PLANNING COMMISSION
MINUTES

October 12, 2016
7:30 p.m.
City of Fredericksburg
715 Princess Anne Street
Council Chambers

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

MEMBERS

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

CITY STAFF

Chuck Johnston, Director
Erik Nelson, Deputy Director
Kathleen Dooley, City Attorney
Mike Craig, Zoning Administrator
Marne Sherman, Dev. Administrator

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1. CALL TO ORDER

The October 12, 2016, Planning Commission regular meeting was called to order by Chairman McAfee at 7:30 p.m. Mr. McAfee explained the standard meeting procedures.

2. PLEDGE of ALLEGIANCE

3. ELECTION of OFFICERS

- Mr. Pates was unanimously nominated as Chair
- Dr. Gratz was unanimously nominated as Vice-Chair
- Mr. Beavers was unanimously nominated as Secretary

4. ADOPTION of MINUTES

- August 31, 2016 - Regular Meeting: Adopted as edited by Pates.
- September 14, 2016 – Regular Meeting: Adopted.

PUBLIC HEARINGS

5. **SUP2016-07 -** Blanton and Betty Massey (owners), request a special use permit for a bed and breakfast at 1517 Caroline Street (GPIN 7789-07-6402) in the R-2 Residential (R2) Zoning District. The Comprehensive Plan designates the area where the subject properties are located as 'Low Density Residential,' which recommends residential development at two units per acre.

Mr. Craig presented the application.

Mr. Pates said he did not see anything in the material provided to Commissioners that this particular application would be operated under "Airbnb".

Mr. Craig said that it is his understanding that this is more of a traditional Bed and Breakfast. However, he said he does not know whether one would advertise under "Airbnb" and that there really is no difference between an Airbnb and a B&B being sought in the City of Fredericksburg. He said the Unified Development Ordinance regulations are the same for both, no matter what type of Bed and Breakfast it is.

Mr. Pates noted that the Planning Commission had recently considered a different B&B application and it was understood that the City was undertaking a study regarding B&Bs and that in light of what the General Assembly may do, City staff was going to come back to the Planning Commission with a report, tentatively set for October. He asked the status of this study/report.

Mr. Craig said staff continues to work on this study and hope to have something ready to report to the Commission in another month or so. He said what staff is focused on right now is a Home Occupation Provisional Use Permit for a Home Stay, which is a mechanism that Charlottesville is using and that it is an administrative type of permit for smaller bed and breakfast types of uses.

Mr. Pates said then that would not be a Special Use Permit.

Mr. Craig said no sir, it would not.

Mr. Pate said then they <u>would</u> be treated differently.

Mr. Johnston said yes, by size. He said he thinks that the distinction of whether something advertizes on the Web and considers itself an Airbnb versus one that does not advertise on the Web is a distinction without much difference from a land use perspective. So, he said, whether they call themselves an "airbnb" or don't call themselves an "airbnb" it is still temporary overnight guests in a single-family residential home on a very modest level, and what Mr. Craig's research has shown is it is extremely modest – one, two, three-bedrooms, that it is treated

as a home occupation and treated administratively. He said staff will of course discuss other processes that communities are following but that this is just one example of how these types of uses are being handled.

Mr. Pates asked staff if in consideration of this, if they are looking into any other additional regulations relating to airbnb uses.

Mr. Craig said this is a good question and read a few highlights from the permit used in Charlottesville that allows for permits to be revoked if the airbnb does not follow specific guidelines. The sample permit also calls for safety measures such as working smoke detectors, carbon monoxide detectors, fire extinguishers being accessible to overnight guests at all times. Admittance for City inspectors to the subject property upon advance, written notice, at least one time during the calendar year. Also there could be a cap on the amount of rooms and guests. These, he said, are all things that we are looking into and will present to the Planning Commission at a later date.

Mr. Pates said this is all very interesting and believes it is a good project for the City to be looking at these types of issues. However, he said, by considering this application tonight, before we have had a chance to consider some sort of additional measures for these kinds of establishments, he asked if staff would be amenable to a provision for this application that it would need to comply with whatever the City ultimately determines?

Mr. Johnston said the City cannot impose regulations on particular applications that have not yet been adopted by City Council.

Mr. Pates asked then why approve something when the City may adopt something that has different rules?

Mr. Johnston said we do not know that the rules will be different or even whether City Council would adopt new regulations. He said of course staff is talking about it and proposing some changes but there is no way to guarantee these changes <u>will</u> happen. He said the Commission has been asked to look at the merits of this application based on the regulations as they are written today and he believes that is all that one should reasonably do.

