PLANNING COMMISSION
CITY OF FREDERICKSBURG, VIRGINIA AGENDA
October 12, 2016
7:30 P.M.
COUNCIL CHAMBERS, CITY HALL

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1. Call To Order
2. Pledge Of Allegiance
3. Election Of Officers
4. Adoption Of Minutes

4.I. August 31, 2016 - Regular Meeting

Documents:

AUGUST 31, 2016 - REGULAR MEETING.PDF

4.II. September 14, 2016 - Regular Meeting

Documents:

SEPTEMBER 14, 2016 - REGULAR MEETING.PDF

5. Public Hearing Items

5.I. SUP2016-07 - Blanton And Betty Massey - Bed And Breakfast Request At 1517 Caroline Street

Documents:

SUP2016-07 BLANTON AND BETTY MASSEY - REQUEST FOR A BED AND BREAKFAST AT 1517 CAROLINE STREET.PDF

5.II. Comprehensive Plan And Unified Development Ordinance Amendments - New Legislation From The Virginia General Assembly Related To Conditional Rezoning Proffers

Documents:

COMPREHENSIVE PLAN AND UNIFIED DEVELOPMENT ORDINANCE AMENDMENTS -ADDRESSING NEW PROFFER LEGISLATION.PDF

5.III. Unified Development Ordinance Amendments - Changing Fence Regulations

Documents:

UDO AMENDMENTS - CHANGING FENCE REGULATIONS.PDF

6. General Public Comment Period

7. Other Business

7.I. Planning Commissioner Comment

7.II. Planning Director Comment

7.II.i. Budget Task Schedule

Documents:

TASK SCHEDULE 2016-2017.PDF

8. Adjournment

PLANNING COMMISSION
MINUTES

August 31, 2016
7:15 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	**CITY STAFF**
Roy McAfee – Chair	Chuck Johnston, Director
Richard Dynes, Vice-Chair	Erik Nelson, Deputy Director
Jim Pates, Secretary	Mike Craig, Zoning Administrator
Jim Beavers	Kathleen Dooley, City Attorney
Roy Gratz	
Tom O'Toole	
Kenneth Gantt	

1. INTRODUCTION - CITY MANAGER, TIM BAROODY

Mr. Tim Baroody, City Manager arrived at 7:15 p.m. and introduced himself to the Planning Commission members.

2. CALL TO ORDER

The August 31, 2016, Planning Commission regular meeting was called to order by Chairman McAfee at 7:30 p.m. Mr. McAfee explained the standard meeting procedures.

3. PLEDGE of ALLEGIANCE

4. ADOPTION OF MINUTES

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

PUBLIC HEARINGS

5. **SUP2016-03 - HealthSouth Rehabilitation Hospital of Fredericksburg (lessee),** requests an amended special use permit to expand its existing 52-bed rehabilitation hospital to include six additional beds (58 total beds) at 300 Park Hill Drive (GPIN 7779-38-5555) in the Commercial / Transitional Office zoning

district (CT). The proposed expansion will bring the on-site Floor Area Ratio to 0.20. The CT zoning district permits a 0.5 Floor Area Ratio. The Comprehensive Plan designates the area for Commercial-Transitional / Office, which has no specific recommended commercial density.

Mr. Craig presented the staff report on the application.

Commissioners did not have any questions for staff.

Mr. John Hash, Engineer, Timmons Group, Ft. Defiance, VA 24437, applicant's representative. He said he had nothing to add to Mr. Craig's presentation but would be happy to answer questions of the Commission.

Mr. Pates said the owner of the property is listed as R. I. McLaughlin MC, LLC, and asked the names of the principals of the LLC.

Mr. Hash said he was representing the applicant and that although he could not recall the names off the top of his head at this time, the information Mr. Pates is seeking had been listed in the application material.

Mr. Pates said he understands Mr. Hash works for with the Timmons Group that was hired by the applicant and it would be nice to hear from the actual owners of the property.

Mr. Hash said HealthSouth is the actual user and that representatives are present this evening to answer specific questions regarding the project.

Mr. Dynes asked staff how far this [addition] encroaches on the 100-foot setback.

Mr. Craig said there is an existing encroachment up to 65 feet and that they are planning on continuing that line so there is no further encroachment into the setback, essentially maintaining the original encroachment. He also noted that this hospital facility was built prior to the use standards being adopted.

Mr. McAfee opened the floor for public comment.

There was no public comment

Mr. McAfee closed the public comment period on this application.

Mr. Gantt made a motion to recommend approval of SUP2016-03 (HealthSouth Rehabilitation Hospital of Fredericksburg) to include the conditions outlined by City staff.

Mr. Dynes seconded the motion.

Motion carried by a unanimous vote of 7 – 0.

6. **RZ2016-03 - Hamptons at Family, L.P. (contract purchaser),** requests a zoning map amendment to change the R2, Residential designation on a portion of GPIN 7769-87-3295 (44 Briscoe Lane) and GPIN 7769-77-8378 (30 Briscoe Lane) totaling 20.84 acres, to Commercial Highway (CH) (Conditional) and R12,

Residential (Conditional) to permit the development of commercial highway uses, 78 townhomes, and 120 multi-family dwelling units. The rezoning includes proffered conditions with land-use controls, transportation improvements, architectural features, cash proffers to offset public facilities impacts, and site amenities. The CH portion of the site is proposed to be 4.31 acres, which would permit a maximum Floor Area Ratio of 0.70. The R12 portion of the site is proposed to be 16.53 acres and will consist of a total 198 dwelling units at 11.98 units per acre. The R12 zoning district permits residential density at 12 units per acre. The Comprehensive Plan designates the area for Planned Development-Commercial, which has no specific recommended residential or commercial density.

Mr. Craig presented the staff report on the application.

Mr. McAfee asked Mr. Craig to touch on two additional proffers that were in the staff report but not mentioned during the discussion, relating to schools and fire services; and, he asked Mr. Nelson to expand on the cash contribution for wayside panels, which the applicant also voluntarily proffered.

Mr. Craig said the applicant has voluntarily proffered $99,990 to offset the project's impacts on fire and rescue services and over $900,000 to go toward schools; amounting to almost one million dollars in cash proffers.

Mr. Nelson explained that the subject area was a Civil War battleground in May of 1863, during the Chancellorsville Campaign, and that the City has a panel/wayside exhibit program specifically in the Smith Run/Cowan Boulevard area, which could logically extend into this area. During discussions early on in the application process for this project, staff suggested that perhaps funds for interpretative panels could be proffered, which the applicants readily offered.

Mr. Beavers said that most models are not accurate and noted that the proposed project is projecting approximately 62 school-aged children. He asked if anyone has ever gone back to review how accurate those models are.

Mr. Craig said the school data comes from the School Administration and that he is confident that the data reflects reality.

Mr. McAfee noted that the Planning Commission had previously asked the School Board this question, with respect to The Haven's project, and they said at that time the figures were adequate, or very close to those projected.

Mr. Dynes said he would like to see the property to the south integrated into this project as retail use, so people would have the convenience of walkability.

Mr. Dynes asked the City Attorney her opinion with respect to the Proffer Statement.

Ms. Dooley said she and Mr. Craig have reviewed the Proffer Statement and, by and large, the Proffer Statement is clear with regard to who is going to do what, when, where and how, and the applicants have made some adjustments to the Proffer Statement in response to questions posed by City staff.

Dr. Gratz noted that on both the Generalized Development Plan (GDP) and page two of the Proffer Statement, the word "proposed" was used with respect to the car dealership. He suggested that this be modified and that "proposed" be stricken from the Proffer Statement and the GDP.

Mr. Craig said he and Ms. Dooley had already talked with the applicants and that they have agreed to strike the word "proposed" from their Proffer Statement.

Mr. O'Toole referenced a memo Mr. Craig had written for a previously-held Technical Review Committee (TRC) meeting on this application. One issue was with respect to the Chesapeake Bay Overlay District. Specifically, he said the TRC wanted the 100-year floodway addressed now; he had also noticed on the plans that the applicant intends to address it at a later date, which is in conflict to what was requested.

Mr. Craig said there is an existing stormwater pond that has an emergency spillway for a 100-year storm, and the City's Senior Environmental Planner had some concern on where this 100-year storm level of water was going to go, and he posed that question to the applicant, to which he responded that this was really a Site Plan engineering requirement detail, which would come later in the process.

Mr. O'Toole said it appeared to him that the staff asked for it for a specific reason and the applicant's just not doing it.

Mr. Craig said the applicant will be required to meet any state and local regulations in terms of stormwater management. He also noted that the applicants have an arrow depicted on the submitted plans (GDP), indicating that they do intend to deal with this issue. This was sufficient for the Senior Environmental Planner.

Mr. Johnston said a GDP is supposed to be "general" and not a detailed Site Plan. After the rezoning is approved, this would be a Site Plan requirement, which must be in substantial conformance with the GDP.

Mr. O'Toole asked how much the new fire station is going to cost, relative to how much the applicant has proffered.

Mr. Johnston said he believes there is a "ballpark estimate" of about $10-12 million, but it has not yet been designed.

Mr. Pates referred to the Proffer Statement, page 2, under "Generalized Development Plan." He said it states that "[t]he Property shall be developed in general conformance with the GDP,...." He asked how this relates to the City's general requirement that any material change [in a GDP] has to come back and go through the planning process.

Mr. Craig said any changes in use, density, etc., are major changes, which would obviously have to go back through the process. Even with the overall road network of this project, or the fronting of the houses, if they wanted to change these things it would be considered a material change. But exploring Mr. O'Toole's concern regarding the storm pond, if it were to have to change a little bit from the blob that is indicated on the GDP, that is the kind of leeway that the statement is intended to give, and that is how staff interprets it.

Mr. Pates suggested that perhaps this paragraph might be amended to include an explicit statement that says that any material changes would require a proffer amendment. He moved on to page 2 of the Proffer Statement, "2. TRANSPORTATION." He said one of the things that he has always been interested in with conditional rezonings is what is really a proffer, and what is not. For example, he asked, with respect to the Briscoe Lane Improvements; what portion of those would be a requirement for any applicant and what portion is actually a proffer? He said a lot of times an applicant will say "we will improve the intersection," when in reality they are required to improve the intersection as part of the site plan requirements.

Mr. Craig said that is a situation where Public Works has a lot of discretion, and they are always in the mode to make things work on a site. He said he does not know the answer to Mr. Pates' question but believes that this adds a level of certainty to the standard that the City expects.

Mr. Johnston said there is obviously a bit of grey area and the Ordinances do talk about sidewalks, per se, but by proffering that there is a sidewalk network as shown on the GDP, this makes it more specific and the purpose of the proffer is to tie it to the property.

Mr. Pates asked staff to talk more about "Exhibit B – Materials."

Mr. Craig said the applicants have provided in Exhibit B some general elevations of the apartment buildings, general layout and type of construction and they have noted materials to be used, such as asphalt shingles, PVC trim, vinyl, shake and lap siding, and brick. Townhomes will be no less than 18 feet in width, and the general features for the commercial project shall be generally similar to the adjoining Mercedes and Volvo Car Dealerships.

Mr. Pates asked if they have set any minimum percentages [for use of specific materials].

Mr. Craig said they have not.

Mr. Pates said it appears to him that the elevations roughly show about 20% brick and he thinks they should be able to calculate that number. He said what has been submitted looks very similar to what is going up out there now.

Mr. Craig responded, yes sir.

Mr. O'Toole referenced page 95 within the application material. Specifically, page 95 of the Fredericksburg, Virginia Unified Development Procedures Manual: *"h. A statement certifying the use and development of the property, and all improvements thereon, are subject to the final General Development Plan as well as to the generally applicable regulations set forth in UDO Section 72-33."* He asked if this addresses what Mr. Pates was asking and should it replace the previous language, because it has to be somewhere in the GDP, according to the application requirements.

Mr. Craig said he thinks the question regarding Briscoe Lane by Mr. Pates was an interesting one. He said the UDO sets a certain level of standard, but there is also a lot of administrative leeway in developing these projects. He said what Mr. O'Toole just read is a required statement in the application to ensure that if someone puts something

on their GDP that is not in accordance with the general regulations and gets missed then there is no recourse of saying "Ahh, gotcha." Instead, we can say, we missed this and to bring it into conformance.

Mr. O'Toole said this references a Final General Development Plan. He said what the Commission has before them is a General Development Plan but the documents call for a "Final General Development Plan."

Mr. Craig asked Mr. O'Toole if he was reading from the narrative of the application.

Mr. O'Toole said it is in the zoning map amendment application.

Mr. Craig said there are certain statements that they are required to make, and that sounds like one of them. He said if it is in the narrative, it is information the City requires.

Mr. O'Toole said he did not see the statement on the Plans and that it is supposed to be on there.

Mr. Craig asked Mr. O'Toole if he was suggesting that it be on the GDP.

Mr. O'Toole said it says it has to be somewhere, so he would assume that is where it should be, which would clarify a lot of GDP concerns.

Mr. McAfee asked that, for clarification purposes, if there is something that is supposed to be indicated on the GDP and it is not, staff will ensure that all requirements are met prior to the application moving forward.

Mr. Craig said, absolutely.

Mr. Charlie Payne, Hirschler Fleisher, representing the applicant. He thanked staff for providing such a detailed presentation. He reiterated details of the proposed project. He also noted that the proffers offered by the applicant fall under the old proffer regulations. He restated the proffers and noted that the applicant had indeed agreed to strike the word "proposed" for the Car Dealership use. He noted that the Future Land Use Plan calls for this area to be PDC but that this parcel of land cannot meet the zoning requirements of that zoning district as it stands today. PDC projects encourage a minimum of 150 acres for development and a location that can handle over 500,000 square feet of commercial use. He said that cannot work for this site, which is roughly 20 acres. He said, in looking at the development pattern, that the highest and best use for this area appears to be what is being proposed today – Commercial Highway and Multifamily residential. He said in regard to the proffers, he cannot recall anyone offering a cash proffer of one million dollars to the City. He noted that this breaks down to $4,545.50 per unit.

In answer to a question raised by Mr. Pates regarding material changes, he said he agrees with staff that it is important, given the requirements of the City in the GDP, that they proffer the [GDP], which is required under the City's application process, and clearly explain exactly what they are going to do.

With respect to the question by Mr. O'Toole regarding the Chesapeake Bay Overlay District, Bill Pyle, Bowman Consulting (representative for the applicant), said he had e-mail and phone discussions with the Senior Environmental Planner about the 100-year floodway. He said the terminology "floodway" was not what the Environmental Planner had meant. What he meant was the 100-year outfall from the existing stormwater management pond located on the Noble site. Through discussions, it was determined that it was too early to really go through a detailed design at this point, so he and the Environmental Planner came up with the note that is currently on the GDP. Therefore, staff comments have been satisfied.

Mr. McAfee asked, with respect to the final site plan, he asked if it is the intent of the applicant to have the front of the buildings front the road on which they are located.

Mr. Pyle said the intended orientation is as indicated on the GDP. The townhouses are rear load so the fronts will face the roads and the rear will be the garages. The front doors on the multi-family units will be as shown on the GDP.

Mr. Craig said the GDP has arrows that indicate the front of the units will front on the roadways.

Mr. Pates asked if the applicants would be willing to amend the Proffer Statement under 1B by adding a statement that *any material changes would require returning for a proffer amendment* (just to be clear).

Mr. Johnston asked Mr. Pates if that would be somewhat inconsistent with his previous observation that the UDO already requires it.

Mr. Pates said, no. He said there are all these exceptions, which he is concerned about – all the exceptions regarding general conformance with the GDP. He said he wanted to circle back and clarify that any material change to the GDP would require a proffer amendment, which is what the law is, but he would like to see it added to the proffers.

