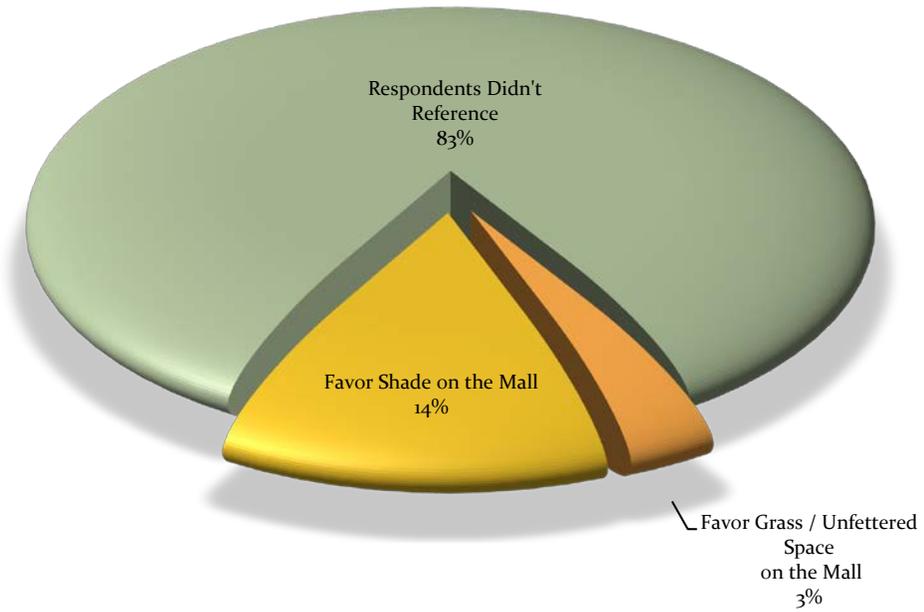
Responses Referencing Historic Registry



Attachment C

Category	Amount
Respondents Didn't Reference	176
Favor Grass / Unfettered Space on the Mall	7
Favor Shade on the Mall	30

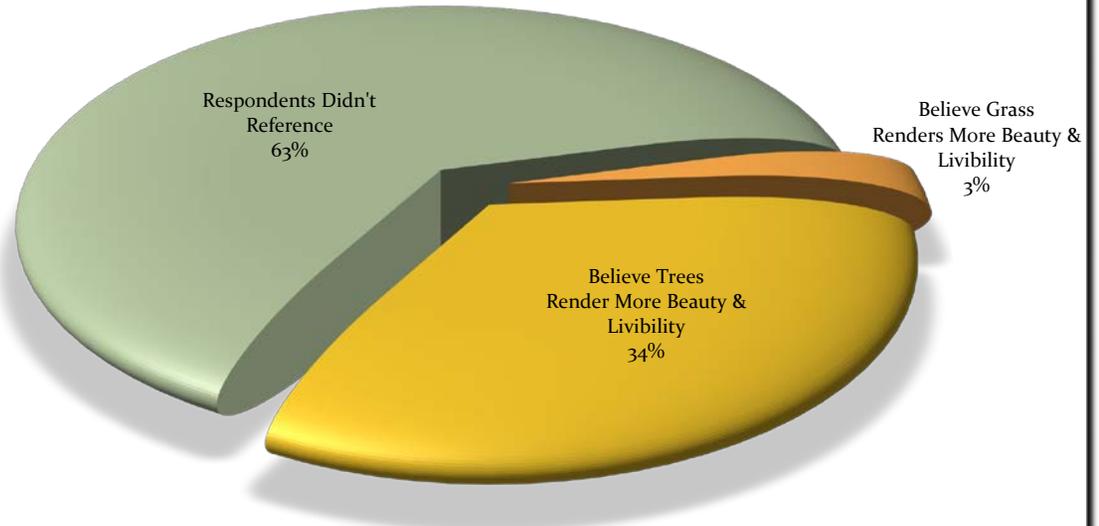
Responses Referencing Grass / Unfettered Space vs. Shade



Attachment C

Category	Amount
Respondents Didn't Reference	133
Believe Grass Renders More Beauty & Livability	6
Believe Trees Render More Beauty & Livability	73

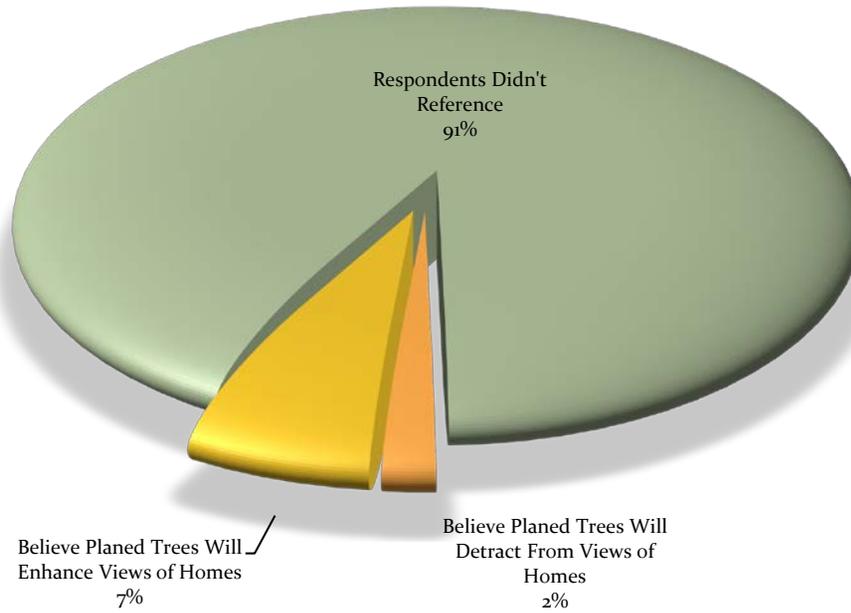
Responses Referencing Grass / Unfettered Space vs. Trees