Mr. Beavers confirmed that approval of the Special Use Permit would run with the land and if the owners decided to move, it could continue to change ownership as a B&B until such time that it is not utilized for this use after two years.

Mr. Craig said this was correct. As long as the use is not discontinued for more than two years, it would be permitted as a B&B.

Mr. Johnston reminded Commissioners that with one previously submitted bed and breakfast, the City Council chose to impose a sunset clause of three years because it was a newly established B&B and that it is aware that the General Assembly might impose changes in regulations for B&B's. However, he said, when the Commission reviewed another Bed and Breakfast application at last month's hearing and decided it did not want to impose a sunset clause.

Dr. Gratz asked if the subject bed and breakfast is already in existence and attempting to come into compliance, or whether it is a new one.

Mr. Craig said the subject bed and breakfast is a new business, which will not operate until permits are issued.

Dr. Gratz questioned that there is no requirement to have a bathroom for each guest room of the B&B.

Mr. Craig said there was no such requirement.

Mr. McAfee called on the applicant and asked if he had anything further to add.

Mr. Blanton Massey (applicant), 1517 Caroline Street, said that he and his wife intend to rent only to families who would not mind sharing a bathroom, such as a husband, wife and children. He also said he would be charging a pretty high fee since he is located within the Historic District and has a swimming pool for guest use. He added that he does not believe there are enough B&B's in the Fredericksburg downtown area.

Mr. Pates asked Mr. Massey if it is his understanding that this would only be operated as a bed and breakfast while he continues to occupy the home as his principal residence.

Mr. Massey said yes, he understands he must live in the residence in order to operate the bed and breakfast.

Mr. McAfee opened the floor for public comment.

PUBLIC COMMENT

Ms. Connie Truslow – 8320 River Road, 22407. She said she and her husband own the home at 1600 Caroline Street and that her son currently lives there. She said her main concern is about parking. She asked how Mr. Massey intends to ensure that the two parking spaces in front of his house will be there for his guests to park.

Mr. McAfee asked what the feeling was of staff regarding the adequacy of parking on site.

Mr. Craig said the Ordinance for airbnb's requires two parking spaces for the dwelling use and staff believes the driveway has ample room for two vehicles to fit well. He said the owners also have approximately 60 feet of frontage, which will also accommodate two parking spaces in front of their house. He said that staff believes there is ample parking for this use for what the Ordinance requires.

Mr. McAfee asked if there is any attempt being given to include this part of Caroline Street in the permit parking that the City oversees.

Mr. Craig said, no, not that he is aware of.

Mr. McAfee closed the public hearing on this item.

Mr. Pates made a motion to approve the application for a special use permit to operate a bed and breakfast at 1517 Caroline Street to include the four conditions listed on the staff report, and to add a fifth condition "that the special use permit will sunset two years from the date of issuance." His logic, he said, he has no doubt whatsoever that the applicant will run a fine establishment, but that he has legitimate concerns about B&B's, and he personally believes there should be protections in place. He said that after two years the applicant can come back and comply with the Ordinance in place at that time. He said the larger issue is if other people come in to operate these B&B's and don't run such a reputable establishment once the special use permit is issued to previous owners. He added that there are legitimate concerns regarding the proliferation of these types of uses, no matter what you want to call them and it makes sense to have some sort of protections in place.

Mr. McAfee said he believes the City puts a lot of effort and money into trying to get people to come here on short-term stays.

Mr. McAfee asked if there was a second to the motion on the floor.

Mr. Beavers said he would like to first ask a question of the applicant. In thinking about the motion proposed by Mr. Pates, Mr. Beavers asked how long it would take the applicant to get "up and running".

Mr. Massey said he believes it should take no longer than 60 days.

Mr. Beavers seconded the motion.

Mr. Gantt said he is somewhat concerned about putting a sunset clause on the approval of this application when just at the last Planning Commission meeting it was agreed to by Commissioners that they did not want to invoke a sunset clause. He said he is very concerned with projecting something is "going to

happen" down the line and that this application must be reviewed based on the merits and ordinances that currently exist.

Mr. McAfee asked the City attorney that if the City Council adopts a stricter Ordinance if the previously approved B&B's would be required to comply with the new Ordinance.

Ms. Dooley said if the City Council adopts a stricter Ordinance in the future, the current B&B's would be grandfathered under the regulations that existed during that time of approval.

Mr. Gantt proposed a substitute motion. He made a motion to recommend approval of the special use permit for a B&B operation at 1517 Caroline Street to include the four conditions outlined on the staff report and to add a sunset clause of three (3) years.

Mr. Pates withdrew his motion, which contained the two year sunset clause.