Mr. Payne said even if they were to make a minor change it would have to be approved by the Zoning Administrator, so the bar is already high to make any adjustments. He said he would look it over, but he said he did not believe there would be an issue with adding the language.

Regarding the cash proffers, Mr. Pates asked how they arrived at those numbers.

Mr. Payne said it comes to what they believe the impact will be. If you are generating 62 children out of the whole development, the capital impact of that is fairly minimal. He said it's capital facilities and not operating costs. The taxes generated from the site help contribute towards the operating costs. The other factor is economic feasibility – what the project is going to cost and what the applicant can afford to provide. He said he believes the proffer numbers are pretty high for purposes of those impacts.

Mr. Pates asked regardless of whether the amount is $3,000 or $30,000 per unit, isn't it supposed to bear some relation to what the actual costs will be? He said he is interested to know how it was computed or if the numbers were simply pulled out of the air.

Mr. Payne said what they do is look at other projects and what they have consistently proffered, and this is on the high end of that.

Mr. Pates asked the City Attorney if, under the new [proffer legislation], she believes these proffers are ones that the City would be able to accept.

Ms. Dooley said she would like to hold that discussion until we get to the overall presentation.

Mr. Payne said this application falls under the "old" proffer law, which allows for more flexibility between the jurisdiction and the developer.

Mr. O'Toole asked, in general, what the rental rates would be for the multi-family units.

Mr. Payne said for multi-family, he believes a one-bedroom will go for $1,100 a month and a three-bedroom will run about $1,500 a month.

Mr. O'Toole asked if this includes all utilities.

Mr. Payne responded, no, only water and sewer.

Mr. O'Toole said he had read in the provided documents that the applicant expects that the people renting these units would be in the $35,000-$75,000 [income] range and that there was going to be approximately 20% federal subsidy involved.

Mr. Payne said he believes those figures were $47,000-$78,000. He said because of where this project is located (in the Washington Metropolitan Area), they are able to take advantage of the Income Tax Credit Program, which basically gives you the ability to borrow cheaper money but still be able to develop a quality project and attract the median incomes that are in that jurisdiction.

Mr. O'Toole said he was curious of how the 20% subsidy will work.

Mr. Payne said it is not a subsidy. It is a 20% less rent than what the market rate would generate, so you are borrowing money cheaper.

Mr. Beavers asked if there is insurance behind the program.

Mr. Payne said yes, it is a HUD program.

Mr. O'Toole asked if the applicant had done any studies to project how much money the project will provide to the City.

Mr. Payne said they have not conducted such an analysis.

Mr. O'Toole asked if the townhouse units would also be rentals.

Mr. Payne said they would be marketed to be owner-occupied.

Dr. Gratz asked if there has been a traffic study conducted.

Mr. Payne responded, yes.

Mr. Pyle said Public Works asked them to conduct a traffic-impact analysis on queuing and stacking along Fall Hill Avenue into the site.

Dr. Gratz asked if people want to [drive] west, toward I-95, how they would be able to exit the project?

Mr. Payne said that as many may recall, the Noble Way and Fall Hill Avenue intersection is going to be a full-light intersection.

Dr. Gratz said then that there will only be one way in and out of the project.

Mr. Payne said, yes, and you cannot turn left on Briscoe out, but the intersection will allow folks to go left.

Mr. Craig said one of the areas that Public Works was concerned about was the stacking at the future stop light and staff had the applicant study it, assuming that all traffic would always go to that light from the proposed development and the development next to it. As a result, sufficient stacking was found at Fall Hill Avenue and Noble Way to make that movement.

Dr. Gratz said that in reference to the amount of school-age children that would be generated from this development, out of 198 units, 108 of them are three-bedroom units. He said one might expect that if someone has a three-bedroom unit, they will have a minimum of one child in the unit as well, which would put the amount of potential students past 100, not 62 as the application indicates. He said he thinks the projection of school-aged children is low.

Mr. Payne said all they can do is go to the people who do the analysis and go with that figure. Although he believes that Dr. Gratz has made a good point, one needs to remember that first-time homeowners, etc., use extra bedrooms as offices, etc.

Dr. Gratz asked what the price ranges would be for the townhomes and asked if there had been a market study done to determine that all these units would not end up as rental units.

Mr. Payne said he believes the days of someone coming in and buying up a bunch of townhouses to turn them into rentals are pretty much gone because it is much more difficult to obtain financing than it used to be. He said one of the goals of the City is to have different housing options and the applicant sees this project as a very good mix to meet that goal. He said they have not done any market studies but they are going to partner with a builder in regard to developing these townhouses and, based on where this project is located, being close to shopping, downtown and I-95, he believes the prices will begin in the $300,000's.

Dr. Gratz said this project does not really appear to be a "mixed-use" project as mentioned several places in the documents. He said it has one commercial use mixed in with 198 residential units so, in his opinion, it is not actually "mixed-use".

Mr. Payne said he respectfully disagrees because they will be providing a potentially high-end luxury market and the units are planned within over 3 million square feet of commercial space that currently exists [at Central Park].

Mr. McAfee opened the floor for public comment.

PUBLIC COMMENT

Ron Fraser (owner, 8 Briscoe Lane) said he has enjoyed being able to rent his home out for the past 9-10 years and is concerned as to whether or not any thought has gone into ensuring that they maintain the privacy of their property. He said he is concerned about the noise and traffic that will be generated from the proposed project. He said he would make an appointment with Planning staff to discuss his concerns in more detail.

Mr. Craig said a 25-foot landscaped buffer is required, which should provide some privacy between Mr. Fraser's property and the vehicle sales establishment.

Mr. Rupert Farley – 1305 Caroline Street - He said that although he was not in attendance this evening to object to the project, he wanted to let the City know how disappointed he is in allowing this type of development in the proposed area of the City. He said years ago he had served on a committee to keep this area of the City green and have less intensive uses.

There were no additional public comments.

Mr. McAfee closed the public comment period for this application.

Mr. Dynes made a motion to recommend approval of the rezoning request (RZ2016-03 Hamptons at Family, L.P), with the conditions outlined by City Staff, but with one modification to Page Two on the Voluntary Proffer Statement. Specifically, Proffer 1. **LAND USE** A. (i). The word "proposed" is to be stricken from the language on the Voluntary Proffer Statement, and stricken from the GDP as well.

Mr. Beavers seconded the motion.

Mr. Dynes said he appreciates that the proposal includes sidewalks and encourages pedestrian friendly access, etc., and he considers this proposal the same or better than the previous development in this area, which the City Council approved recently. He said he is concerned that the City does not have the tools in assessing whether the proffers are appropriate. He said this has been an ongoing thing and now the General Assembly has gotten into it by rewriting the proffer rules. He said until our staff is able to provide the tools with which to access these things, it continues to be difficult to hold a developer to account on proffers when no proffer policy exists.

Mr. Gantt said in going along with the comment made by Mr. Dynes, he is concerned when we talk about the proffers at this point. He asked what type of tools do exist, because it appears to him that the City staff liked the comfort of the flexibility. The question becomes: Is it that what the City staff and the City Attorney are presenting we are not comfortable with? If so, then perhaps we need to figure out a way to resolve that, or is there some other way? With the recent action of the General Assembly, it may hamper us being able to talk about it regardless.

Mr. Dynes said that neighboring jurisdictions get, on occasion, three to four times the amount than what we are getting in this particular case. But the amount being offered by this applicant happens to be more than the City gets on average.

Mr. McAfee reminded Commissioners that there would be a presentation and discussion regarding the changes made to proffer policies by the Virginia General Assembly.

Mr. Pates said the Commission is now faced with the second phase of this project and he is not any more ready to support it than he was for the first phase. He said there continue to be a number of concerns with the project, which is contrary to the Comprehensive Plan, which calls for commercial uses in this area and not 198 residential units. He said the applicant is able to construct 42 single-family dwellings as a by-right use. The City needs to look at the larger picture. He said that although he agrees that an additional car dealership is a good idea for this area, he continues to have problems with the residential use that is currently proposed. He said he does not believe multi-family units and a townhouse development surrounded by commercial uses is a good idea and he will not support the motion.

Mr. Gantt said the Planning Commission seems to continue to go round and round regarding what sort of progress and advancement it wants to see. He said this type of development creates pocket areas that many people enjoy. He said he has spoken to several people that say they do enjoy being able to walk to commercial facilities/areas that meet their needs. He said he is not sure why the City continues to stutter opportunity/growth.

There were no additional comments.

Mr. McAfee called for the vote.

Motion to recommend approval carried by a vote of 4 – 3 with Commissioner's Pates, Gratz and O'Toole voting no.

Mr. McAfee moved on to the General Public Comment Period.

GENERAL PUBLIC COMMENT

7. *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, and moved on to New Business.

NEW BUSINESS

8. **Code of Virginia, Section 15.2-2303.4**. "Provisions applicable to certain conditional rezoning proffers." – Kathleen Dooley, City Attorney.

Ms. Dooley explained in detail the new proffer reform legislation.

Mr. Pates asked how this new legislation impacts the City developing a Proffer Policy.

Ms. Dooley said that, as the Planning Commission is aware, the City had previously hired a consultant to help develop a Proffer Policy for the City but that process was interrupted by this new legislation. She said the City has had to back off of its original track with developing a policy and will now need to rethink and rework the policy while taking the new legislation into consideration.

Mr. Pates said that he saw no reason why the City shouldn't still move forward with the development of a policy that takes the new legislation into account.

OTHER BUSINESS

9. Mr. Erik Nelson, Deputy Director of Community Planning & Building provided an update on the Small Area Comprehensive Plan process. He said staff will continue to provide the Planning Commission with updates as the process moves forward.

   Mr. Nelson reminded Commissioners of upcoming Neighborhood meetings at the following locations, starting at 7:30 p.m.:

   September 19, at James Monroe High School (2300 Washington Avenue) to discuss Planning Area 6

   September 20, at the Village of Idlewild Clubhouse (2280 Idlewild Boulevard) to discuss Planning Area 3

Another set of neighborhood meetings will occur in the same locations on November 15 and 16. These later meetings will summarize the completed research, including information from these citizen discussions, and present draft plans for these areas of the City.

10. **Planning Commissioner Comment - None**

11. **Planning Director Comment**

Mr. Johnston updated the Commission on recent City Council actions. He also informed Commissioners of potential projects/applications that may be coming forward in the near future.

ADJOURNMENT

Meeting adjourned.

Roy McAfee, Chair

PLANNING COMMISSION
MINUTES

September 14, 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	**CITY STAFF**
Roy McAfee – Chair	Chuck Johnston, Director
Richard Dynes, Vice-Chair	Kathleen Dooley, City Attorney
Jim Pates, Secretary, Absent	
Jim Beavers	
Roy Gratz	
Tom O'Toole	
Kenneth Gantt	

1. CALL TO ORDER

The September 14, 2016, Planning Commission regular meeting was called to order by Chairman McAfee at 7:30 p.m. Mr. McAfee explained the standard meeting procedures. He also informed Commissioners and the audience that Mr. Braun had called the Planning office late in the afternoon and requested his application be postponed until a later date to allow him to submit a revised application. Mr. McAfee noted that there were a few people in the audience who had taken the time to attend the meeting to speak specifically to the Braun application and that he would allow those people to make comments, although it would not be an official public hearing on that item.

2. PLEDGE of ALLEGIANCE

PUBLIC HEARINGS

3 **SUP2016-02 - Denise Antil (owner),** requests a special use permit for a bed and breakfast at 1619 Sunken Road (GPIN 7779-66-9610) in the R-4 Residential (R4) Zoning District. The Comprehensive Plan designates the area where the subject properties are located as 'Medium Density

Residential,' which recommends residential development at eight units per acre.

Mr. Johnston presented the application.

Mr. McAfee noted that the staff report indicates that this B&B has already been in operation for four (4) years with no history of complaints and said he would like to Condition #5 removed for any approval of this application, which states: "*This special use permit shall expire three years after the date of adoption.*"

Mr. Dynes asked why condition #5 had been included in the staff recommendation.

Mr. Johnston said the City Council had placed a similar condition on the recently approved special use permit for a B&B in the Braehead neighborhood, and staff added the same condition on this request believing that is what the Council desires. He added that there has been lengthy discussions regarding the latest Air B&B phenomenon and that the General Assembly may change the rules of B&B's as a whole. He said that these sort of time deadlines are put into play when it is a new use, which was the case with the previous application in the Braehead neighborhood.

Ms. Antil, 1619 Sunken Road (applicant) said Mr. Johnston covered all aspects of her application. She reiterated that she has a proven track record for over 4 years with this B&B operation and had only recently discovered that her B&B requires a special use permit after receiving a letter from staff.

Mr. Dynes asked if the requirement of notifying adjoining/abutting property owners had been met, and that they are aware of the application.

Mr. Johnston responded, yes property owners had been notified, a sign had been displayed on the site and a public notice appeared in the newspaper.

Mr. McAfee opened the floor for public comment.

There was no public comment.

Mr. McAfee closed the comment period on this item.

Mr. Beavers said that the City has an application before it now, and that he does not care at this point what the General Assembly "may" do, but instead, the city needs to do what it needs to do based on current regulations. He made a motion to recommend approval of the B&B special use permit request for 1619 Sunken Road, to include conditions 1 – 4 on the staff report and removing condition #5.

Dr. Gratz seconded the motion.

Mr. Dynes said he likes the instinct of being able to reign in uses that get out of hand but that the City has much more intense commercial uses to which it does not apply such a strict condition. He said to include condition #5 would discourage the owner from taking a long term point of view in terms of developing/maintaining the property for this use, because they would not know what they would be facing in three years. He said this is a difficult position to put such a business owner in and he would be voting for the motion with the removal of condition #5.

Motion carried by a unanimous vote of 6 – 0.

4 **PA2016-01 - Carl Braun DBA Highlander Companies (contract purchaser),** requests a proffer amendment from Commercial Downtown with proffered conditions to Commercial Downtown with different proffered conditions on two parcels totaling 12.2 acres at 115 Young Street (GPIN 7779-90-4958 and 7779-90-4614). The proposed zoning would repeal the existing proffers which require development of a 77,500 square foot fitness center with associated outdoor spaces and a 24,000 square foot office building. Under new proffers, the site would be developed as 110 townhomes. The revised proffers also include the realignment of the City's Virginia Central Railroad Trail, architectural standards, and the revision of the 100 year floodplain on the site. The proposed density is 9.0 townhomes per acre. The Commercial Downtown zoning district permits 12 units per acre for townhome development; however, maximum density is reduced by half within the Flood Hazard Overlay District, which currently comprises 7 acres of the site. The applicant proposes to raise 2.5 acres out of the floodplain through grading, resulting in a permitted density of 9.65 units per acre. The Comprehensive Plan designates the area for Commercial Downtown, which has no specific recommended residential or commercial density.

POSTPONED BY THE APPLICANT

Mr. McAfee reiterated that the above mentioned application has been postponed by the applicant but that those who had taken the time to come to the meeting to speak may do so now. A few citizens had submitted written comments prior to the applicant asking for postponement. Those comments are attached as **ATTACHMENT A**, to these Minutes. The letter from Mr. Braun asking for postponement is also attached (**ATTACHMENT B**).

Mr. Braun (applicant) was present. He chose not to speak.

Mr. Philip D. Leonard, Deacon Road, Stafford, VA. He said he moved here 42 years ago. He said he had previously lived in the subject area at 514, 515 and 513 Willis Street. And, he had worked at Keene Building Components located off of Young Street. He said the traffic patterns on Lafayette Boulevard cannot

handle such a project. He said it is a terrible idea for this area and that too many homes are proposed which would adversely impact the area. The rush hour is already a living hell for anyone who has to travel Lafayette Boulevard. He asked that the City deny this project.