Attachment C

Category	Amount
Respondents Didn't Reference	188
Believe Planed Trees Will Detract From Views of Homes	4
Believe Planed Trees Will Enhance Views of Homes	14

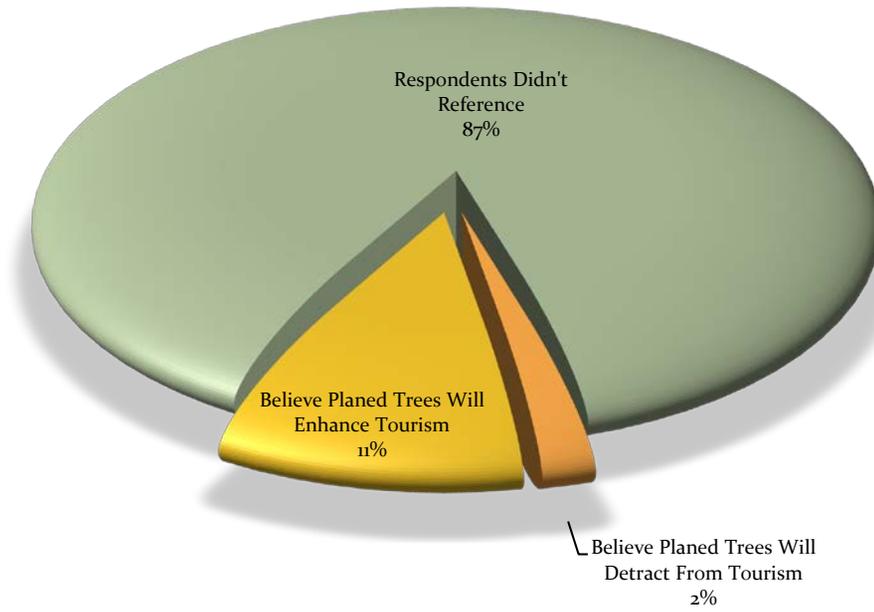
Responses Referencing Views of Homes



Attachment C

Category	Amount
Respondents Didn't Reference	179
Believe Planed Trees Will Detract From Tourism	4
Believe Planed Trees Will Enhance Tourism	23

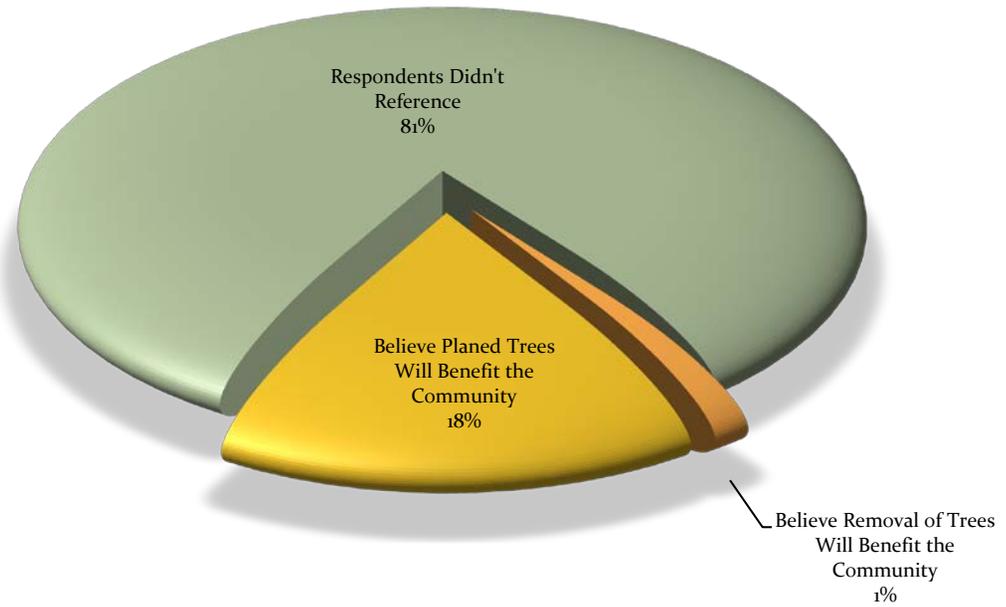
Responses Referencing Tourism



Attachment C

Category	Amount
Respondents Didn't Reference	167
Believe Removal of Trees Will Benefit the Community	3
Believe Planed Trees Will Benefit the Community	36