Mr. O'Toole seconded the motion made by Mr. Gantt.

Mr. McAfee called for the vote.

Motion carried by a unanimous vote of 6 - 0

6. **The City of Fredericksburg** proposes amendments to:

   a. the 2015 Comprehensive Plan to designate Land Use Areas 1 through 8 and 10 as areas that are appropriate 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; and 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.

The effect of these amendments will be to exempt land within the designated Land Use Areas from proffer reform legislation adopted by the 2016 Virginia General Assembly. The proffer reform legislation restricts local authority with respect to proffers or proffer amendments for a new residential development or a new residential use.

Mr. Nelson presented the staff report.

Mr. McAfee confirmed that the General Assembly has identified unique situations such as the City of Fredericksburg and given us a way to exempt ourselves from this legislation and we are now taking advantage of that in the best way we are able.

Mr. Nelson said this is correct and that it is also giving the City the opportunity to put it in writing in a much clearer way.

Mr. Beavers asked if there are any negative consequences for the City taking this route.

Ms. Dooley said, no. She said she does not see a negative consequence. She said she believes it is important that the analysis is correct and she would review it substantively. She said the question is whether the Planning Commission agrees that these land use areas are in fact land areas where revitalization is a goal; that are served by mass transit; where FAR of 3.0 is appropriate; and where mixed-use development is correct. If substantively, those facts are correct and that indeed it is our vision for the City then she said she does not see a down side in so stating in the Comprehensive Plan. She said the General Assembly did establish this safe harbor for more urban areas such as Fredericksburg.

Mr. Johnston said he wanted to follow along with what Ms. Dooley was saying and to look specifically at the criteria, he said if you look at the Staff report it does add substantial justification of why we believe in the various sub areas that it is appropriate for revitalization.

Mr. Pates commended staff on crafting a plan that allows the City to stay in the proffer business and said he hopes to see the City continue its efforts in developing a proffer policy if this Ordinance is adopted by City Council. He asked what an example would be of something that has a roughly 3.0 FAR on a commercial property.

Mr. Johnston said he believes the simplest example would be the Courthouse.

Mr. Pates said that is exactly what concerns him is that by doing this we are not just amending the Comprehensive Plan but we are also amending our zoning ordinance (UDO), so that in all of these districts where land is currently zoned for some type of commercial use that we are saying basically that you can fill that up by obtaining a special use permit with something as dense as the courthouse. He said he questions whether the City really wants to do that city-wide.

Mr. McAfee said as a City one would want increased density. He said the trend in the past has been sprawl and that is what the City is trying to get

away from. He said we want increased density and want to see individual pieces of land used most efficiently as possible. He said he does not see the 3.0 FAR as a problem.

Mr. Johnston said he believes that once City Council acts on this that a proffer policy will be the very next step. He reminded Commissioners that there had been some work done on a proffer policy but that this might need to be backed up a couple steps because the parameters have changed slightly. He said it is his hope that a proffer policy will come forward within a matter of months after this moves forward.

Mr. Gantt said that in going along with what Mr. McAfee was saying earlier, he said that even though we have this in the ordinance, it is for flexibility purposes. He said we don't want to have something in it that limits the City too much and we are talking about commercial properties here. He said he would agree with Mr. McAfee's comments.

Dr. Gratz noted that there is no recommended increase in FAR for the C-T Commercial Transitional zoning district.

Mr. Johnston said the Code allows it to be a portion thereof. He said you don't have to allow it in every commercial area and that it can be just one spot within that area where we allow it. He added that the C-T zoning district is intended to be the transitional zone and least intense commercial zoning district. He said every other planning area has at least one of these zoning districts so there was not a need to even discuss putting it in the C-T district.

There were no additional Planning Commissioner comments.

Mr. McAfee opened the floor for Public Comment.

There was no public comment.

Mr. McAfee closed the floor to public comment and asked if there as a motion.

Mr. Gantt made a motion to recommend approval of the proposed Comprehensive Plan and Unified Development text amendments, as outlined by staff.

Dr. Gratz seconded the motion.

Mr. Pates said he intends to vote for this but that he remains concerned whether the City wants a lot of this in the City. He said the intent is good and hopes the City Council looks at the amendments very carefully.

Motion carried by a unanimous vote of 6 – 0.

7. The City of Fredericksburg proposes amendments to the Unified Development Ordinance of the City Code to change fence regulations. The amendments:

a. provide additional flexibility for fences on corner lots and through lots;

b. decrease permitted fence heights from six feet to four feet in any front yard of lots zoned Commercial;

c. 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);

d. prohibit the use of barbed wire or razor wire except in an Industrial district; and

e. clarify terms, figures, measurements, and tables related to sight triangles, lot types, required yards, and building fronts on lots in all zoning districts.