Melissa Colombo, 418 Bunker Hill Street, said this project creates sprawl. She said this will be detrimental to the historic resources in the area, including the VCR Heritage Trail, National Cemetery, Hazel Run, Rappahannock Watershed, which is already in really bad shape and the Chesapeake Bay Resource Management Area and encroaches on a Resource Protection Area. She said the traffic patterns on Lafayette Boulevard are already to dangerous levels and this would only impact further. She said there are no recreational areas being offered for the residents and there is a lack of proffers for city services. She said the density is too high for this area and this project should not be considered. She offered that the City should acquire the property and turn it into a recreational area for citizens to enjoy.

Brooke Farquar – 214 William Street said he is extremely concerned with the traffic impacts this project would have on the surrounding properties and Lafayette Boulevard. He said it is a very bad idea and he agrees with the previous comments made. He said he would address the Commission again once the project comes back for public hearing.

There were no additional comments.

Mr. McAfee closed this portion of the meeting.

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, and moved on to New Business.

OTHER BUSINESS

6 Planning Commissioner Comment - None

7 Planning Director Comment

Mr. Johnston updated the Commission on recent City Council actions. He also informed Commissioners of potential projects/applications that may be coming forward in the near future.

Mr. Johnston informed commissioners of an upcoming work session regarding the Small Area Comprehensive Plans with City Council on Tuesday, September 20th at 5:30 p.m. and advised that Commissioners are welcome to attend the work session as well.

Mr. McAfee reminded Commissioners that they will be required to have their Election of Officers at the first meeting in October.

ADJOURNMENT

Meeting adjourned

_____

Roy McAfee, Chair

Attachment A

To: Marne Sherman, Development Administrator

P. O. Box 7447

Fredericksburg, VA 22404

E-mail: mesherman@fredericksburgva.gov

Re: Highlander @ Hazel Run-115 Young St., Fredericksburg, VA GPIN# 7779-90-4614, 7779-90-4958

As an adjacent property owner, I would like to voice my concerns regarding the above mentioned project with its proposed proffered conditional amendment. Our property is an industrial complex, currently constituting a recycling/MRF/Transfer station as well as an Asphalt Plant. By the very nature of these operations, start time is usually very early in the morning. Having that density of town homes adjoining the facility is just asking for problems. The backup alarms, diesel engine noise, loading of trucks, will be amplified due to the difference in elevation between the two parcels, with ours being substantially higher. Also we have lost the use of almost half our property due to floodplain constraints. From personal experience I have seen that area flood and raising 2.5 acres above the floodplain level would force more damaging water over on us, potentially eroding the steep slopes up to our facilities.

Putting high end, high density residential beside heavy use industrial is not a good idea, as well as the potential problems created when the floodplain footprint is changed.

Sincerely,

W C Spratt

W. C. Spratt

President

W. C. Spratt Recycling Inc.

Jacki King

815 Cobblestone Blvd. Apartment 409

Fredericksburg, VA 22401

City of Fredericksburg
Department of Community Planning and Building
715 Princess Anne Street
P.O. Box 7447
Fredericksburg, VA 22401

Re: Public Comments for PA2016-01 - Carl Braun DBA Highlander Companies

To Whom It Concerns:

This letter is to present my comments and concerns associated with the above reference rezoning:

1. **VCR trail impacts**: The proposed development would impact the recently constructed VCR trail. This is a wonderful recreational trail that the City spent a great deal of resources to construct. It is a joy to use. The realignment of this trail will not only take away from the experience of following the historic Virginia Central Railroad alignment, but also greatly impact the peaceful aesthetics the trail design currently offers users.

2. **Impacts on public streets:** While I understand that the proposed rezoning does not significantly alter the traffic impacts that are associated with the current zoning, I am concerned that the lack of adequate parking within the development will cause an impact on existing Willis and Young Streets with regards to parking. Most residential garages become storage facilities so it is unrealistic to believe that the townhome garages will be sufficient in addressing the parking needs of the community. I believe the current plan needs further redesign to ensure that each lot is capable of parking a minimum of 2 cars within its borders (excluding garages) and that a 3rd space is made available within a series of common parking lots inside the community. The goal is to ensure that there is adequate parking for at least 3 cars per unit within the community without having to use Willis or Young streets. Adequate parking will hopefully avoid unhappiness among residents who will live in the community. The proposed design is similar to an existing City street, Hotchkiss Place, which has plagued the City's police, fire and public works departments with citizen complaints about inadequate parking and associated residential disputes.

3. **Impacts on the Fredericksburg National Park**: I'm concerned about the various impacts the new development could have upon the nearby Fredericksburg Battlefield Park and National Cemetery. While I understand that this land will ultimately be developed at some point, are 110 townhomes really the best compliment to the National Park experience? Is a cluster of

townhomes the view we wish our visitors to have when they reach the top of the National Cemetery and look out over Lafayette Boulevard?

4. **Why townhomes?** According to the public notice, the current proffers call for a fitness center and office complex. While I understand economics may have changed since the original proffers were made, why does the City need to repeal the proffers to allow townhomes, which will only add to the City's burden on public services. If the proffers are to be changed, why not change them to allow some type of open space area, or at least significantly reduce the unit density to accommodate a more attractive development that will compliment this area of the City, adjacent to the battlefield park.

Thank you for the opportunity to offer my comments and concerns on the proposed rezoning of the above referenced property. I trust the Planning Commission will consider denying the proposed rezoning until a better development plan can be achieved for the property.

Sincerely,

Jacki King

Jacki King

Robin Martin

From: Marne E. Sherman
Sent: Wednesday, September 14, 2016 10:31 AM
To: Joan McLaughlin; Roarke Anderson
Cc: Dana Herlong; Michael J. Craig; Charles R. Johnston; Robin Martin
Subject: RE: Employment Resources Inc

Dear Ms. McLaughlin,

By this email, I am forwarding your message to Michael Craig, who is out of the office this week but handling the proffer amendment case. I am also forwarding it to Chuck Johnston, who will be handling the presentation tonight. In case there is any confusion, the preliminary plat is not being reviewed by the Planning Commission at this time. The item before them is strictly regarding the proffer amendment.

I will also ask Robin Martin to provide your comments to the Planning Commission but encourage you to attend tonight's meeting (7:30 pm in Council Chambers) to provide input during the public hearing. There will be a future opportunity for public input at the City Council meeting, which you will receive notice for once scheduled and following action by the PC.

Please let me know if you have any questions.

Marne

From: Joan McLaughlin [mailto:jmclaughlin48@eri-va.com]
Sent: Wednesday, September 14, 2016 9:57 AM
To: Roarke Anderson; Marne E. Sherman
Cc: Dana Herlong
Subject: FW: Employment Resources Inc

I reviewed the new proposal for the Highlander Project that will be presented to the Planning Commission this evening. I did not see any reference to my input from February.

Please advise.

Joan P McLaughlin

From: Joan McLaughlin
Sent: Tuesday, February 23, 2016 3:40 PM
To: 'Marne E. Sherman' <msherman@fredericksburgva.gov>
Subject: Employment Resources Inc

Hi Marne,
Thank you for all the help you have given ERI over the past few years. I have some thoughts to share related to the proposed Highlander project and wanted to submit them since the project has been presented unsuccessfully for the second time. Please see my notes below. I have been working with Dana Herlong, so most of the technical comments were as a result of my conversation with Dana.

Highlander Park Review Comments
Preliminary Subdivision Plat

Employment Resources Inc. briefly reviewed the application documents dated 02/13/2015. We state our concern that the proposed project will certainly impact our secured campus vision, imposing unanticipated security criteria and requiring

modifications to the ERI campus master planning efforts. We share several comments and concerns with the proposed plan:

1. **Campus security and individual safety of this special needs school are paramount for staff, students and all users.**
2. High residential density adjacent to a special needs school introduces many concerns.
3. The planned residential development encroaches along the Campus southern common boundary line, without any setbacks, buffers, fencing, or privacy measures.
4. Relocation of the established VCR Trail to within a one foot setback of the ERI property line, invites the public to access and to recreate within a twelve foot clear distance between residential building structures and the school campus. Trail Detail is not consistent with the plan.
5. Proposed changes to the existing topographies and effects on neighboring properties are not undefined. Slope conditions depicted as greater than 25% are concerns.
6. Transportation and circulation issues warrant comments.
7. Vehicle traffic for residents alone are predicting 224 parking spaces. Traffic studies should result in much higher use and issues.
8. The site plan proposes all vehicular traffic ingress and egress from Lafayette Boulevard via the existing Young Street and Willis Street. No roadway improvements are noted.
9. The undefined off-site westerly extension of Willis Street to Lafayette presents concerns.
10. Pedestrian circulation, sidewalks and lighting are potential issues.
11. Descriptions of the residential units are not defined, ie: structures, finish grades, number of floors, notation of 50' max height, etc.
12. Quality of the housing development is not defined.
13. "A deviation has been requested for Section 72-41.1 to reduce the 15 foot separation from single family attached buildings to driveways, parking areas, and or walkways."
14. Current Zoning: "C-D Zoning, with Proffers." Unknown proffers may be a concern.
15. "Site Specific Note 7. The 100-Year Floodplain does encroach on this property, and the site is in the Flood Zone."
16. "Site Note 9. The critical Resource Protection Area (CRPA) does encroach onto this site."
17. Survey, Sheet 7 of 7, incorrectly identifies the ERI property with previous owner's info.

This shared list is general in content, and not intended to be complete.

While I realize this development is projected to be resubmitted, I wanted to contact you with my thoughts.

Sincerely,

Joan

Joan P. McLaughlin
President
Employment Resources Incorporated
P.O. Box 801
404 Willis Street
Fredericksburg, Virginia 22401
540-372-6710 x115.

Please visit our website at www.eri-va.com

Attachment B

Highland Companies

September 14, 2016

Mr. Chuck Johnson
Director of Planning
City of Fredericksburg
715 Princess Anne St
Fredericksburg, VA 22401

Dear Mr. Johnson,

Per our earlier conversation regarding the public hearing tonight at the Planning Commission, I request that Planning Commission postpone the public hearing until the next public hearing in October, approximately 30 days from now. This postponement will allow us time to finalize a site plan revision that addresses nearly all if not all of the staff's comments on the current site plan proposal. The revision will minimize the relocation of the trail and more importantly achieves the rear entry garage units and more of a grid pattern design that staff has requested over the course of the project review.

Having said this, I want again to reiterate the strong points of our project which include reducing traffic by over 75%, creating a catalyst for continued redevelopment on Lafayette Blvd, and a better viewshed for the National Park than the veiwshed of the currently approved plan.

Thank you for accommodating our request and I look forward to presenting you the plan on Monday.

Best Regards,

Carl Braun

1208 Century Oak Dr., Fredericksburg, VA 22401

MEMORANDUM

TO: Chairman Roy E. McAfee and Planning Commission Members
FROM: Mike Craig, Zoning Administrator
DATE: October 5, 2016 for the October 12 meeting
RE: SUP-2016-07, Blanton Massey (homeowner) requests a Special Use Permit for a Bed and Breakfast at 1517 Caroline Street (GPIN 7789-07-6402), in the R2 Residential Zoning District.

ISSUE

Should the Planning Commission recommend approval of a Special Use Permit for a Bed and Breakfast at 1517 Caroline Street?

RECOMMENDATION

Motion to recommend to the City Council approval of the Special Use Permit, subject to following conditions:

1. The Bed and Breakfast inn shall be operated in substantial conformance with the special use permit application, and with City Code §72-41.3(F).
2. A maximum of two bedrooms and four guests are permitted to be used at any one time.
3. The proposed use shall commence within 24 months of the date of this resolution.
4. The proposed use may continue so long as it is not discontinued for more than two years.

BACKGROUND

1517 Caroline Street is a single family home in the Rising Sun Tavern Neighborhood. The property is zoned R2 Residential. The parcel is bordered by single family homes to the west and south. To the north is a City owned right-of-way that would be the extension of Canal Street but is currently vacant. To the east is the Rappahannock River.

The house at 1517 Caroline Street dates to 1840. The house is a total of 3,267 square feet, has four bedrooms, two full bathrooms, and one half bath.

The property is 25,311 square feet and fronts on Caroline Street. The property contains a pool in the backyard, a patio, and a garden. There are two on-street parking spaces adjacent to the property and two parking spaces available in a driveway adjacent to the house.

Blanton and Betty Massey own 1517 Caroline Street. They propose to operate a two bedroom Bed and Breakfast for up to four guests at a time. Check-in time is proposed to be after 3 pm and check-out time is proposed to be 11 am. Quiet hours are proposed between 10 pm and 7 am.

SPECIAL USE PERMIT ANALYSIS

Special use permits are evaluated according to the criteria contained in the UDO, Section 72-22.6, as follows:

(1) The proposed special use at a specified location shall be:

(a) In harmony with the adopted Comprehensive Plan;

The future land use map calls for this area to be low density residential. The property is within Land Use Planning Area 7. The one relevant opportunity listed on page 172 of the Comprehensive Plan is to "protect existing residential neighborhoods from existing and proposed commercial development, through transitional uses and design standards to minimize adverse impacts."

(b) In harmony with the purpose and intent of the zoning district regulations;

The purpose of the R2 zoning district is "*to provide for single-family detached dwellings in suburban-style subdivisions at a density not to exceed two dwelling units per acre. The district also allows selected uses which are compatible with the low-density residential character of the district and to implement the stated purposes and intent of the Comprehensive Plan...*" A Bed and Breakfast is a use permitted by special use permit in the R2 zoning district.

§ 72-41.3F contains principal use standards for the operation of a Bed and Breakfast:

(1) Operated in a principal building and not in any accessory building or structure.
The use will be within the existing house.

(2) The front yard of an inn shall not be used for parking. If parking cannot be provided on the site, it must be provided within 500 feet of the site.
The site has an existing driveway that can accommodate two cars and adjacent on-street parking that can accommodate two cars.

(3) A maximum of five guest rooms shall be allowed, with not more than 10 occupants.
The facility is proposed to contain a maximum two bedrooms and four occupants.

(4) The facility shall be managed by an individual who resides on the premises.
The owners propose to live on-site and operate the Bed and Breakfast.

(5) For identification of the bed-and-breakfast inn, one wall sign of four square feet is permitted. Such sign shall not be directly illuminated, nor shall it contain the word "hotel" or "motel." Such sign shall meet all zoning requirements.
No signs are proposed.

(6) There shall be no more than one kitchen.
There is only one kitchen in the house and no interior renovations are proposed.

(7) Receptions and other such functions, for compensation, shall require approval of a special use permit.
No receptions or other functions are planned at this point.

(c) In harmony with the existing uses or planned uses of neighboring properties.

1517 Caroline Street is within the historic Rising Sun Neighborhood. The house is adjacent to the Rappahannock River. The Ryan House Bed and Breakfast is two doors down.

In considering an application for a Special Use Permit, the Planning Commission and City Council shall consider potential adverse impacts including:

1. **Traffic or parking congestion;**
   The Rising Sun Neighborhood is a residential area of the City between the Mill District Area and the Downtown. In the 1500 block, Caroline Street is a one way two lanes street. Adding a Bed and Breakfast will marginally increase traffic on Caroline Street when the Bed and Breakfast has guests, however, the use is proposed to be limited to two bedrooms which would generate minimal additional trips.