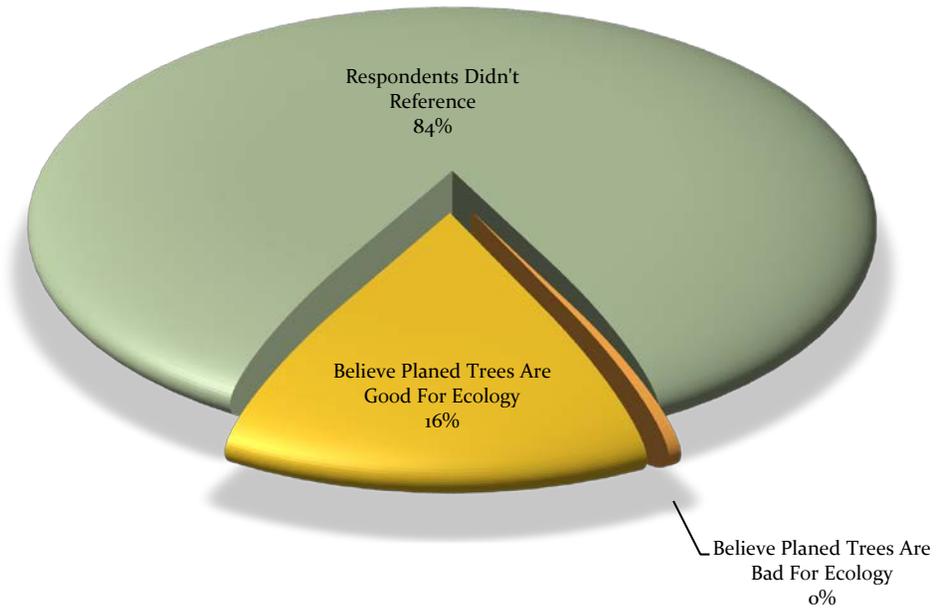
Responses Referencing Benefits the Community



Attachment C

Category	Amount
Respondents Didn't Reference	173
Believe Planed Trees Are Bad For Ecology	1
Believe Planed Trees Are Good For Ecology	32

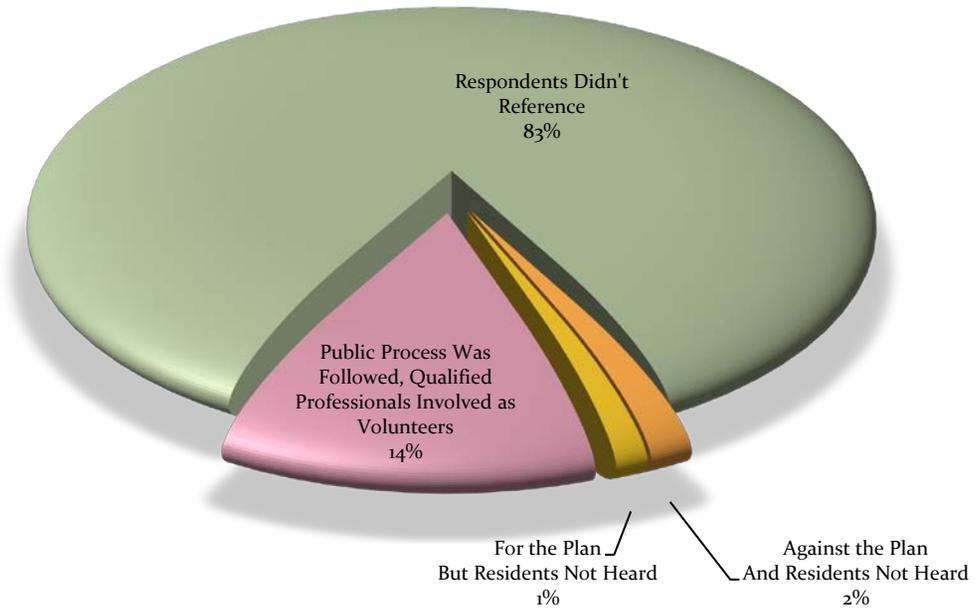
Responses Referencing Ecology



Attachment C

Category	Amount
Respondents Didn't Reference Against the Plan And Residents Not Heard For the Plan	208
But Residents Not Heard	4
Public Process Was Followed, Qualified Professionals Involved as Volunteers	3
	34

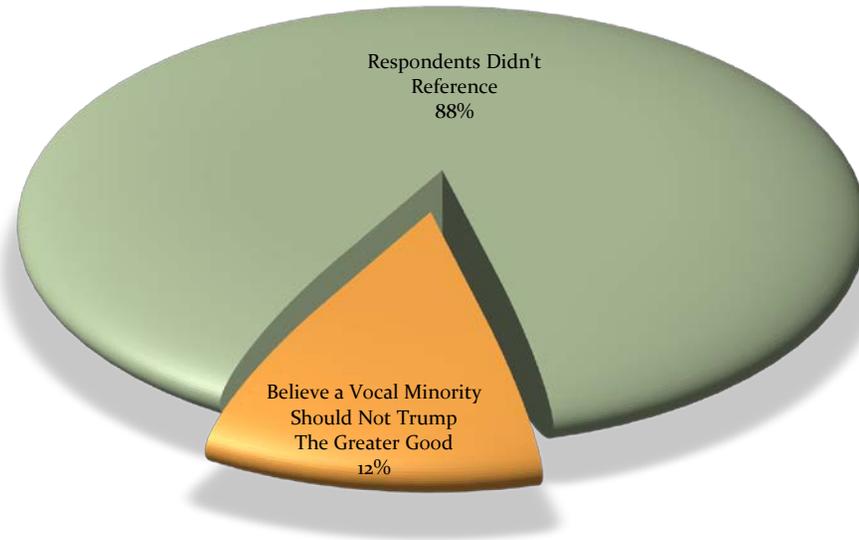
Responses Referencing Residents Not Being Heard



Attachment C

Category	Amount
Respondents Didn't Reference	185
Believe a Vocal Minority	
Should Not Trump	
The Greater Good	26