Ms. Sherman presented the staff report on the proposed amendments, as well as a brief slide show depicting different scenarios of various fence heights.

Mr. Beavers asked for confirmation that once this Ordinance becomes effective if people wishing to install a taller fence than what is permitted would be required to go to the BZA for approval.

Ms. Sherman said that is the catch in more unique cases for lots that would not meet the first proposed change. In the residential zoning district, commercial and planned development residential where lots back up to one another. She provided examples of circumstances where certain exemptions from the stricter height limit would be permitted.

Mr. O'Toole asked if this impacts the "type" of fencing.

Ms. Sherman said it does in two ways. First of all the City is proposing a limitation on the use of barbed wire and similar fencing in every zoning district except the industrial zoning district. The other would be in the context of a special exception request the BZA can and should take into consideration the fence material/type.

Mr. Pates asked that slide "Article 8" be brought back up on the screen. He said what you are doing is creating a new term called the secondary front yard. He said it used to be called a side yard.

Ms. Sherman said the Code and this figure in today's code has been consistently shown as a front yard. On corner lots and through lots, any lot line you have adjoining a street creates a front yard, which was the same in the previous code.

Mr. Pates asked why we are changing the code.

Ms. Sherman said the change is to allow for taller fences in areas with special circumstances. She said several Council members were approached by constituents seeking this change and so staff was tasked to determine when it might be appropriate to allow the taller fences.

Mr. Pates said he thought that previously anyone could place a four foot fence in the front hard on all sides back up to the front setback of the house and then from that point back were permitted up to a six foot height limit. He said that what the diagram is showing is that on the side of the rear fence is only permitted to be four feet in height because it abuts a street.

Ms. Sherman said that is correct.

Dr. Gratz noted that the proposed change is to allow citizens to appeal to the BZA for additional height by filing for a special exception. He asked why this process would not come before the Planning Commission.

Ms. Sherman said it would be a similar process as a variance request. Fences are approved administratively and if the staff determines that a fence application is not in conformance with the Code, the applicant for the fence may take their case to the BZA.

Mr. McAfee said if he were able to write one rule within the City, six-foot fences would not be permitted anywhere within the City limits.

Mr. McAfee opened the floor for public comment.

There was no public comment.

Mr. McAfee closed the floor to public comment.

Mr. Pates noted that anything that will get neighbors upset is fences. He said he is not ready to vote on the proposed changes and that he would prefer to have the opportunity to look over the proposed changes more thoroughly. He noted for the record that most Commissioners had not received their packets in a timely manner and a couple had not received them at all prior to the meeting. Therefore, he made a motion that this item be tabled until the Planning Commission has ample time to review the changes and arrive at an informed decision.

Mr. Beavers seconded the motion.

Mr. McAfee called for the vote.

Motion carried by a vote of 6 – 0.

Ms. Sherman asked if there was additional information that the Planning Commission would like to receive from staff.

Dr. Gratz asked staff to look at whether the special exception for additional fence height should come before the Planning Commission instead of the BZA.

Mr. Pates asked if the Planning Commission could get together and ride around town to look at different fence scenarios.

Ms. Sherman said she has a "tour" route that she has taken members of City Council on to view different scenarios and that she would be happy to organize a few tours for Commission members. She said she would send an e-mail to Commissioners offering dates and times of tours that would include two members of the Commission at one time.

GENERAL PUBLIC COMMENT

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

Mr. McAfee opened the floor for General Public Comment.

There were no speakers.

Mr. McAfee closed the General Public Comment period.

OTHER BUSINESS

8. Planning Commissioner Comments

Dr. Gratz thanked Chairman McAfee for his dedication to the citizens of Fredericksburg and many years of service on the Planning Commission.

Mr. McAfee read a prepared statement about what he believes the role to be of a Planning Commissioner. He offered advice and thanked City Council for

allowing him to serve the wonderful citizens of Fredericksburg for such a long time. (**ATTACHMENT A).**
(Mr. Johnston presented Mr. McAfee with a City shirt).

9. Planning Director Comments

Mr. Johnston reminded Commissioners that the Budget Manager will be present at the November meeting to begin discussion regarding the CIP

Mr. Johnston informed Commissioners of future applications, and informed those present that the StreetSense report is available on the City's Website.

ADJOURNMENT

Roy McAfee, Chair

ATTACHMENT A

A Planning Commissioner

While future is the business of planners, a planning Commissioner should not predict. A Planning Commissioner should direct, based on the will of the people as vetted and adopted in the Comprehensive Plan and officially associated documents.