   There is an existing driveway on-site at 1517 Caroline Street capable of accommodating two cars and there are two on-street parking spaces adjacent to the parcel. The Applicant has proposed limiting the use to two bedrooms. Per § 72-53.1C(2), a two bedroom Bed and Breakfast requires 4 parking spaces (two for the house use and one each per bedroom proposed).

2. **Noise, lights, dust, odor, fumes, vibration, and other factors which adversely affect the natural environment;**
   The Bed and Breakfast use, by adding more people on-site, would create additional light and noise then a single family use. The proposed bed and breakfast is on a comparably large lot for the City of Fredericksburg. The closest house to the proposed Bed and Breakfast is 20 feet to the south, 100 feet to the north, and 80 feet across the street.

3. **Discouragement of economic development activities that may provide desirable employment or enlarge the tax base;**
   The use constitutes economic development.

4. **Undue density of population or intensity of use in relation to the community facilities existing or available;**
   There are sufficient public utilities to serve the site.

5. **Reduction in the availability of affordable housing in the neighborhood;**
   Not applicable, this Special Use application is for a use in an existing building.

6. **Impact on school population and facilities;**
   Not applicable, this Special Use application is commercial in nature.

7. **Destruction of or encroachment upon conservation or historic districts;**
   The use is proposed within a historic building in the City's Old and Historic Fredericksburg Overlay Zoning District. No exterior changes are proposed to the building.

8. **Conformity with federal, state and local laws, as demonstrated and certified by the applicant; and**
   The applicant has, to our knowledge, conformed to all federal, state, and local laws.

9. **Massing and scale of the project.**
   There are no exterior alterations proposed with this project.

<u>CONCLUSION:</u>

The proposed Bed and Breakfast is within a historical residential area of the City situated between the Mill District and the Downtown. The Bed and Breakfast use will generate some additional traffic and parking demand in the neighborhood. Also, adding people into the home would cause light and noise.

The recommended conditions will offset these impacts by limiting the Bed and Breakfast to no more than two bedrooms and four occupants, and requiring the Bed and Breakfast to operate under the use standards as currently written. With these conditions, the application meets the criteria noted above.

ATTACHMENTS:

1. § 72-41.3F
2. Application and Supporting Materials
3. GIS Map

Legend

- City Boundary
- WVS_Centerlines Back (12,000)
  - Interstate
  - US Highway
  - VA Primary
  - Others
- WVS_Centerlines Back (12,000)
  - Interstate
  - US Highway
  - VA Primary
  - Others
- Parcels
- R2 - RESIDENTIAL
- R4 - RESIDENTIAL
- CT - COMMERCIAL / TRANSITIONAL OFFICE

Feet

0 50 100 150 200

1:1,200 / 1"=100 Feet

Title:

Date: 10/5/2016

DISCLAIMER:All information depicted on this map shall be treated as confidential information and shall only be used for the sole purpose for which it was provided. Anyother use of this map, or the information included thereon, is strictly prohibited. The data shown on this map is for information purposes only and shall not be relied upon for the specific location of map features. The City of Fredericksburg makes no representation or warranty as to the accuracy of the map, or the information shown thereon This map may not be copied or otherwise made available to any other party in paper or electronic format without written consentfrom the City of Fredericksburg

Unified Development Ordinance § 72-43.1(F)

F. Bed-and-breakfast inn. Bed-and-breakfast inns shall comply with the following standards:

(1) Operated in a principal building and not in any accessory building or structure.

(2) The front yard of an inn shall not be used for parking. If parking cannot be provided on the site, it must be provided within 500 feet of the site.

(3) A maximum of five guest rooms shall be allowed, with not more than 10 occupants.

(4) The facility shall be managed by an individual who resides on the premises.

(5) For identification of the bed-and-breakfast inn, one wall sign of four square feet is permitted. Such sign shall not be directly illuminated, nor shall it contain the word "hotel" or "motel." Such sign shall meet all zoning requirements.

(6) There shall be no more than one kitchen.

(7) Receptions and other such functions, for compensation, shall require approval of a special use permit.

TO: Planning Commission
FROM: Charles Johnston, Director, Community Planning & Building Department
Erik F. Nelson, Senior Planner/Deputy Director, CPBD
DATE: October 5, 2016 (for October 12 meeting)
RE: Comprehensive Plan and Unified Development Ordinance Amendments

ISSUE

The City of Fredericksburg seeks to amend its Comprehensive Plan and Unified Development Ordinance to address new legislation from the Virginia General Assembly related to conditional rezoning proffers. The City Council initiated this process on July 12, 2016, through Resolution 16-65, and voted to forward this matter to the Planning Commission at its meeting on September 13. The necessary amendments have been advertised for consideration by the Planning Commission.

RECOMMENDATION

Motion to recommend to the City Council approval of amendments to:

a. the 2015 Comprehensive Plan:
   1. to establish Land Use Areas 1 through 8 and 10 as Small Area Comprehensive Plans that are designated for revitalization, are served by mass transit, include mixed use development, and permit a density of 3.0 floor area ratio in a portion thereof,
   2. to establish policies requiring adequate public facilities and services; and
b. the Unified Development Ordinance of the City Code to permit nonresidential development with a 3.0 Floor Area Ratio as a Special Use in the Commercial-Shopping Center, Commercial Highway, Planned Development-Commercial, and Planned Development-Medical Center Zoning Districts.

BACKGROUND

1. Comprehensive Plan Amendment re: Small Area Comprehensive Plans

During its 2016 session, the General Assembly passed a bill (SB 549) that created a new Virginia Code Section:15.2-2303.4. This new section addresses proffers associated with conditional residential zoning applications. This proffer reform legislation restricts local authority with respect to proffers or proffer amendments for a new residential development or a new residential use. The effect of the proposed amendments will be to exempt land within the designated Land Use Areas from this proffer reform legislation. The new legislation did <u>not</u> change the rules related to commercial rezonings, or for special use permits, special exceptions, or variances.

For residential development or residential uses proposed under the new law, proffers must address an impact specifically attributable to the proposed development/use. The identified impacts can be within the boundaries of a property as well as outside those boundaries if they affect specific facilities. An applicant for a residential development/

use, for instance, can offer proffers for facilities outside the property boundaries only if the development will specifically impact public transportation facilities, public safety facilities, public school facilities, or public parks and only when capacity for these facilities have already been exceeded.

However, the new law does not apply to land encompassed by an approved "small area comprehensive plan". A small area comprehensive planning area, however, must be designated a revitalization area, encompass mass transit, include mixed use development, and allow a commercial density of at least 3.0 Floor Area Ratio in identified areas. The phrase "small area comprehensive plan" was created in the new law and does not occur in Code of Virginia Section 15.2-2223, which is the enabling legislation for comprehensive plans. As a consequence, such designations were not part of the City's recently adopted comprehensive plan.

To address the new legislation, the City Council proposes to amend the overall comprehensive plan to identify several small area comprehensive plans. To this end, the ten planning areas identified in the current comprehensive plan have been evaluated and all, except Area 9, Braehead/National Park, have been determined as meeting the criteria stated in Section 15.2-2303.4.E and appropriate for designation as small area comprehensive plans.

Revitalization

The new Virginia Code section 15.2-2303.4.E says it "shall not apply to residential development ... [in] ... an approved small area comprehensive plan in which the delineated area is designated as a revitalization area." The revitalization designation is to occur in the process of preparing small area comprehensive plans; the criteria to evaluate a revitalization designation would include land area devoted to surface parking and the age of structures.

Areas with substantial portions of commercial areas are devoted surface parking have revitalization opportunities that would evolve the suburban pattern of development into a more urban, mixed-use pattern. Age of structures indicates that revitalization is necessary with structural improvement or replacement.

	Planning Areas	Commercial Land Area in Surface Parking	Structure Age (pre-1980)	
			Res.	Com.
1	Celebrate Va / Central Park	81%		
2	Fall Hill		81%	
3	Plank / Rt 3	80%	10% (concentrated)	
4	Hospital/Cowan	47%		
5	University / Rt 1	65%	86%	
6	Princess Anne / Rt 1	43%	90%	75%
7	Downtown		89%	85%
8	Dixon / Mayfield		81%	
9	Braehead / National Park			
10	Lafayette / Rt 1	75%	66%	

An analysis of these statistics is included in the Land Use Potential section for each planning area, as appropriate.

In addition, a study titled the *Market Analysis for the City of Fredericksburg* (October 2016) has been prepared in conjunction with more detailed planning for Areas 3 and 6. It states that the office, hotel, and retail markets for the City are generally overbuilt, except for specialized uses. It states that lower quality offerings in each of these use categories are appropriate for revitalization, either with upgraded more competitive uses of the same type or converted to different uses, such as residential.

Mass Transit

The new code section says the small area comprehensive plans are to encompass mass transit, with a specific reference to the definition in Virginia Code Section 33.2-100:

" 'Public transportation' or 'mass transit' means passenger transportation by rubber-tired, rail, or other surface conveyance that provides shared ride services open to the general public on a regular and continuing basis. 'Public transportation' or 'mass transit' does not include school buses, charter or sight-seeing services, vehicular ferry service that serves as a link in the highway network, or human service agency or other client-restricted transportation." Fred Transit meets this definition. The attached map of Fred routes in the city in relation to the current Land Use Planning Areas shows all planning areas being served.

Mixed Use Development

The third criterion in the new code section is that the delineated area of each small area comprehensive plan "includes mixed use development". The text of the 2015 Comprehensive Plan for all of the 10 planning areas shows these areas as appropriate for mixed use either by current zoning which allows mixed use or by future land use policies that provide for mixed use.

3.0 Floor Area Ratio for Commercial Development

The final criterion in the new code section is that the small area comprehensive plans "allow a density of at least 3.0 floor area ration in a portion thereof;". The current and proposed density for commercial development is shown below:

Current Commercial Density Limits expressed as a Floor Area Ratio		Mixed Use	Only Commercial Use	Allowed as SU	***Proposed as SU***
Commercial/Office-Transition	CT	0.7	0.5		
Commercial-Downtown	CD	3.0	2.5		
Commercial-Shopping Center	C-SC		0.5		***3.0***
Commercial-Highway	C-H		0.7		***3.0***
Planned Development-Commercial	PD-C		1.0		***3.0***
Planned Development-Mixed Use	PD-MU		2.0	3.0	
Planned Development-Medical Center	PD-MC		1.5		***3.0***

The proposed amendments to the Unified Development Ordinance would allow a 3.0 Floor Area Ratio as a Special Use in the Commercial Shopping Center, Highway Commercial, PD-Commercial, and PD-Medical Center zoning districts.

All the Planning Areas are recommended for but Planning Area 9 are proposed for Small Area Comprehensive Plan status. Area 9 was not included because it is primarily planned and used for industrial purposes, not residential purposes. Only residential rezonings are the focus of the new code section.

2. Comprehensive Plan amendments to ensure Adequate Public Facilities.
The second area of comprehensive plan amendment addresses how certain public services are defined in the plan and clarifies their levels of service. This step will help to ensure that the City's public facilities and services are adequately maintained when new development occurs.

The amendments focus on the insertion of the phrases 'Adequate Public Facilities' and 'Levels of Service'. Adequate Public Facilities is a goal first formally enunciated in the late 1960s in communities experiencing rapid growth that believed they had insufficient public facilities and services for new residents. Levels of Service are a quantitative means to measure Adequate Public Facilities. This concept has long been used in evaluating transportation facilities by applying grades 'A' through 'F' to intersection capacity and efficiency. The term is also used to describe appropriate levels of school service in several documents by the Virginia Department of Education and in the Virginia Outdoors Plan for public recreation services. It can be used to evaluate public safety services by either state or federal agencies or by independent rating entities. These sources have been referenced in the amendments.

By explicitly establishing in its Comprehensive Plan the goal of adequate public facilities measured by appropriate levels of service, the City makes clear that the health, welfare, and safety of current and future residents and visitors is paramount.

3. UDO amendments: Allow a 3.0 Floor Area Ratio Density for Commercial Uses as a Special Use.
As shown above, amendments to four commercial zoning districts are proposed so as to allow a 3.0 floor area ratio for commercial activities as a special use. Provision for such density is one of the requirements so that areas of the City are exempt from the new proffer law. This will allow the City to be able to accept a full range of proffers for residential development.

In addition, the Virginia Code (15.2-2283.vii), states one of the purposes of zoning ordinances is: "to encourage economic development activities that provide desirable employment and enlarge the tax base;". This provision would allow the potential for more intense commercial development, thereby expanding the City's tax base. It would also allow more intensive use of the primary medical care facility in the City, allowing for expansion of heath care services.

The additional density would be allowed after the issuance of a special use permit. The UDO provides nine minimum criteria for Council to use when evaluating Special Use requests:

(a) Traffic or parking congestion;
(b) Noise, lights, dust, odor, fumes, vibration, and other factors which adversely affect the natural environment;
(c) Discouragement of economic development activities that may provide desirable employment or enlarge the tax base;
(d) Undue density of population or intensity of use in relation to the community facilities existing or available;
(e) Reduction in the availability of affordable housing in the neighborhood;
(f) Impact on school population and facilities;
(g) Destruction of or encroachment upon conservation or historic districts;
(h) Conformity with federal, state and local laws, as demonstrated and certified by the applicant; and
(i) Massing and scale of the project.

In addition, the UDO states six minimum conditions that may be imposed:
(a) Appropriate screening, buffer planting and landscaping.
(b) Enhanced utility, drainage, parking, sidewalk, loading and other onsite facility design requirements.
(c) Sign standards of a stricter nature than those which apply to the district in which the proposed use is located.
(d) Open space requirements of a stricter nature than those which apply to the district in which the proposed use is located.
(e) Participation in off-site pro rata improvements for reasonable and necessary sewerage and drainage facilities as provided for in this section.
(f) Other reasonable standards and criteria, as deemed necessary in the public interest to secure compliance with this chapter and the Comprehensive Plan by the City Council.

These criteria and conditions should be sufficient to ensure any development proposing a floor area ratio of up 3.0 will not unduly impact adjoining properties or public facilities.

Conclusion

The Virginia Code amendments creating 15.2-2303.4, that restrict local authority with respect to proffers or proffer amendments for residential rezoning applications, provide for an exemption from these restrictions in areas that meet specific criteria. With the proposed Comprehensive Plan amendments (coupled with the UDO amendments to the C-SC, C-H, PD-C, and PD-MC districts allowing commercial activities with a 3.0 Floor Area Ratio as a Special Use), the 10 Land Use Planning Areas in the 2015 Comprehensive Plan will meet these specific criteria. They will serve as "approved small area comprehensive plan[s] 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 ratio in a portion thereof." The effect of all the proposed amendments will be to exempt land within the designated Land Use Areas from this proffer reform legislation. The proposed amendments do not include Land Use Area 9, which is primarily comprised of land shown for industrial uses on the Future Land Use Map. Residential rezonings are not be anticipated in this areas.

The new Virginia Code section limits the discussion and acceptance of proffers to a narrow range of issues. By obtaining this exemption, the City and applicants can develop creative solutions to the potential impacts of the development of a property. It allows the City to create and protect public service capacity for vested unbuilt development, without it being absorbed by new rezoning applications. Finally, it allows for the acceptance of facilities beyond what is necessary to meet minimum standards.

Virginia Code (15.2-2200) states the intents in having land use regulations. The final item is: "that the growth of the community be consonant with the efficient and economical use of public funds." Adoption of these amendments will allow the City to ensure the growth will occur in a manner consistent the efficient and economic use of public funds and facilities.