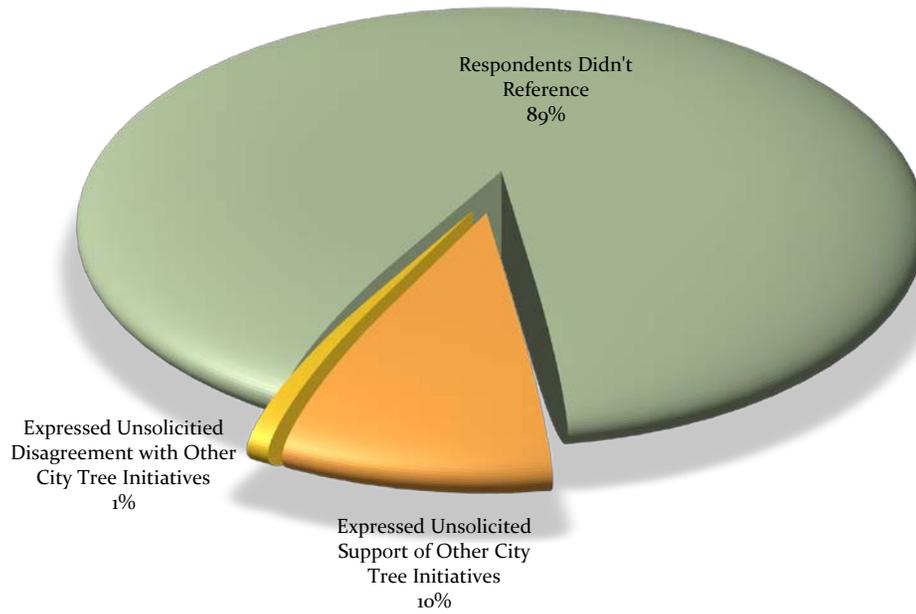
Responses Characterizing Opposition to the Current Plan as a Vocal Minority



Attachment C

Responses Including References to City Plans for Trees Beyond Washington Avenue

Category	Amount
Respondents Didn't Reference	209
Expressed Unsolicited Support of Other City Tree Initiatives	23
Expressed Unsolicited Disagreement with Other City Tree Initiatives	2





MEMORANDUM

TO: Beverly R. Cameron, City Manager
FROM: Dave King, Assistant Director of Public Works
DATE: March 1, 2016
SUBJECT: Approval of Washington Avenue Mall Task Force

ISSUE

Approval of a task force for the purpose of reviewing public comments submitted to the City regarding the current Washington Avenue mall tree plan and recommending any appropriate changes to the plan.

RECOMMENDATION

Staff recommends that City Council approve a resolution appointing a 7-member citizen task force and associated task force charter. The task force will meet as often as necessary to provide a full and complete review of the public comments that have been submitted to the City concerning the Washington Avenue mall tree plan and will develop a recommendation outlining any changes to the plan deemed necessary to address the City's interests as a whole. The task force will present a draft recommendation to the Clean and Green Commission and to the Recreation Commission for comments, and will submit a final recommendation to the City Council no later than July 12, 2016.

DISCUSSION

City staff and civic groups such as the Fredericksburg Council of Garden Clubs have been planting trees on the Washington Avenue mall for decades. Tree planting efforts on the mall have increased more recently, primarily due to cooperative efforts between the City, the Clean and Green Commission, the green committee, Tree Fredericksburg, the Fredericksburg Council of Garden Clubs, and other groups. Since 2005 the City and Fredericksburg Council of Garden Clubs have held an annual Arbor Day ceremony that included the planting of ceremonial trees on the mall. In 2008 the green committee worked with the parks department and the public works department to develop a new tree planting plan for the mall. While previous tree plans included as many as 134 trees, the current tree plan calls for a total of 62 trees to be planted. Over the past 2 years City staff has worked with Tree Fredericksburg to implement the new tree plan and to date, all but 12 trees have been planted in accordance with the plan.

In November 2015, a group of homeowners submitted a petition to the City requesting that no further trees be planted on the Washington Avenue mall and expressed concerns that too many trees were being planted without sufficient notice to the immediate community. The petition requested the City to consider removing some or most of the trees planted on the mall and restore the grounds to an open grass area.

In response to the petition, the City held a public forum on February 1, 2016 at the Dorothy Hart Community Center to present information about the current tree plan and also to allow the petition group to present their concerns about the mall trees. The public forum was attended by approximately 200 people and after the staff and petition group presentations approximately 50 people presented oral comments. The City announced at the forum that public comments would continue to be accepted until February 15. The City received 215 written comments.

The next logical step for the City is to task a group of citizens with a mission to review the comments that have been received (i.e. oral comments from the public forum and the written comments), review the concerns that have been raised by the petition group, review the current tree plan, and in consideration of all the evidence presented to them, provide a recommendation concerning changes to the tree plan that best meets the desires of the community as a whole.

Staff recommends a 7-member task force as follows:

- A representative from City staff - **Dave King**
- A representative from the Planning Commission – **Roy McAfee**
- A representative from the Washington Avenue Group – **Mr. Steve Gaske**
- A representative from HFFI – **Emily Taggart**
- A city resident representative – **Jeanette Cadwallender**
- A representative from the Clean and Green Commission – **George Solley**
- A historic preservation specialist – **Michael Spencer (UMW)**

Staff recommends that the task force be chartered with the following mission statements:

- Review the public comments that have been submitted to the City with respect to the current mall tree plan presented at the February 1, 2016 public forum.
- Review the concerns that have been raised by the Washington Avenue mall petitioners.
- Coordinate with City staff for any supporting information that may be needed during deliberations.
- In consideration of the public comments, concerns of the petitioners, and other relevant information, develop a recommendation that best respects the interests of the at-large community with respect to the current tree plan.
- Present a draft recommendation to the Recreation Commission and to the Clean and Green Commission for the purpose seeking any additional input and considerations.
- Present a final recommendation to the City Council no later than July 12, 2016.