As the repository of much and varied public input as well as the consensus on municipal growth the Comprehensive Plan serves as the main instrument of advisory. In updating and revising the Comprehensive Plan a Planning Commissioner should seek as a group and independently as inclusive public input as possible.

A Planning Commissioner should use their own experience and expertise to help interpret and compare applications and issues to the Comprehensive Plan. To this end it is imperative that Council appoint a variety of experience and talent and that the Commissioner obtain certification as soon as possible. A Commissioner should continue their municipal education in the direction that complements their particular interest and expertise in order to bring forward and make real the goals and initiatives that turn the Comprehensive Plan into our future.

Zoning and ordinance, so much a part of the Commission's consideration and work, has undergone much change in the last ten years. Indeed our entire understanding of zoning in a traditional urban environment has grown at a national level. We now realize we cannot maintain or rebuild the types of environments in our core that are treasured and essential to our character with 20th century zoning. Changes in demographics, economics, transportation and technology continue to expose ordinance that restrict desired growth.

Municipal rules and regulations should be few, easy to understand and administrate. The overarching rule should be to enable the visions, goals and initiatives of the Comprehensive Plan. In considering new or revising ordinance, think simple. Create a structured environment of tolerance that enables growth of existing citizen, business and infrastructure. Those you wish to join you will be attracted to this atmosphere.

Finally a commissioner should constantly do 3 things;

- Keep an open mind. Personal agendas are secondary to stewarding the municipal public will.
- Seek as much information as possible and continue to do so until the question is called.
- Render a decision for your grandchildren. Everyone in the room may well fade away before the results of your decision do.

Now, I would like to enumerate a few personal opinions formed over the past ten year on this Commission.

Traditional urban environments are built on inclusion and interconnectivity. Ancient urban layouts demonstrate varied building mass, type and use within a neighborhood. Inclusion in housing means varied size and economic levels within a block. In business, inclusion means services, vendors, and makers operating within the walkable community.

The health, resilience and growth of a municipality will reflect the level of interconnectivity within and without the neighborhoods. Interconnectivity best exist at all levels and modes of transportation. Roads should not often cul-de-sac or dead end. There is nowhere in a city this size you should not be able to walk to and through. Gates and other exclusionary devises do not promote connections. Mass and public transit should be given priority in an urban core.

Sidewalks are how we connect our neighborhoods. We must improve the amount, condition and maintenance of these links from our front doors to the rest of the City. Our alleyways are an underutilized green asset and alternative connection.

Temporary and portable vendors in key areas promote interaction, decrease the need for mechanized travel, increase the tax base, and provide incubation and growth to local business. Identify areas and opportunities for these kiosks and vendor carts both within our core in other intensely used areas.

Porches are another way in which the citizen and building connect with the public. Porches should face the main pedestrian way. Porches need to be at least six feet deep to function well. Porches are a sustainable way to increase quality of life by adding usable outside living area, protecting entrances, doorways, and windows.

Focal points at visual terminus promote a sense of scale and community increasing the daily enjoyment of life. Traditionally, important, large or impressive buildings are built at the ends of avenues. Promote such vistas to establish a level of quality and promote community pride.

Art corridors may be a quick and inexpensive way to revitalize a neighborhood. Temporarily giving administrative flexibility can promote low cost housing and artist/maker spaces as incubation areas and can support other incremental improvements in areas that are slow to redevelop. *Indy art* areas can create color and subject that minimize blight and create a more attractive area for resident, tourist, and prospective cutting edge business.

Auto-centric design should not be the priority in a traditional urban area. Street and building design should encourage pedestrian activity and safety while mingling modes of transportation. Traffic should be calmed with two way streets where ever possible. Mechanized traffic in an urban core should be slowed to a maximum of 20 mph.

Cross walks and traffic control devises that promote an atmosphere of us and them should be minimized. The concept of "Shared space" should be applied in your core urban area. This practice reduces pedestrian/auto conflict, injury, related deaths, emissions, fuel consumption and time between destinations while promoting inclusion of driver and passenger with the community they are in.

I have joked that volunteering as a Planning Commissioner was my penance for losing the 2006 Council election. However, it has been a blessing. I have enjoyed working with staff and citizens. I have treasured opportunities to improve process and product. I have voraciously soaked up reams of printed material. I have seen good intentions go bad and failures become success. I humbly and happily offer here my ten years of experience as a Fredericksburg Planning Commissioner. I thank our elected officials for their faith in me. Our grandchildren will be the final judges.