Attachments:
Master list of proposed amendments
Map of FRED transit routes and planning areas
Unified Development Ordinance Text Amendments

COMPREHENSIVE PLAN AMENDMENTS

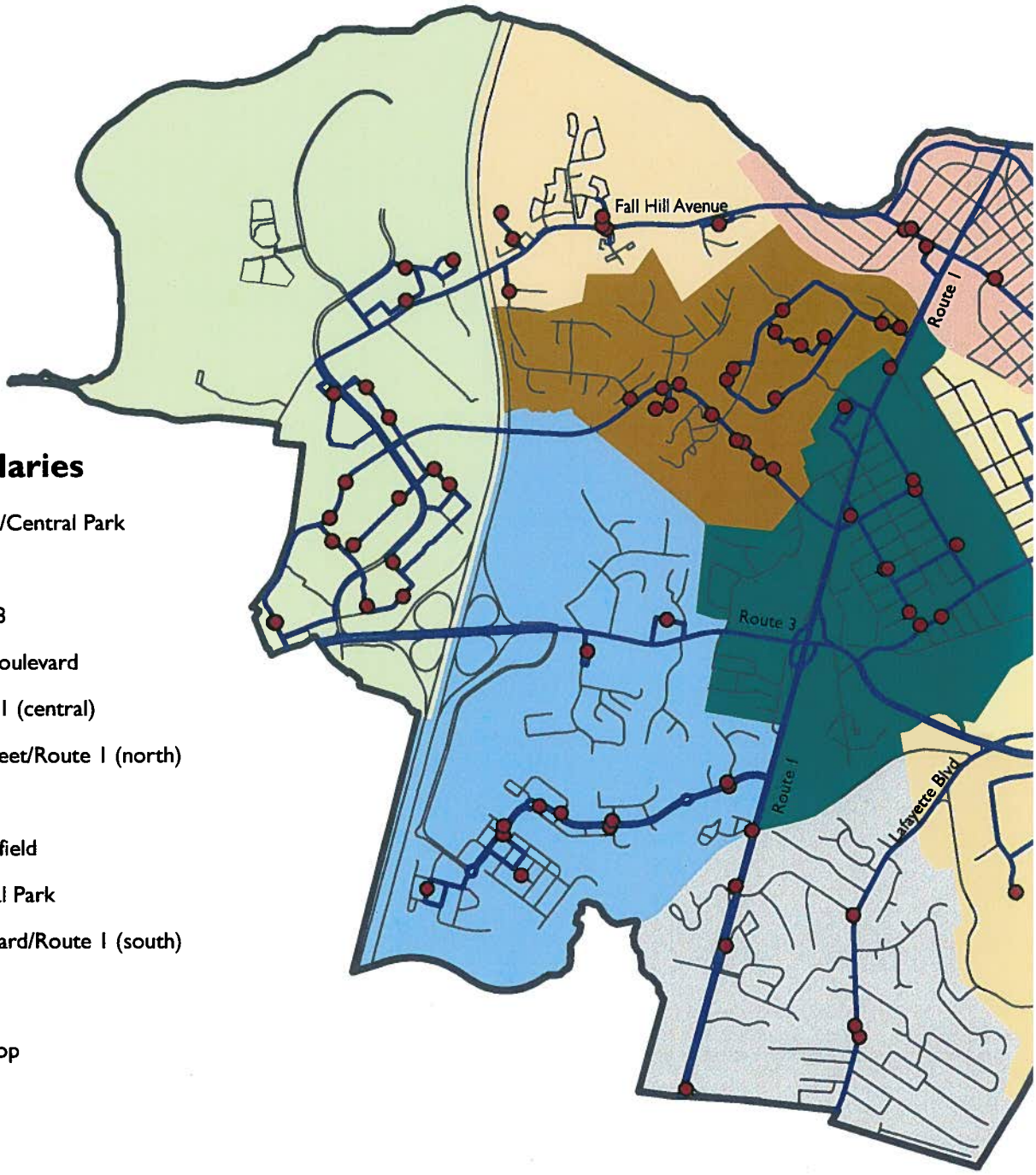
October 6, 2016

Page 4, Plan Implementation	Insert following last paragraph: The built environment in an established and growing community experiences an ongoing process of development and redevelopment, which is commonly understood as revitalization. These terms are interchangeable within this Comprehensive Plan, to describe efforts to improve an area, to make it better, and to pursue an evolving density of uses that occurs in a growing community like Fredericksburg.
Page 8, Goal 1	Provide adequate public facilities and services, in an efficient and effective manner, to all City residents.
Page 27, Background	Amend the second to last sentence as follows: The overall transportation system includes a coordinated hierarchy of interstate highways, regional arterial roads, local collector roads, and neighborhood streets, but the City seeks to ensure the community is accessible to all persons, by emphasizing pedestrian sidewalks and trails, bicycle facilities, and fully accessible transit, all provided at safe levels of service.
Page 36, Transit	Amend the first sentence as follows: The City of Fredericksburg operates the FREDericksburg Regional Transit (FRED), a local bus system that meets the State definition of mass transit and serves the greater Fredericksburg area.
Page 50, Fire and Rescue	Insert the following last paragraph: The Insurance Services Office (ISO) is an independent company that analyzes data about communities nationwide and assigns a Public Protection Classification (PPC) number related to risk. Class 1 represents an exemplary fire suppression program while Class 10 indicates an area does not meet even minimal standards. The City's PPC rating is Class 3, which indicates the City Fire Department meets high standards in communications, department function, available water supply, and risk reduction efforts as defined through prevention, education, and investigation.
Page 57, Goal 1	Provide adequate public facilities and services, in an efficient and effective manner, to all City residents.
Page 58, Policy 5	Remove existing Policy #5 and replace with the following: Work with private developers, as appropriate, to ensure that the levels of service provided by the following public facilities are maintained in accordance with standards established by the Commonwealth and the City, when new development occurs: a) Transportation: As noted in Chapter 3. b) Public safety: Maintain ISO rating of 3 Citywide c) Schools: As specified in criteria developed by the Fredericksburg School Board and the Virginia Department of Education. d) Parks: As noted in Chapter 4, page 58.

Page 115, first column	Remove heading: The Land Use Plan. Insert heading from top of second column, as follows: Land Use Categories and Classifications.
Page 115, Commercial-General, brought forward to bottom of second column	Add the following to last sentence of paragraph: which will include a 3.0 Floor Area Ratio.
Page 116, Commercial-Downtown	Insert the following sentence at end of paragraph: A 3.0 Floor Area Ratio is allowed in this category.
Page 116, Planned Development-Commercial	Insert the following sentence at end of paragraph: A 3.0 Floor Area Ratio should be allowed in this category.
Page 116, Planned Development – Mixed Use	Insert the following sentence at end of paragraph: A 3.0 Floor Area Ratio should be allowed in this category.
Page 116, Institutional	Insert the following sentence at end of paragraph: This category should allow a 3.0 Floor Area Ratio for these uses.
Page 116, Planned Development – Medical Center	Insert the following sentence at end of paragraph: This category should allow a 3.0 Floor Area Ratio for these uses.
Page 116, Land Use Planning Areas	Amend paragraph as follows: This Comprehensive Plan designates 10 Small Area Comprehensive Planning Areas, to more effectively evaluate specific conditions and to make clear recommendations for land use within the City of Fredericksburg. In this manner, the general land use principles described in this Plan can be translated into clear policies. These areas are designated as revitalization areas that encompass mass transit, include mixed use development as an allowed land use, and are planned to allow for a commercial density of at least 3.0 Floor Area Ratio.
Page 121, Land Use Potential	Insert the following sentences to the end of the paragraph: This section of the City is designated as a revitalization area that encompasses mass transit, includes and provides for mixed use development, and allows for a density of at least 3.0 Floor Area Ratio in certain areas. Central Park constitutes the majority of the developed commercial area in Area 1. Central Park has 81% of its area devoted surface parking. This percentage indicates a low intensity suburban land use pattern with a ready potential for redevelopment and revitalization with infill development into a more intense urban pattern.
Page 129, Land Use Potential	Insert the following sentences to the end of the paragraph: This section of the City is designated as a revitalization area that encompasses mass transit, includes and provides for mixed use development, and allows for a density of at least 3.0 Floor Area Ratio in certain areas. 81% of the Area 2's residential structures were built before 1980. This includes apartment buildings with multiple dwelling units. Once structures reach an age of 30 to 40 years, their mechanical systems, roofing systems, and other structural elements are need of updating or replacement, an indicator of the need for revitalization.
Page 135, Land Use Potential	Insert the following sentences to the end of the paragraph: This section of the City is designated as a revitalization area that

	encompasses mass transit, includes and provides for mixed use development, and allows for a density of at least 3.0 Floor Area Ratio in certain areas. Area 3 has 80% of its commercial area devoted surface parking. This percentage indicates a low intensity suburban land use pattern with a ready potential for redevelopment and revitalization with infill development into a more intense urban pattern. Only 10% of the Area 3's residential structures were built before 1980, however, these older dwellings are concentrated in two single family and one apartment neighborhood. Once structures reach an age of 30 to 40 years, their mechanical systems, roofing systems, and other structural elements are need of updating or replacement, an indicator of the need for revitalization.
Page 141, Land Use Potential	Insert the following sentences to the end of the paragraph: This section of the City is designated as a revitalization area that encompasses mass transit, includes and provides for mixed use development, and allows for a density of at least 3.0 Floor Area Ratio in certain areas. Area 4 has 47% of its commercial area devoted surface parking. This percentage indicates a low intensity suburban land use pattern with a ready potential for redevelopment and revitalization with infill development into a more intense urban pattern.
Page 147, Land Use Potential	Insert the following sentences to the end of the paragraph: This section of the City is designated as a revitalization area that encompasses mass transit, includes and provides for mixed use development, and allows for a density of at least 3.0 Floor Area Ratio in certain areas. Area 5 has 65% of its commercial area devoted surface parking. This percentage indicates a low intensity suburban land use pattern with a ready potential for redevelopment and revitalization with infill development into a more intense urban pattern. 86% of the Area 5's residential structures were built before 1980. Once structures reach an age of 30 to 40 years, their mechanical systems, roofing systems, and other structural elements are need of updating or replacement, an indicator of the need for revitalization.
Page 153, Land Use Potential	Insert the following sentences to the end of the paragraph: This section of the City is designated as a revitalization area that encompasses mass transit, includes and provides for mixed use development, and allows for a density of at least 3.0 Floor Area Ratio in certain areas. Area 6 has 43% of its commercial area devoted surface parking. This percentage indicates a low intensity suburban land use pattern with a ready potential for redevelopment and revitalization with infill development into a more intense urban pattern. 90% of the area's residential structures and 75% of its commercial structures were built before 1980. Once structures reach an age of 30 to 40 years, their mechanical systems, roofing systems, and other structural elements are need of updating or replacement, an indicator of the need for revitalization.
Page 162, Land Use Potential	Insert the following sentences to the end of the paragraph: This section of the City is designated as a revitalization area that encompasses mass transit, includes and provides for mixed use

	development, and allows for a density of at least 3.0 Floor Area Ratio in certain areas. 89% of the Area 7's residential structures and 85% of its commercial structures were built before 1980. Once structures reach an age of 30 to 40 years, their mechanical systems, roofing systems, and other structural elements are need of updating or replacement, an indicator of the need for revitalization.
Page 166, Land Use Potential	Insert the following sentences to the end of the paragraph: This section of the City is designated as a revitalization area that encompasses mass transit, includes and provides for mixed use development, and allows for a density of at least 3.0 Floor Area Ratio in certain areas. 81% of the Area 8's residential structures were built before 1980. Once structures reach an age of 30 to 40 years, their mechanical systems, roofing systems, and other structural elements are need of updating or replacement, an indicator of the need for revitalization.
Page 174, Land Use Potential	Insert the following sentences to the end of the paragraph: This section of the City is designated as a revitalization area that encompasses mass transit, includes and provides for mixed use development, and allows for a density of at least 3.0 Floor Area Ratio in certain areas. Area 10 has 75% of its commercial area devoted surface parking. This percentage indicates a low intensity suburban land use pattern with a ready potential for redevelopment and revitalization with infill development into a more intense urban pattern. 66% of the Area 10's residential structures were built before 1980. Once structures reach an age of 30 to 40 years, their mechanical systems, roofing systems, and other structural elements are need of updating or replacement, an indicator of the need for revitalization.



Area Plan Boundaries

1. Celebrate Virginia/Central Park
2. FallHill
3. PlankRoad/Route3
4. Hospital/CowanBoulevard
5. University/Route 1 (central)
6. Princess Anne Street/Route 1 (north)
7. Downtown
8. Dixon Street/Mayfield
9. Breahead/National Park
10. Lafayette Boulevard/Route 1 (south)

Transit

City Fred Transit Stop

City Fred Routes

MOTION:

SECOND:

[date]
Regular Meeting
Ordinance No. 16-__

RE: **AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO ADAPT TO PROFFER REFORM LEGISLATION ADOPTED BY THE 2016 VIRGINIA GENERAL ASSEMBLY**

ACTION: **APPROVED; Ayes:0; Nays: 0**

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

IT IS HEREBY ORDAINED by the Fredericksburg City Council that City Code _____, "_____," is amended as follows.

I. Introduction.

The City Council adopted Resolution 16-65, to initiate this text amendment, at its meeting on July 12, 2016. The Planning Commission held its public hearing on the amendment on _____, after which it voted to recommend the amendment to the City Council. The City Council held its public hearing on this amendment on _____.

The purpose of this amendment is to adapt the City's zoning district regulations to proffer reform legislation adopted by the 2016 Virginia General Assembly, Acts of the Assembly Ch. 322. The new legislation exempts applications for new residential development or new residential use occurring in an area 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 ratio in a portion thereof. Given the City's pattern of development, and the suitability of land within certain commercial and planned zoning districts for intense commercial use, the City has identified Land Use Planning Areas and zoning districts which can meet these statutory criteria.

In making these amendments, the City Council has considered the factors in Code of Virginia 15.2-2284. The City Council has determined that public necessity, convenience, general welfare and good zoning practice favor the amendment.

II. City Code Amendment.

The City Code, Chapter 72, "Unified Development Ordinance," Article 3, "Zoning Districts," is amended as follows:

1. City Code §72-33.3, "Commercial-Shopping Center District," subsection (B), "Dimensional standards," is amended as follows:

Standard	Residential	Nonresidential
Nonresidential FAR, Maximum		0.50*, or 3.0 by special use permit*

The remaining provisions in this subsection are not amended.

2. City Code §72-32.4, "Commercial-Highway District," subsection (B), "Dimensional standards," is amended as follows:

Standard	Residential	Nonresidential
Nonresidential FAR, Maximum		0.70*, or 3.0 by special use permit*

The remaining provisions in this subsection are not amended.

3. City Code §72-33.2, "Planned Development-Commercial," subsection (D), "Bulk regulations," is amended as follows:

Sec. 72-33.2(D) Bulk regulations.

[Subsections 1 and 2 are not amended.]

(3) Maximum floor area ratio. The maximum floor area ration shall be 1.00*, or 3.0 with a special use permit.*

[The remaining subsections are not amended.]

4. City Code §72-33.4, "Planned Development-Medical Center," subsection (D), "Bulk regulations," is amended as follows:

[Subsections 1 – 4 are not amended.]

5. Floor area ratio. The maximum floor area ratio shall be 1.50, *or 3.0 with a special use permit*, provided that the total project area (i.e. area prescribed to total building project boundary or development phase) for each building containing or intended to contain one or more permitted or special uses shall be at least 20,000 square feet; except that additional density regulations shall be applied as follows: [Subsections a, b, and c are not amended.]

SEC. III. <u>Effective Date</u>.

This ordinance is effective immediately.

<u>Votes</u>:
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 Date, 2016 at which a quorum was present and voted.