FISCAL IMPACT

There are no fiscal impacts related directly to the formation of the task force.

Attachment: Resolution



MOTION: DEVINE

SECOND: ELLIS

**March 8, 2016
Regular Meeting
Resolution No. 16-23**

RE: COMMISSIONING OF A TASKFORCE FOR THE PURPOSE OF REVIEWING PUBLIC COMMENTS AND CONCERNS RELATED TO TREE PLANTINGS ON THE WASHINGTON AVENUE MALL AND DEVELOPING A RECOMMENDATION OF CHANGES IN THE INTERESTS OF THE CITY

ACTION: APPROVED: AYES: 7; NAYS: 0

WHEREAS, the City has an urban tree program for the purpose of planting street trees, including various tree plantings on the Washington Avenue mall; and

WHEREAS, the City has developed a plan to plant trees on the Washington Avenue mall and has implemented that plan since 2008; and

WHEREAS, the City has received a petition from a group of citizens concerned about trees being planted on the mall; and

WHEREAS, a public forum was held on February 1, 2016 to present information about the mall tree plan and allowed for a period of public comment; and

WHEREAS, staff has recommend the creation of a 7-member task force for the purpose of reviewing public comments and concerns and developing a recommendation for any changes to the mall tree plan in the best interests of the City;

NOW THEREFORE, BE IT RESOLVED, that a task force is hereby commissioned and will meet as often as necessary to review and consider all public comments and concerns related to trees on the Washington Avenue mall and no later than July 12, 2016 will present a recommendation to City Council that addresses the best interests of the City with regards to any changes to the mall tree plan. The task force membership will be:

- A representative from City staff - **Mr. Dave King**
- A representative from the Planning Commission – **Mr. Roy McAfee**
- A representative from the Washington Avenue Group – **Mr. Steve Gaske**
- A representative from HFFI – **Ms. Emily Taggart**
- A city resident representative – **Ms. Jeanette Cadwallender**
- A representative from the Clean and Green Commission – **Mr. George Solley**
- A historic preservation specialist – **Mr. Michael Spencer (UMW)**

BE IT FURTHER RESOLVED, that the task force is chartered with the following mission statements:

- Review the public comments that have been submitted to the City with respect to the current mall tree plan that was presented at the February 1, 2016 public forum.
- Review the concerns that have been raised by the Washington Avenue mall petitioners.
- Coordinate with City staff for any supporting information that may be needed during deliberations.
- In consideration of the public comments by the community, concerns of the petitioners, and other relevant information, develop a recommendation that best addresses the interests of the community at large with respect to changes to the current tree plan.
- Present the recommendation to the Parks and Recreation Commission and to the Clean and Green Commission for any additional input and considerations.
- Present a final recommendation to the City Council for adoption.

Votes:

Ayes: Greenlaw, Withers, Devine, Duffy, Ellis, Frye, Kelly

Nays: None

Absent from Vote: None

Absent from Meeting: None

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-23 duly adopted at the City Council meeting held March 8, 2016 at which a quorum was present and voted.



Tonya Lucey
Clerk of Council



MEMORANDUM

TO: Timothy Baroody, City Manager
Mark Whitley, Assistant City Manager
Doug Fawcett, Director of Public Works

FROM: Dave King, Assistant Director of Public Works

DATE: July 7, 2016

SUBJECT: Transmittal of Administrative Procedures for Planting of Street Trees and Trees in Parks

ISSUE

Transmittal the of revised administrative procedures for planting street trees and trees in city parks.

RECOMMENDATION

No action is necessary by City Council. These administrative procedures are provided to City Council for transmittal purposes only.

DISCUSSION

Staff transmitted tree planting procedures to City Council at the June 28 meeting. Minor revisions have since been made to the procedures and staff is therefore transmitting the current version for Council's review and information.

The City has recognized the value that its urban forest contributes to the overall quality of life for its citizens and merchants. The City has demonstrated its commitment to tree plantings by way of various policies, goals, initiatives, directives, etc., including (but not limited to):

- 2004 City Council Resolution (04-08) directing the City Manager to plant and maintain trees along public streets other public grounds.
- 2005 Street Tree Inventory and Study
- 2005 Ordinance (No. 05-07) creating the Clean and Green Commission to ensure effective planning and maintenance of landscape elements, including street trees.
- 2011-2013 City Council goal/initiative 4D recommending staff to rebuild the City's urban forest by working with Tree Fredericksburg to plant at least 600 tree per year.
- 2012 City Council Resolution (12-19), increasing the City's tree canopy by five percent over ten years.
- 2013 Unified Development Ordinance (UDO – Ord. No. 13-16) specifying street tree planting requirements within the City.
- 2015 Comprehensive Plan recommending increased street tree plantings and working with local non-profit groups such as Tree Fredericksburg to accomplish tree planting goals.
- 30-year designation as a Tree City USA community (one of the longest in the state of Virginia)

ITEM #11F

At its March 8, 2016 meeting, City Council expressed the need for reviewing and improving administrative procedures for tree plantings, and subsequently publicizing those procedures by various means to promote public awareness.