_____
Tonya B. Lacey, CMC
Clerk of Council

MEMORANDUM

TO: Chairman Roy E. McAfee and Planning Commission Members
FROM: Marne E. Sherman, Development Administrator
RE: Amendments to the Unified Development Ordinance Regarding Fences/Walls and Lots
DATE: October 5, 2016

ISSUE

Should the Unified Development Ordinance (UDO) be amended to provide additional flexibility for fences on corner lots and through lots; decrease permitted fence heights from six feet to four feet in any front yard of lots zoned Commercial; authorize the Board of Zoning Appeals to issue special exceptions from fence height regulations in any front yard (including a secondary front yard on a corner or through lot); prohibit the use of barbed wire or razor wire except in an Industrial district; and clarify terms, figures, measurements, and tables related to sight triangles, lot types, required yards, and building fronts on lots in all zoning districts?

RECOMMENDATION

Motion to recommend approval of the attached ordinance to the City Council.

BACKGROUND

City residents, living on corner lots and through lots, have sought changes to the UDO to permit fences and walls exceeding four feet in height within areas of secondary front yards. Specifically, this is the area of a corner lot or through lot that many homeowners perceive as their side or back yards as they run to the side of or behind the house, along a secondary street frontage. Residents would like to enclose this area of the lot to gain privacy from the street and neighboring uses. In some cases, there are neighborhoods with established (currently non-conforming) patterns of corner lots with six foot tall fences along the secondary front lot line. The City also contains unique lots with special circumstances (such as incompatible neighboring uses, topography, or high volume streets) that may warrant special consideration to permit taller fences and walls on a residential lot.

In May, City Council directed staff to present alternatives to the UDO to permit taller fences and walls within the secondary front yard, in keeping with traditional neighborhood patterns. These alternatives were presented to City Council during a work session on June 28, 2016. Staff formalized the June recommendations in the attached draft of related UDO amendments. The draft also presents general updates pertaining to fences and walls in all zoning districts and other UDO sections that were affected by definition and process changes.

On September 13, 2016, City Council approved Resolution 16-82 to formally initiate the text amendment process.

CURRENT REGULATION

The previous Zoning Ordinance and current UDO Section 72-56.2.B. regulate that "in any front yard of a site in any R District, a fence or wall shall not exceed four feet in height back to the front of the principal structure on the site. This provision shall also apply to residential uses in other districts." There are two presumptive reasons for the limitation - bulk/mass in the front yard and safety along public spaces.

Bulk/Mass in a Front Yard

The general purpose of a minimum front yard setback is to provide for open areas and access to and around structures, for visibility and traffic safety, access to natural light, ventilation and direct sunlight, separation of incompatible land uses, and space for privacy, landscaping and recreation. The code currently allows for four foot fences to be placed anywhere on a residential lot and allows for taller fences to be placed in keeping with the minimum front yard setback. Just as the code limits principal structures (houses) and accessory structures (sheds and garages) from placement within close proximity to a street in residential zoning districts, fence heights are limited due to the mass and bulk they also create along the street. Fences along the street have the ability to provide privacy for the individual lot owner, but they may also disrupt an entire block face if not constructed in harmony[1] with the context of adjacent properties.

Safety along Public Spaces

As taller structures are placed nearer to the street, there is a potential heightened risk to public safety. Taller fences within front yards can create potential sight distance conflicts with vehicles utilizing driveways and alleys intersecting with pedestrians on public sidewalks. Additionally, taller fences may increase potential dangers along the sidewalk by creating dark areas and places for people to hide if the fence is not adequately setback or built with a certain level of transparency.

PROPOSAL

To address the public's desire to allow taller fences/walls within the secondary front yard while maintaining good design in relation to bulk/mass and safety, staff recommends changes to the UDO which will:

Article 2 Administration

- Establish criteria and permit the Board of Zoning Appeals (BZA) to issue and revoke Special Exceptions for fences within any front yard. To address unique lots in the City, the BZA will hold a public hearing and evaluate the location, materials, and height of the proposed fence and consider their effect on adjacent properties, public safety, and the character and pattern of development in the surrounding neighborhood. The standard for issuance of a Special Exception is lesser than for a variance which requires the demonstration of a hardship or that associated the ordinance would unreasonably restrict the utilization of the property.

---

[1] Virginia Code § 15.2-2283. One of the purposes of zoning ordinances is to "facilitate the creation of a convenient, attractive and harmonious community."

Article 4 Accessory Use Standards

- Clarify that fences are permitted within a required yard.
- Update the term "double frontage lot" to "through lot."

Article 5 Fences and Walls

- Reduce fence heights on property zoned Commercial from six feet to four feet in any front yard.
- Permit fence heights to exceed four feet, up to six feet, in secondary front yards on lots zoned Residential, Commercial, and Planned Development that meet certain established criteria. Examples include: lots with a secondary front yard that adjoins another secondary front yard or instances where an existing accessory structure on a lot already encroaches into a secondary front yard.

Example of two corner lots with adjoining secondary front yards where fences/walls would be permitted up to six feet in height within the secondary front yard.

- Increase the maximum permitted fence height from 24 inches to 40 inches within a sight triangle (in accordance with Virginia Department of Transportation standards).
- Prohibit the use of barbed wire, razor wire, or similar fence materials on properties zoned Residential, Commercial, or Planned Development and on properties used for residential purposes.
- Remove references to transparent and opaque fences.
- Update Figure 72-56.2 Fence and Wall Location.

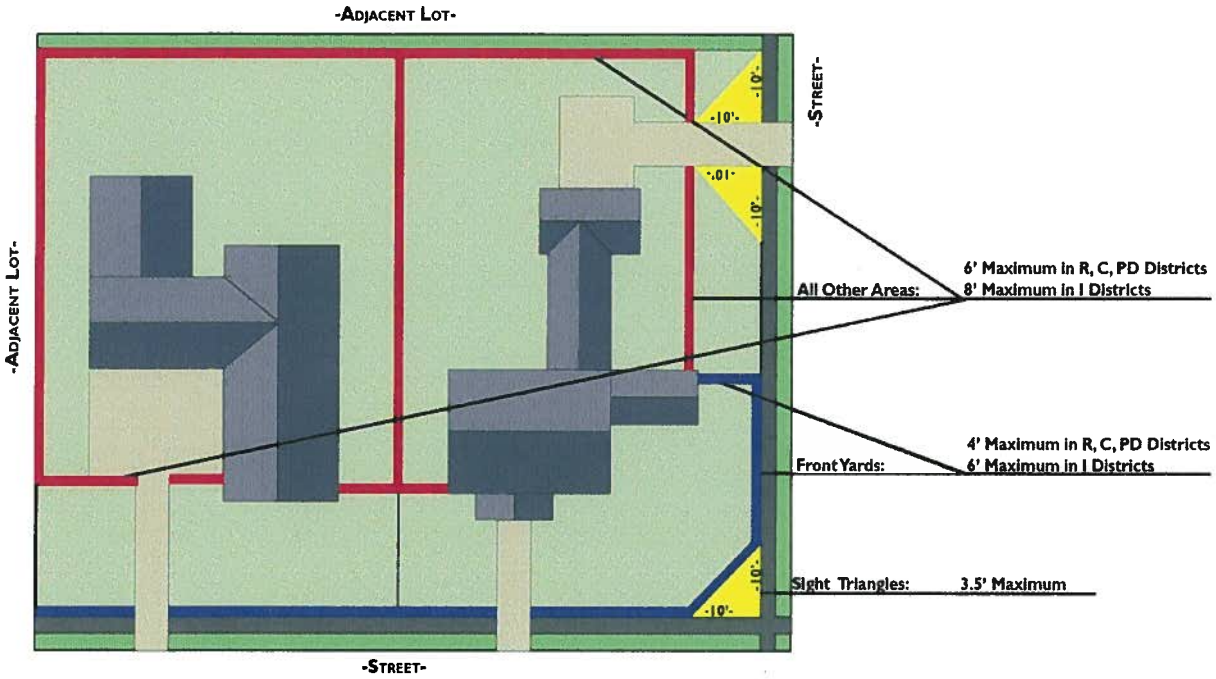


Figure 72-56.2 Fence and Wall Location

Article 6 Non-conforming Structures, Minor Alterations

- Identify that fences are non-conforming structures which qualify for alteration when they meet the listed criteria.

Article 8 Definitions and Interpretations

- Replace the term "double frontage lot" with "through lot."
- Create the terms "Primary Front Yard" and "Secondary Front Yard."
- Update of Figure 72-82.3A(4) Lot Types and 72-82.4A Yard Types to reflect text changes.

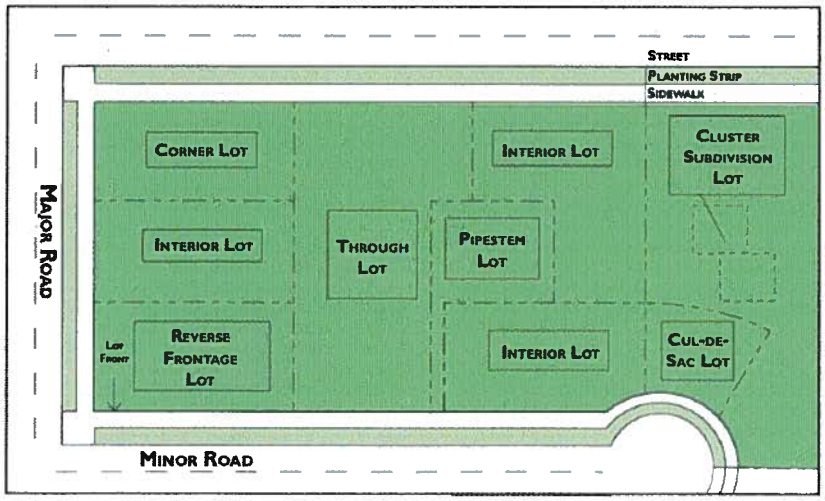


Figure 72-82.3A(4) Lot Types

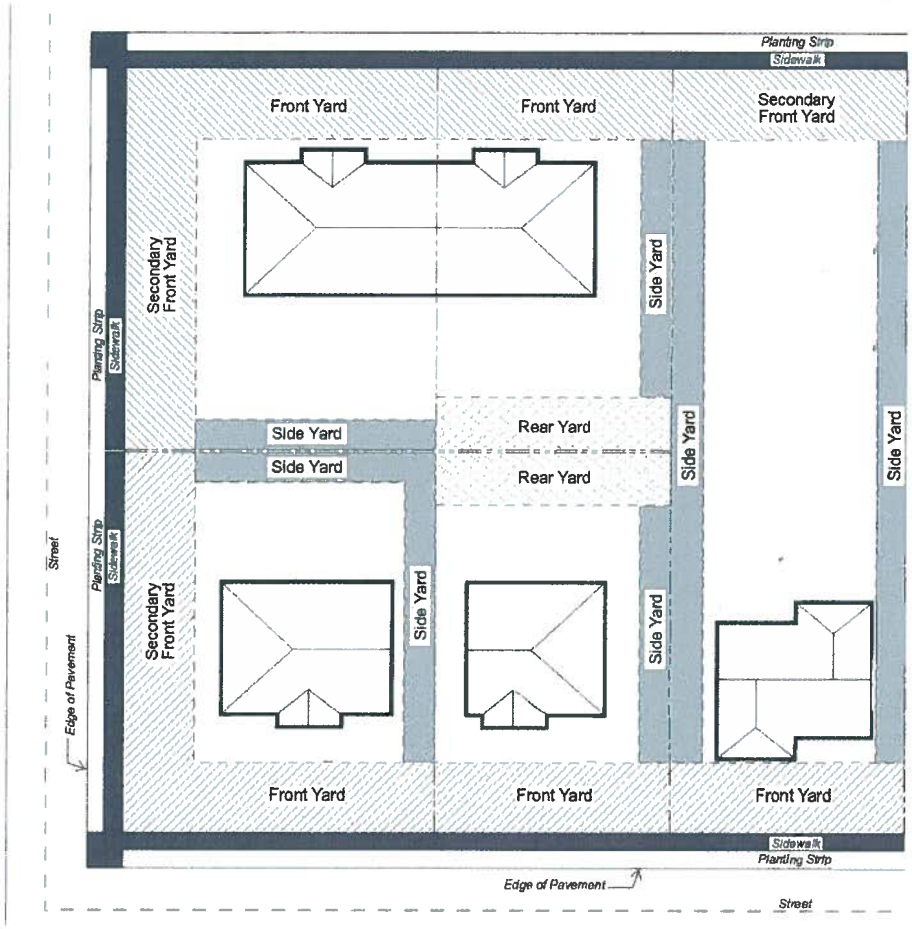


Figure 72-82.4A Yard Types

- Establish the criteria for measuring a sight triangle for the purposes of installing a fence.
- Remove the term Front (or primary façade) as it was replaced with Building Front during a previous text amendment.

Attachments: Draft Ordinance
Frequently Asked Questions
City Council Resolution 16-82

MOTION:

SECOND:

[date]
Regular Meeting
Ordinance No. 16-__

RE: **AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGULATIONS OF FENCES IN ALL ZONING DISTRICTS, INCLUDING CHANGES IN THE DEFINITIONS OF REQUIRED YARDS**

ACTION: **APPROVED; Ayes:0; Nays: 0**

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

IT IS HEREBY ORDAINED by the Fredericksburg City Council that City Code _____, "_____," is amended as follows.

I. Introduction.

The City Council adopted a resolution to initiate this text amendment at its meeting on September 13, 2016. The Planning Commission held its public hearing on the amendment on _____, after which it voted to recommend the amendment to the City Council. The City Council held its public hearing on this amendment on _____.

The purpose of this amendment is to modify current zoning regulations for fences in all zoning districts, to provide additional clarity and flexibility in these regulations, while continuing to provide for adequate light, air, convenience of access, and safety from crime, and other dangers; to facilitate the creation of a convenient, attractive and harmonious community; and protect against loss of life, health, or property from fire. While the purpose of the ordinance is to change fence regulations, these changes require changes in the definitions of required yards, for purposes of implementing the new regulations and providing additional flexibility. In making these amendments, the City Council has considered the factors in Code of Virginia 15.2-2284. The City Council has determined that public necessity, convenience, general welfare and good zoning practice favor the amendment.

II. City Code Amendment.

1. City Code §72-21.7, "Development Review Structure," is amended to add authority for the Board of Zoning Appeals to issue *and revoke* special exceptions for fences, upon recommendation of the Zoning Administrator. Such decisions may be appealed to the Circuit Court. The table shall be amended to add the following data:

Specific Review Procedure	City Council	Planning Commission	Board of Zoning Appeals	Architectural Review Board	Zoning Administrator	Development Administrator
Special exception, fence		*R*	*<D>*		*R*	

2. City Code §72-22.8, "Variances, administrative appeals, and Zoning Map interpretations," shall be amended as follows:

Sec. 72-22.8. Variances, administrative appeals, *special exceptions, and Zoning Map interpretations.*

A. Purpose and applicability. This section sets forth the procedures *and criteria* for the Board of Zoning Appeals (BZA) to consider applications for variances, appeals of administrative actions, *applications for special exceptions, revocations of special exceptions,* and interpretations as defined in Code of Virginia §15.2-~~2209~~ *2309* and 15.2-~~2210~~ *2310.*

B. Process.

(1) Applications for variances *and fence special exceptions* shall be made to the Zoning Administrator in accordance with the rules adopted by the BZA pursuant to Code of Virginia §15.2-2310.

(2) A variance, appeal, *application for special exception, revocation of a special exception* or Zoning Map interpretation shall be authorized by the BZA after a public hearing and shall be in compliance with the required findings and procedures set forth within Code of Virginia §15.2-2309 *or this section.*

[the remainder of subsection (B), and subsections (C), (D), and (E) are not amended.]

F. Review authority and criteria, special exceptions; fences. The Board of Zoning Appeals may hear and decide applications for a special exception from the regulations governing fence heights in any front yard (including a secondary front yard) in any zoning district. The board may impose such conditions relating to the fence as it may deem necessary in the public interest, including limiting the duration of the special exception, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. In considering an application, the Board shall apply the following criteria:

(1) Whether approval of the special exception will impair an adequate supply of light or air to adjacent property, or cause or substantially increase the danger of fire or the spread of fire, or endanger the public safety.

(2) Whether the proposal will be compatible with the existing character and pattern of development in the surrounding neighborhood and facilitate an attractive and harmonious community.

(3) Whether the application represents the only reasonable means and location on the lot to accommodate the proposed fence given the natural constraints of the lot or the existing development on the lot.

(4) Whether the size, configuration, existing mature vegetation or trees, or other unusual characteristic of the lot requires an exception from the zoning requirements in order to provide a reasonable fenced area without creating significant impact to adjacent properties or the neighborhood.

(5) The height of the proposed fence and the use of opaque or transparent materials; the use of a buffer area between the public right of way and the fence. The fence shall not exceed six feet in height.

~~F.~~ *G. The Board of Zoning Appeals is authorized to revoke a special exception previously granted by it, if the board determines that there has not been compliance with the terms or conditions of the special exception. No special exception may be revoked except after notice and hearing as provided in this section. However, when giving any required notice to the owners, their agents, or occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.*

H. Appeals. Any person or persons jointly or severally aggrieved by an action of the BZA ~~on a variance application~~, or any aggrieved taxpayer or any officer, department, board or bureau of the ~~locality~~ *City* may file with the Clerk of the Circuit Court for the City of Fredericksburg, a petition, specifying the grounds on which aggrieved within 30 days after the final decision of the Board, pursuant to Code of Virginia §15.2-2314.

3. <u>City Code §72-42.3, "Location of accessory uses or structures," shall be amended as follows</u>:

Sec. 72-42.3. Location of accessory uses or structures.

A. No accessory use or structure shall occupy more than 30% of the rear yard.

B. No accessory structure *except a fence* shall be located in the any front yard. No accessory structure requiring a building permit shall be closer to a front lot line than the principal structure.

C. No accessory use or structure shall be closer than five feet to a side or rear lot line, except that if the principal structure has a setback of less than five feet, then the setback of an accessory structure may be the same as exists for the principal structure.

D. No accessory structure shall be located within any platted or recorded easement or over any known utility unless written authorization is provided from the easement holder or the City, as appropriate.

E. An accessory structure may be located within ~~rear~~ *a secondary front yard* of a ~~double-frontage~~ *through* lot provided:
(a) The lot is zoned with a nonresidential, mixed-use, or planned development district designation;
(b) The lot across the street *from the secondary front yard* has a nonresidential, mixed-use, or planned development district designation;
(c) The accessory structure does not exceed 12 feet in height, or one story, whichever is less;
(d) The accessory structure setback is at least five feet from the ~~rear~~ *secondary front* lot line; and
(e) The area between the accessory structure and adjacent street includes landscaping that is capable of screening the structure when it is mature.

4. City Code §72-56.1, "Location requirements," shall be amended as follows:

Sec. 72-56.1 Location requirements.

A. General.
(1) Fences or walls shall be located outside of the public right-of-way~~, and may not exceed 24 inches in height if located within a required sight triangle~~.

(2) Fences and walls are permitted on the property line between two or more parcels of land held in private ownership.

(3) Fences and walls may be located within any required yard.

[The remaining subsections of §72-56.1 are not amended.]

5. City Code §72-56.2, "Height standards," shall be amended as follows:

Sec. 72-56.2. Height standards.

A. All fences and walls shall conform to the standards in Table 72-56.2, Fence and Wall Height. In all cases, heights are measured from established grade on the highest side of the fence or wall (see Figure 72-56.2, Fence and Wall Location).

Current Table 72-56.2, "Fence and Wall Height," is repealed and replaced with the following table:

Table 72-56.2: Fence and Wall Height (effective [date])		
Zoning district	Location	Maximum height
Residential	Any location on a vacant lot	48"
Residential Commercial	Between a front lot line and the front of the principal building	48"

Planned Development	Within a secondary front yard	48"
	Any other location on the lot	72"
Industrial	Between the front lot line and the front of the principal building	72"
	Within a secondary front yard	72"
	Any other location on the lot	96"
Any zoning district	Within a sight triangle	40"

B. *The following exceptions to the general height regulations apply to corner and through lots:*

Zoning district	Location	Special Circumstance	Maximum Height
Residential Commercial Planned Development	Secondary front yard	The secondary front yard abuts a primary front yard of another lot.	72" if the fence is no closer to the secondary front property line than the front of the abutting principal structure.
		The secondary front yard abuts the secondary front yard of another lot.	72"
		An accessory structure is located within the secondary front yard.	72" if the fence is no closer to the secondary front lot line than any side of the accessory structure

~~NOTES:~~

~~[1] Transparent fences or walls are constructed so that 50% or more of the fence or wall is visually permeable.~~

A. *The Zoning Administrator may approve fences or walls exceeding six feet in height in any side or rear yard in a residential, commercial, or planned zoning district, if the adjacent property is in a nonresidential zoning district, or if there are unique topographic or other physical circumstances on the property that were not created by the property owner. The Zoning Administrator may condition approval on a prescribed setback from the property line.* ~~A fence or wall in any residential zoning district shall not exceed six feet in height above the existing grade in any side or rear yard of a site up to the front of the principal structure on the site. This provision shall also apply to fences and walls located on lots used for residential uses in other zoning districts. The Development *Zoning* Administrator may approve fences or walls exceeding six feet in height if the adjacent property is in a nonresidential zoning district or if there are unique topographic or other physical circumstances not created by the property owner. Additional setbacks may be required by the Development Administrator for such taller fences.~~

B. ~~In any front yard of a site in any R District, a fence or wall shall not exceed four feet in height back to the front of the principal structure on the site. This provision shall also apply to residential uses in other districts.~~

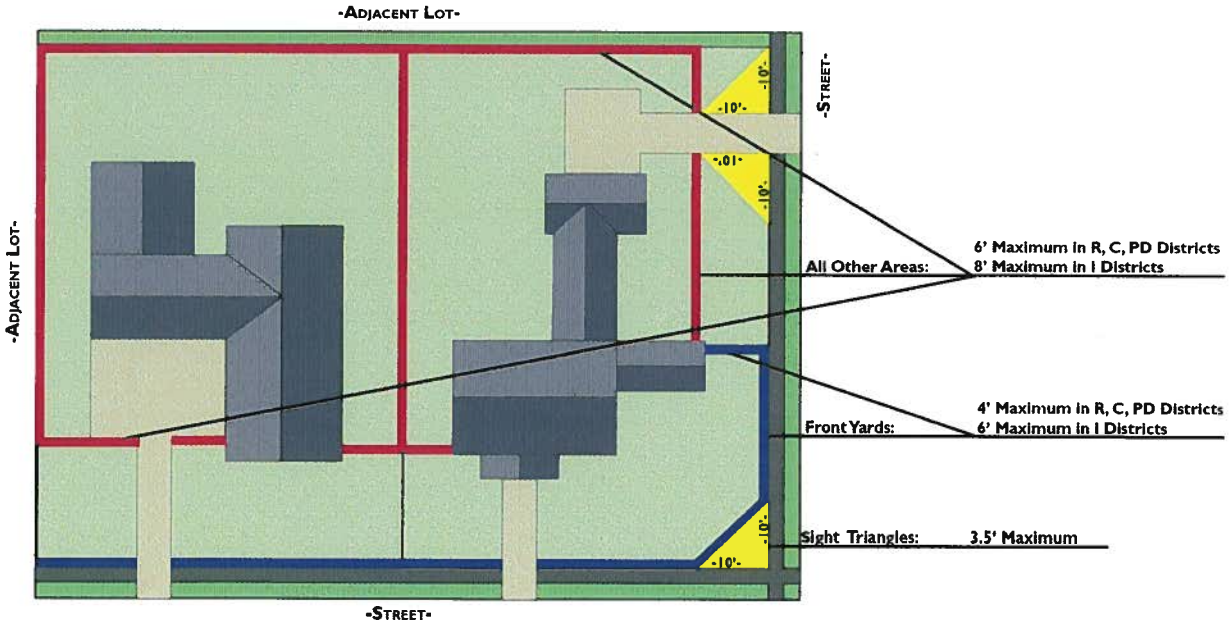
~~*C.* For vacant sites in residential districts, fences or walls may not exceed four feet in height.~~

B. The Zoning Administrator may approve fences or walls exceeding the maximum height in any yard in an industrial district if there are unique topographic or other physical circumstances not created by the property owner. The Zoning Administrator may condition approval on a prescribed setback from the property line. ~~A fence or wall shall not exceed eight feet in height in any yard of any industrial or commercial use permitted by the provisions of this subsection unless the Development Administrator. authorizes such fences or walls to exceed eight feet. The Development Administrator may approve fences or walls to exceed eight feet if there are unique topographic or other physical circumstances not created by the property owner. Additional setbacks may be required by the Development Administrator for such taller fences. Additional setbacks may be required by the Development Administrator for such taller fences.~~

C. No fence or wall shall be constructed in a manner or in a location that impairs safety or sight-lines for pedestrians and vehicles traveling on public rights of way.

Figure 72-56.2, "Fence and Wall Location," is repealed and replaced with the following figure:

Figure 72-56.2. Fence and Wall Location (effective date:_____)



[Section 72-56.3, "Maintenance," is not amended.]

6. New section 72-56.4 is added as follows:

Sec. 72-56.4. Fence materials.

No barbed wire, razor wire, or similar fence material is permitted in residential, planned development, or commercial zoning district or on a lot containing or adjacent to a residential use.

7. City Code §72-63.3, "Minor alterations," [to nonconforming structures] is amended as follows:

Sec. 72-63.3. Minor alterations.

Minor alterations shall not be deemed a change in the structural condition of the property, for purposes of § 72-61.1C. Minor alterations are alterations that meet one or more of the following criteria:

A. The alterations consist of cosmetic modifications, interior renovations and similar improvements to a nonconforming residential structure and such alterations do not increase the land area occupied by any portion of the nonconforming building or structure, and shall not increase the gross floor area of any nonconforming building or structure.

B. The alterations do not increase the extent of the structure's nonconformity with the minimum site or yard requirements of the zoning district.

C. The alterations consist of a substantially similar replacement of an existing residential accessory building or structure including, but not limited to, a *fence*, storage shed, garage or swimming pool, may be permitted and shall not be required to meet more restrictive setbacks enacted since the date the accessory structure became nonconforming, however, all other zoning regulations for the district in which the accessory structure is located shall apply.

8. City Code §72-82.3A, "Lots," is amended as follows:

Sec. 72-82.3A. Lots.

[Subsections A (1), (2), and (3) are not amended.]

(4) Lot types.

(a) Cluster subdivision lot. A cluster subdivision lot is a building lot located within a cluster subdivision.

(b) Corner lot. A corner lot is located at the intersection of two or more streets (other than alleys), regardless of whether or not such streets intersect at right angles.

(c) Cul-de-sac lot. A cul-de-sac lot is located on the head or turnaround of a cul-de-sac with side lot lines on a tangent to the arc of the right-of-way.

(d) ~~Double-frontage~~ *Through* lot. A ~~double-frontage~~ *through* lot is a lot other than a corner lot with frontage on more than one street other than an alley.

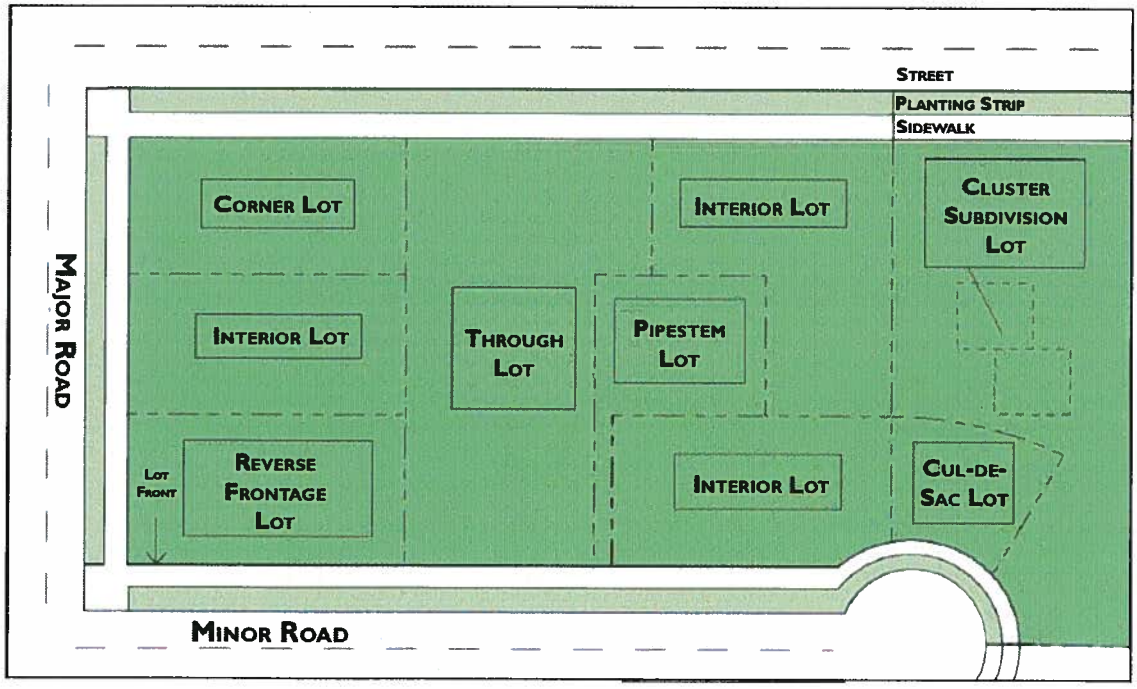
(e) Interior lot. An interior lot is a lot other than a corner lot with only one frontage on a street other than an alley.

(f) Pipestem lot. A pipestem lot is a lot which does not abut a public street other than by a driveway affording access to the lot.

(g) Reverse-frontage lot. A reverse-frontage lot is a corner lot, intentionally designed so that the front lot line faces a local street rather than facing a parallel major thoroughfare.

Figure 72-82.3A(4), "Lot Types," is repealed and replaced by the following table:

Figure 72-82.3A(4). Lot Types (effective date:_____)



B. ~~General~~ *Pipestem* lot requirements.

~~(1) Pipestem lots.~~

[The existing text is re-numbered as sub- paragraphs 1, 2, 3, and 4.)

9. City Code §72-82.4, "Required yards," is amended as follows:

Sec. 72-82.4. Required yards.

A. ~~Definitions/measurement.~~ *Yard Types.*

(1) Setback. The term "setback" refers to the distance by which any portion of a building or structure shall be separated from a lot line.

(2) Front yard. ~~The~~ *A* front yard is an area of a lot adjacent to its front lot line, measured by the length of the front lot line, extending from one side lot line to the other side lot line, and the width of the required front setback.

(3) Primary front yard: for corner lots and through lots, the front yard that contains the building front.