In response to this, the attached procedures have been prepared by joint efforts of:

- Parks and Recreation Department staff
- Public Works Department staff
- Planning Department staff
- Green Committee
- Clean and Green Commission
- Parks and Recreation Commission
- Tree Fredericksburg

Per City Codes §66-222 and §66-226, the City Manager (and his designated staff) is directed by City Council to plant trees within sightlines of all streets and public parks, and he retains authority over the location and number of trees planted. Per City Code §66-226:

The City Manager shall be responsible for the planting, trimming, removal, and care of all trees, shrubs, plants, and other vegetation on City-owned property. He is hereby authorized to trim, prune, spray, fertilize, water, cultivate, maintain, plant, and remove any trees, shrubs, and other vegetation in accordance with the provisions of this article.

Furthermore, in accordance with City Code §66-226:

When a tree is removed, it shall be the City's policy to plant a replacement tree in the same general area, consistent with specified standards; except when a replacement tree is determined by the City staff to be infeasible or inappropriate.

The attached tree planting procedures will be implemented for the 2017 fiscal year and will be reviewed and updated as necessary by the City Manager to ensure an appropriate level of staff oversight to address citizen concerns for tree plantings. The procedures will be publicized on the City's website and by brochures, to be made available at the Dorothy Hart Community Center, City Hall, and other places as deemed appropriate.

FISCAL IMPACTS

No fiscal impacts are associated with these policies and procedures.



Park Tree Planting Procedures

June 30, 2016

Procedures for planting new trees

1. Staff submits planting needs to the Green Committee, of the Clean & Green Commission
2. Staff and Green Committee meet in the field to review site conditions, as follows:
 - a. Evaluate health of existing trees – to identify any long range issues
 - b. Determine if there is a need for additional shade
 - c. Identify any dangerous trees in need of pruning or removal
 - d. Identify any standing water issues that need to be mitigated
 - e. Identify any areas of declining canopy, to be filled in
 - f. Examine river and stream banks for erosion that needs mitigating
3. Staff and Green Committee lay out a tree plan/map with the following information:
 - a. Species of proposed new trees (can include range of similar species)
 - i. Appropriate for area
 - ii. Adequate diversity to avoid spread of disease.
 - b. Sightlines being maintained for security and safety
 - c. Park operations and activities supported/enhanced
 - d. Available funding
4. Staff and Green Committee provide proposed tree plan/map to Tree Fredericksburg
5. Tree Fredericksburg finalizes tree plan/map and returns to Parks & Rec staff,
6. Parks & Rec staff submits final tree plan/map to Recreation Commission for their review and information
7. Director, or his designee, approves final tree plan.
8. Tree Fredericksburg/staff/volunteers plant trees under direction of city staff.

Tree selection guidelines

- The size of new trees is determined by their location within the park, as follows:
 - a. High use areas – two-inch caliper trees, with roots balled and burlaped
 - b. Medium use areas – 15-gallon trees
 - c. Riparian areas – 3-gallon trees and seedlings

Procedures for replacement trees and small projects (revised heading and text below)

- ~~Any tree removed because of damage or death may be replaced with appropriate tree without further review~~
- Replacement trees will be planted as staff deems reasonable, in accordance with City Code §66-226.D.
- Staff will review tree planting permit applications for small tree projects (e.g. scout tree plantings) on a case by case basis, in accordance with City Code §66-224.



Street Tree Planting Procedures June 30, 2016

Administrative Procedures

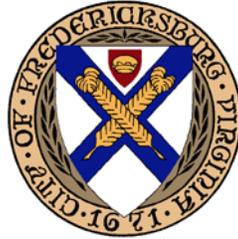
1. Throughout the year, staff and Green Committee identify areas in need of street trees
2. At its February meeting, Green Committee compiles list of areas considered for new trees
3. Staff and Green Committee review proposed planting areas, as follows:
 - a. Determine areas of greatest need
 - b. Review neighborhood requests for trees & trees funded by residents.
 - c. Consider residents participating in the free tree program.
 - d. Identify available funding and any funding restrictions for tree budget
 - e. Identify geographic areas sufficiently contiguous to feasibly use volunteers.
 - f. Ensure areas to be planted by volunteers are safe.
4. At its May meeting, Green Committee ranks all proposals according to above criteria and forwards its list to Public Works/City Arborist.
5. Public Works Staff/City Arborist compiles final list of planting areas and selects trees, as follows:
 - a. Determine availability of tree species for current season.
 - b. Assess size of planting areas and proximity of overhead wires.
 - c. Select tree species conforming to the City of Fredericksburg planting guidelines and street tree list.
 - d. Consult with planning and historic preservation staff in areas of historic significance.
6. Staff submits final list of planting areas to Clean & Green Commission for review

Planting Procedures

1. Staff posts annual tree planting schedule on City website in July or August
 - a. Public comments solicited/questions answered
 - b. Staff considers changes to tree planting plans as necessary
2. 30-60 days prior to planting, Tree Fredericksburg flags proposed planting locations and notification letter are delivered to residents, civic groups, and neighborhood associations in planting areas, allowing them to confer about species and locations.
3. Sites are inspected by City staff and Miss Utility
 - a. Miss Utility marks underground utilities
 - b. Public Works ensures no conflicts between new trees and existing infrastructure
4. Tree Fredericksburg finalizes tree planting sites and requests excavation permit from Public Works.
5. Public Works approves final tree locations and issues permit to Tree Fredericksburg
6. Tree Fredericksburg drills holes
7. Trees planted under Tree Fredericksburg supervision
8. Tree Fredericksburg cares for trees for five years, under City's supervision

Replacement Trees, Citizen Request Trees, Small Projects (revised heading and text below)

- ~~Any tree removed because of damage or death may be replaced without further review.~~
- Replacement trees will be planted as staff deems reasonable, in accordance with City Code §66-226.D. Notice to adjacent resident(s) will be provided before trees are replaced.
- Staff will review citizen tree planting permit applications and small tree projects on a case by case basis, in accordance with City Code §66-224.