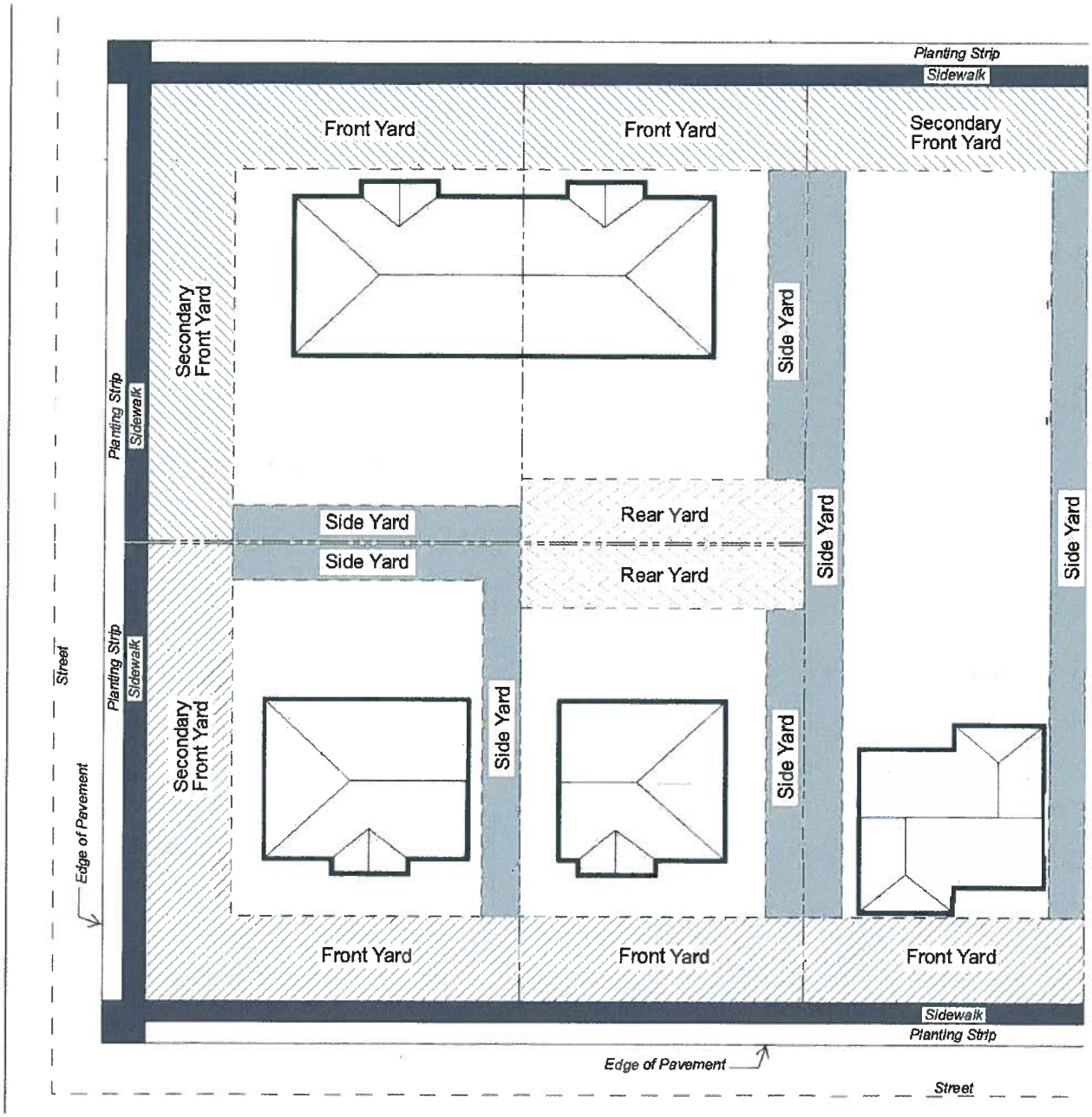
(4) Secondary front yard: a front yard of a corner or through lot that does not contain the building front. A secondary front yard begins at the point where it intersects with the primary front yard and extends to the side property line.

(5) Rear yard. The rear yard is an area of a lot adjacent to its rear lot line, measured by the length of the rear lot line, extending from one side lot line to the other side lot line, and the width of the required rear setback.

(6) Side yard. The side yard is an area of a lot adjacent to its side lot line, measured by the length of the side lot line, extending from the edge of the front setback line to the edge of the rear setback line, and the width of the required side setback.

Figure 72-82.4A, "Yard Types," is replaced with the following figure:

Figure 72-82.4A. Yard Types (effective date:_____)



B. General setback requirements.

(1) Separation. When the standards in this chapter call for a separation between two different use types or development features, separation shall be measured from the closest edge of one lot to the closest edge of the other lot.

(2) Averaging setbacks. When zoning district standards permit or require determination of ~~a~~ *any* front or side setback through averaging, the average yard shall be calculated by using the methods set forth here. The dimensions of existing yards shall be determined through the best information reasonably available, including, in order, surveys of record, on-site measurements, or the 2010 tax maps. The median is the type of average that shall be applied. The median front yard shall be calculated by using existing principal buildings along the same block face. The median side yard shall be determined by using lots or parcels of similar width located on the same block face. Each side yard median (left and right) shall be calculated and applied separately. If the foregoing measurements do not establish a clear pattern of development, then the administrator may use the opposite block face to establish the average front or side yard.

[Figure 72-82.4B, "Average Setback Measurement," is not amended.]

(3) Corner lots *and through lots*. On a corner lot or ~~double frontage~~ *through* lot, the yards adjacent to the front lot lines shall be considered front yards and the remaining yards shall be considered side yards.

(4) Setbacks following government acquisition of land. Where land acquisition for a public purpose reduces the distance between an existing legally established structure and an adjacent lot line to an amount less than the minimum required, the resulting distance shall be deemed the minimum setback for the lot.

(5) Sight triangles. Regardless of the setbacks applied in a district, no structure *except a fence* shall be permitted within the required sight triangle. *For fences, a sight triangle is the triangle formed by the two right-of-way lines at a street intersection, or the intersection of a driveway and a street, and a line connecting those two lines 10 feet from their intersection.*

(6) Uncovered terraces. Required yard setbacks shall not apply to uncovered terraces, uncovered patios and unroofed porches not more than 30 inches above existing grade in residential zoning districts or 15 inches in nonresidential and mixed-use zoning districts.

10. City Code §72-84.0, "Definitions," is amended as follows:

~~Front (or primary) façade – The side or elevation of a structure that contains the structure's architectural front, or the portion of the structure facing the street from which the structure derives its street address.~~

FRONT LOT LINE -- the street line(s) that form(s) the boundary of a lot; or, where a lot does not abut a street other than by its driveway, or is a through lot, the lot line which faces the building front.

SEC. III. 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 Date, 2016 at which a quorum was present and voted.

_____
Tonya B. Lacey, CMC
Clerk of Council

1. What does the UDO regulate as a "fence?"

A "fence" is a structure used to delineate a boundary or act as a barrier or means of protection, confinement, or screening.[1] The fence regulations apply equally to "walls."[2] The regulations apply to the construction of a new fence or wall, or the reconstruction or replacement of a new fence or wall.[3] The regulations do not apply to temporary fencing for construction sites, tree protection,[4] or retaining walls.

2. What general rules apply to the location of a fence or wall?

Fences and walls may be located in any of the required minimum yards (front, side, rear)[5] so long as they are located outside the public right of way.[6] They may be located on the property line between two or more parcels of private property.[7] They may be located within utility easements, with the permission of the easement holder.[8]

If a fence is located within a "sight triangle," then it shall not exceed 40 inches in height.[9] If a fence is located within a required "buffer," then it shall not disturb or damage vegetation within the buffer. Perimeter fencing within a buffer for a single (multi-lot) development shall be a uniform style.[10]

3. What are the general rules for the height of fences?

Generally speaking, rules for the maximum permitted height of a fence depend on two factors: (1) the zoning district, and (2) the location of the fence on the lot. The limitations on fence height within the sight triangle are the strictest, due to their direct impact on public safety.

Zoning district	Location	Maximum height
Any	Within a sight triangle	40"
Residential	Any location on a vacant lot	48"
Residential Commercial Planned Development	Between the front lot line and the front of the principal building	48"
	Any other location on the lot	72"
Industrial	Between the front lot line and the front of the principal building	72"
	Any other location on the lot	96"

[1] §72-84, Definitions.
[2] References to "fences" in this FAQ apply equally to walls.
[3] §72-56.0(B)(1).
[4] §72-56.0(B)(2).
[5] §72-56.1(A)(3).
[6] §72-56.1(A)(1).
[7] §72-56.1(A)(2).
[8] §72-56.1(B).
[9] §72-56.1(A)(1). Ordinarily, no structures are permitted within a required sight triangle. (§72-82.4(B)(5).
[10] §72-56.1(D).

4. What are the regulations for maximum fence heights on corner or through lots?

Corner or through lots pose special considerations for maximum fence heights, since they have at least two "front yards." The basic regulations for front yards apply to both of the front yards of a corner or through lot, unless special circumstances apply:

Zoning district	Location	Special Circumstance	Maximum Height
Residential Commercial Planned Development	Secondary front yard of a corner or through lot	The secondary front yard abuts a primary front yard.	72" if the fence is not closer to the secondary front property line than the front of the abutting principal structure.
		The secondary front yard abuts the secondary front yard of another lot.	72"

5. What are the regulations for maximum fence height for other special circumstances?

At this time, the regulations recognize one additional special circumstance that justifies a higher maximum fence height:

Zoning district	Location	Special Circumstance	Maximum Height
		An accessory structure is located on the same lot as the proposed fence.	72" if the fence is not closer to the secondary front property line than any side of the accessory structure.

6. Who may grant a case-by-case exception from the fence height regulations?

The Board of Zoning Appeals is authorized to grant a special exception, on a case-by-case basis, from the regulations governing fences in *any front yard* (primary or secondary) in any zoning district. The BZA holds a public hearing on the exception application and applies criteria established by City Council, to decide whether the exception is in the public interest.[11] The Planning Commission is entitled to notice of these applications, and it may either appear at the BZA public hearing or send a written comment or recommendation.[12] The BZA may impose conditions on the permit; and it is authorized to revoke a special exception it previously granted, if it determines there has not been compliance with the terms or conditions of the permit, after notice and a public hearing.

[11] See the criteria in §72-22.8(F).
[12] Code of Virginia §15.2-2310.

The Zoning Administrator may approve a fence or wall exceeding 6 feet in height in any side or rear yard in a residential, commercial, or planned zoning district, if the adjacent property is in a nonresidential zoning district, or if there are unique topographic or other physical circumstances on the property (that were not created by the property owner).

In addition, the Zoning Administrator may approve a fence or wall exceeding the permitted height in any yard in an industrial zoning district, if there are unique topographic or other physical circumstances on the property (that were not created by the property owner).

The Zoning Administrator may require any taller fence to be set back from the property line an appropriate distance to mitigate the impacts of the taller height.

7. What other restrictions are imposed on fences?

The City does not permit the use of barbed wire, razor wire, or similar fence materials in any zoning district except an industrial zoning district.[13]

A fence within a sight triangle may not impair safety or sight-lines for pedestrians or vehicles traveling in the public rights of way.[14]

A nonconforming fence may be replaced with a substantially similar fence in the same location, without bringing the new fence into compliance with current regulations.[15]

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[13] New §72-56.4.
[14] §72-56.1(E).
[15] §72-63.3.

8. Please define the terms that are used in these regulations.

Please refer to the following definitions and illustrations:

Buffer: An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use, no part of which is used for recreation or parking.[16]

Building front: That one face or wall of a building architecturally designed as the front of the building, which normally contains the main entrance for use by the general public.[17]

Corner lot: A lot located at the intersection of two or more streets (other than alleys) regardless of whether the streets intersect at right angles.[18]

Front lot line: the street line that forms the boundary of a lot; or, where a lot does not abut a street other than by its driveway, or is a through lot, the lot line which faces the Building Front.

Front yard: the area of a lot adjacent to its front lot line, measured by the length of the front lot line, extending from one side lot line to the other side lot line, and the width of the required front setback.[19]

Nonconforming: a fence or wall lawfully constructed, which does not comply with current regulations.[20]

Primary front yard: for corner lots and through lots, the area between the front lot line and the Building Front.[21]

Secondary front yard: a front yard of a corner or through lot that does not contain the Building Front. A secondary front yard begins at the point where it intersects with the primary front yard.[22]

Sight triangle: the triangle formed by the two right-of-way lines at a street intersection, or the intersection of a driveway and a street, and a line connecting those two lines 10 feet from their intersection.[23]

Through lot: A lot other than a corner lot, with frontage on more than one street other than an alley.[24]

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[16] §72-84.0. See Article 5 of the UDO for buffer yard requirements.
[17] §72-84.0.
[18] §72-82.3(A)(4)(b).
[19] §72-82.4.
[20] §72-61.1.
[21] §72-82.4.
[22] §72-82.4.
[23] §72-82.4(B)(5).
[24] §72-82.3(A)(4)(d).

MOTION: **KELLY**

SECOND: **WITHERS**

September 13, 2016
Regular Meeting
Resolution No. 16-82

RE: **INITIATING A UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT TO CHANGE THE REGULATIONS OF FENCES IN ALL ZONING DISTRICTS, INCLUDING CHANGES IN THE DEFINITIONS OF REQUIRED YARDS**

ACTION: **APPROVED: Ayes: 7; Nays: 0**

WHEREAS, the City Council proposes to amend the Unified Development Ordinance regulations for fences in all zoning districts, to provide clarity and flexibility in these regulations, while continuing to provide for adequate light, air, convenience of access, and safety from crime, and other dangers; to facilitate the creation of a convenient, attractive and harmonious community; and protect against loss of life, health, or property from fire. While the purpose of the ordinance is to change fence regulations, these changes require changes in the definitions of required yards, for purposes of implementing the new regulations and providing additional flexibility.

WHEREAS, in proposing these amendments, the City Council has considered the factors in Code of Virginia 15.2-2284; the City Council has determined that public necessity, convenience, general welfare and good zoning practice favor the amendment.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby initiate an amendment to City Code Chapter 72, the Unified Development Ordinance, to modify the regulations for fences in all zoning districts. City Council refers this proposal to the Planning Commission for review, public hearing, and recommendation under the procedures set forth in City Code §72-22.1.

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. 16-82 duly adopted at a meeting of the City Council meeting held September 13, 2016, at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council

Task	
Partner Agency Forms Available On-line	Thursday, September 08, 2016
Budget Instructions Sent to Departments	**Thursday, October 06, 2016**
Partner Agency Applications Due	Monday, October 31, 2016
Rollover Resolution - 1st Read and Public Hearing	Tuesday, November 08, 2016
CIP Planning Discussion with Planning Commission	Wednesday, November 09, 2016
Rollover Resolution - 2nd Read	Tuesday, November 22, 2016
Budget Submissions due to Budget Manager	**Friday, December 02, 2016**
City Manager's Budget Presented to City Council	**Tuesday, March 14, 2017**
CIP Presentation to Planning Commission	Wednesday, March 08, 2017
Budget Work Session	**Tuesday, March 28, 2017**
Budget Work Session	**Tuesday, April 11, 2017**
Public Hearing on Budget	**Tuesday, April 18, 2017**
First Reading of Budget	**Tuesday, April 25, 2017**
Second Reading of Budget	**Tuesday, May 09, 2017**
Approved CIP Presentation to Planning Commission	Wednesday, May 10, 2017
Deadline for Passing School Budget	Monday, May 15, 2017
Budget & CIP Sent to Departments	Wednesday, May 24, 2017
Letters (via email) sent to Partner Agencies	Friday, May 26, 2017
Budget Posted to Website	Friday, June 30, 2017