MEMORANDUM

TO: Mayor Greenlaw and Members of City Council
FROM: Timothy J. Baroody, City Manager
DATE: July 6, 2016
SUBJECT: City Manager's Update

Highlights of major activities and other notable developments:

Fredericksburg Police “Cram their Cruisers” with Items for Senior Citizens –

On June 18th, the Fredericksburg Police Department participated in a regional effort to collect items for senior citizens in need of assistance. From 8 am to 4 pm, police collected non-perishable items and basic necessities at



the Walmart in Central Park. The community was extremely supportive of the department's efforts and donated enough items to fill two cruisers. Items collected were taken to the Rappahannock Area Agency on Aging, a not-for-profit organization that provides services to support the region's senior citizens.

Police Remind People to Slow Down and Move Over When They See Flashing Lights –

June was Move Over Awareness Month in Virginia. In an effort to support the statewide initiative, the Fredericksburg Police Department released on social media a public service announcement video and photos of employees holding up signs asking people to slow down and move over for their family members.



From left to right: Detective Carlos Reyes, Patrol Officer Chris Reyes, and Sergeant Crystal Hill.

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Recreation Commission – The Recreation Commission held a retreat with the staff of the Parks and Recreation Department on Friday and Saturday, June 24-25 in the new conference/training rooms on the 3rd floor of the Executive Plaza.

This was the first such gathering between staff and the Commission and was well received by both groups. The retreat was facilitated by Judith Talbot from the Institute of Environmental Negotiation out of the University of Virginia. The Commission realized that it had been quite some time since the mission for the Recreation Commission had been written, and it needs to be updated. They are now working on that and creating goals for themselves.

Mary Washington Monument Fence Repainted – In order to remove the rusted and peeling paint, the fence around the Mary Washington Monument was “soda blasted,” the week of June 27 - July 1. Soda blasting is a much more environmentally friendly and a much less aggressive type of cleaning than sand blasting, with the same desired result. The fence will be painted with a rust inhibitor, primed and then painted the week of July 5 - 9.

Photo: Public Facilities Employee Douglas Brooks



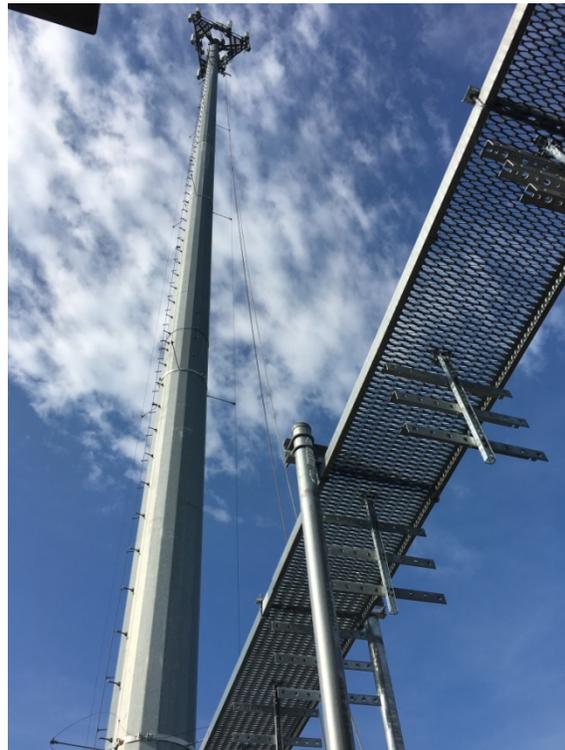
Hazel Hill Gas Service Update – As a result of work on adjoining property, gas service to the Hazel Hill apartments at 100 Princess Anne Street was stopped in March of this year. When gas was turned on after the work on the adjoining property was completed, leaks in the lines serving the Hazel Hill apartments were detected. It was subsequently determined that service to approximately only half the units could be turned back on.

The Hazel Hill complex is managed by the National Housing Trust, a non-profit group based in Washington, DC. In response to this situation, NHT supplied space heaters to the residents of the remaining half of the units, portable shower trailers were brought in, and gas clothes dryers were replaced with electric dryers. Within about 10 days, gas water heaters were converted to propane providing hot water to each unit and the shower trailers removed. NHT also started discussions with Columbia Gas about replacing all the gas lines in the complex, which date from the project’s construction in the 1970s.

The Mayor, Councilor Frye, City staff, and Social Services staff worked closely with Hazel Hill residents, NHT, and Columbia Gas to achieve a resolution to this situation.

Currently, Columbia Gas is in final stages of designing the new service. By undertaking the design, Columbia will also be responsible for the maintenance of the facilities in the future. NHT is expecting a draft agreement from Columbia Gas in the immediate future. That agreement will identify the timeframe for the next steps. Columbia Gas understands the time constraints to get the new gas lines in place before the upcoming winter season.

Public Safety Radio System Update – The Public Safety Radio System upgrade is moving forward at a rapid rate. Our vendors, Motorola Solutions and Communications Specialists, are working diligently to complete the radio installations in all public safety vehicles. This should be completed by the end of the 3rd week of July. Concurrently, vendors are installing the necessary equipment at the tower site for the microwave link between the communications center and the Stafford County radio network. Final programming and testing of the completed system is still on schedule for the first week of August with a plan to go “live” with the new system in the third to fourth week of August.



New Small Area Comprehensive Plans for Area 3 and Area 6 - On Tuesday, July 19 at 7:30 p.m. the first community meeting for Area Plan 6 for the portion of the city north of Rappahannock Canal along north Jefferson Davis Highway, Princess Anne Street, and Fall Hill Avenue will be held at James Monroe High School. Property Owners and residents along these streets and in adjoining residential areas (including Fall Hill, Normandy Village, Riverside, etc.) are encouraged to attend to discuss their concerns and expectations for their communities.

On Wednesday, July 20 at 7:30 p.m. the first community meeting for Area Plan 3 for the portion of the City along Plank Road between I-95 and Westwood Drive will be held at the Idlewild Community Clubhouse at 2280 Idlewild Boulevard. Property Owners and residents along Plank Road and in adjoining residential areas (Great Oaks, Idlewild, Altoona, etc.) are encouraged to attend to discuss their concerns and expectations for their communities.

Safety Office Holds Water Safety Training – On June 22, staff from Motts Reservoir attended 8-hours of Basic Water Rescue and Boat Safety training held at the Fredericksburg Quarry. The City Safety Office coordinated this life safety training with Red Cross Instructor and City

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employee Zach Rainey, as well as Sergeant Wyatt Durrer from the Fredericksburg Fire Department. Employees attended a classroom session as well as hands on water exercises and practical boat applications.





**CITY COUNCIL
MEETINGS & EVENTS CALENDAR**

City Hall Council Chambers, 715 Princess Anne Street, Fredericksburg, VA 22401

7/12/16	5:30 p.m.	Work Session <ul style="list-style-type: none">• Riverfront Park	Suite, Room 218
	7:30 p.m.	Regular Session	Chambers
7/26/16		No meeting – Summer Break	
8/9/16	5:30 p.m.	Work Session	Suite, Room 218
	7:30 p.m.	Regular Session	Chambers
8/23/16	5:30 p.m.	Work Session <ul style="list-style-type: none">• Discussion on UDO Amendments	Suite, Room 218
	7:30 p.m.	Regular Session	Chambers
9/13/16	5:30 p.m.	Work Session	Suite, Room 218
	7:30 p.m.	Regular Session	Chambers
9/27/16	5:30 p.m.	Work Session	Suite, Room 218
	7:30 p.m.	Regular Session	Chambers



**Motion for Closed Meeting Under
The Virginia Freedom Of Information Act**

I move that the City Council convene a closed meeting under the Virginia Freedom of Information Act in order to discuss:

- Personnel** specific City officers, appointees, or employees, for the purpose of considering such person's assignment, appointment, promotion, performance, demotion, salary, disciplining, or resignation, under Virginia Code §2.2-3711(A)(1) to discuss the assignment of the City Manager _____.

- Real Property**
 - Acquisition of real property for a public purpose, _____, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City Council, under Virginia Code §2.2-3711(A)(3)
OR
 - Disposition of publicly held real property for the purpose of discussing _____ where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City Council, under Virginia Code §2.2-3711(A)(3)

- Prospective Business**
 - Prospective business or industry, **OR**
 - Expansion of an existing business or industry for the purpose of discussing _____ where no previous announcement has been made of the business or industry's interest in locating or expanding its facilities in the community, under Virginia Code §2.2-3711(A)(5)

- Legal Matters**
 - Actual litigation specifically to _____, where such consultation or briefing in an open meeting would adversely affect the negotiating or litigating posture of the City Council, **OR**
 - Probable litigation with legal counsel, staff, or consultants, where (1) litigation has been specifically threatened or on which the Council or its counsel has a reasonable basis to believe will be commenced by or against a known party, and (2) such consultation in open session would adversely affect the negotiating or litigating posture of the City Council, **OR**
 - Legal matters, specifically to discuss _____ with counsel where such matters require the provision of legal advice, under Virginia Code §2.2-3711 (A)(7)

Other Closed Session Under Code of VA §2.2-3711(A)(--), _____



**July 12, 2016
Regular Session
Resolution No. 16-__**

MOTION:

SECOND:

RE: CERTIFICATION OF CLOSED MEETING

ACTION: APPROVED: Ayes: 0; Nays: 0

WHEREAS, the City Council of the City of Fredericksburg has this day adjourned into Closed Meeting in accordance with a formal vote of the Council, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Freedom of Information Act requires the Council to reconvene in open session and to certify that such Closed Meeting was conducted in conformity with the law;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fredericksburg does hereby certify that to the best of each member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discuss in the Closed Meeting to which this certification applies, and (ii) only such public business matter as were identified in the Motion by which the said Closed Meeting was convened were heard, discussed or considered by the Council.

-Adjourned into Closed Meeting at _____ p.m.

-Adjourned out from Closed Meeting at _____ p.m.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk’s Certificate

I, Tonya B. Lacey the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-__ duly adopted the City Council meeting held July 12, 2016 at which a quorum was present and voted.

***Tonya B. Lacey, CMC
Clerk of Council***