



PLANNING COMMISSION MINUTES

April 13, 2016

7:30 p.m.

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

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

MEMBERS

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

CITY STAFF

Mark Whitley, Asst. City Manager
Chuck Johnston, Director of CP&B Dept.
Mike Craig, Zoning Administrator
Marne Sherman, Development Administrator

1. CALL TO ORDER

The April 13, 2016, Planning Commission meeting was called to order by Chairman McAfee. Mr. McAfee explained the standard meeting procedures.

2. PLEDGE of ALLEGIANCE

3. ADOPTION OF MINUTES

- **February 10, 2016** – Work Session - Adopted
- **February 10, 2016** – Regular Meeting - Adopted

PUBLIC HEARINGS

- 4. SUP2016-01 – Amendment to Special Use Permit: The Thomas J. Wack Company**, proposes to amend the conditions placed on the Special Use Permit approved August 12, 2014 (SUP2014-03) that increased the residential density from 24 to 36 dwelling units per acre on the parcel at 605 William Street (GPIN 7789-04-0822) in the Commercial-Downtown (CD) Zoning District. Under by-right CD zoning, the 1.4-acre parcel could support 35 dwelling units. The approved Special Use Permit permits up to 51 dwelling units. A condition of the 2014 approval was that the development would be in substantial accordance with

a General Development Plan and architectural elevations. This amendment is the result of changes in the site plan and architectural elevations for the project, including plans to allow the building wall on Amelia Street to have no setback from the sidewalk for the four-story structure. The Comprehensive Plan designates the area for Downtown, which has no specific recommended residential density or setback standard.

Mr. Craig presented the staff report and provided a brief Power Point presentation to familiarize members of the public with the project and to state the land use changes made since the previously-approved Special Use Permit. He said that City staff recommends approval of the Special Use Permit, subject to conditions, recognizing that there is some work to be done at the meeting this evening. He noted that of the following staff-recommended conditions, that the second condition is inserted as a “place holder” into the recommendation and not really intended to make it out of the room. The idea being, he said, “The City Council may impose reasonable conditions that have a nexus in rough proportionality to the impacts of a special use project.” He said a lot of this stuff was decided in the year 2014. But what the proposed changes really boiled down to, in our technical analysis of Amelia Street, was the impact of the 50’ extended wall of the building facade. He said zoning is a blunt tool and the simplest condition to mitigate this impact would be to impose a requirement that the 4th floor along Amelia Street be recessed 10 feet, which is roughly the amount of right-of-way proposed to be vacated by the applicant. However, he said, the applicant has not agreed to that condition, so staff has proposed condition #2. The idea is to provide this forum for the applicant, for the public and for the Planning Commission the opportunity to propose creative solutions to soften this impact.

Staff’s Recommendation of approval to the City Council, with the following conditions:

- 1. The project shall be developed in substantial accordance with the General Development Plan entitled “Liberty Place,” by Bowman Consulting dated March 28, 2016, last revised April 6, 2016.*
- 2. Prior to final SUP approval, the developer should revise the Architectural Plan Sheets entitled “Liberty Place,” by mv+a dated April 1, 2016, to soften the mass and scale of the Amelia Street elevation to respect the integrity and character of the single-family neighborhood across Amelia Street.*
- 3. The permitted use of the property shall commence by August 12, 2019.*

Mr. McAfee opened the floor for Commissioner comment.

Mr. Beavers said he is concerned with using the word “should” in recommended conditions for approval of a project versus the word “shall” or “will” because using “should” does not necessarily mean they must do it. He said the staff recommendation also gives the appearance that the Planning Commission is being asked to approve a project that the Commission has not actually seen in complete form. He said this bothers him as well.

Mr. Craig said Mr. Beavers had some good points and that he does not recommend that the Commission adopt this condition [No. 2]. Again, he said, it is a “place holder” meant to focus on the impact that staff sees. He said that the impact is pretty clear and that the Commission can boil it down to a very simple and enforceable condition to “recess

the floor 10 feet.” However, he said, we want to give the applicant an opportunity to present reasonable solutions to the adverse impact.

Dr. Gratz asked if the balconies will overhang the sidewalk.

Mr. Craig said this was correct and that it would require another approval from City Council to encroach.

Mr. Dynes asked if it was because of the City’s initiation and request for parking that caused the change in design from the 2014 approval to what is before the City today.

Mr. Craig said that is part of it. He said that as the project evolved, with one component being the inclusion of public parking, it [ultimately] changed so much that it was no longer in substantial accord with the conditions on the 2014 Special Use Permit. Therefore, their site plan could not get approved until they went back through this process, and that is why we are here.

Mr. Dynes said he understood that but asked what the trigger was that required them to revise it in the first place.

Mr. Craig said that public parking was one thing and there are other design changes that were contemplated by the applicant, which the applicant can speak to.

Mr. Dynes said but previously, the applicant had a design with two independent buildings, which included suitable parking and now we have a conjoined building with a division internally and ground level parking with the difference of almost 100 parking spaces between the two. He asked if he could assume that the reason everyone is here tonight is because the City asked for parking.

Mr. Craig said he did not know for sure but that it played a role in it.

Mr. Pates said he recalled that when this came before the Planning Commission and Council previously, there was also a special exception for height.

Mr. Craig said no, there was no special exception for height but they did list an administrative modification on their GDP and that may be what Mr. Pates is recalling. He said this is no longer the case and that they will build to the 50 foot height limit.

Dr. Gratz said the Commission has not seen the floor plans this time around and asked if there are still two levels of parking proposed below ground.

Mr. Craig said this was correct.

Mr. McAfee asked if the applicant had anything they would like to add to the discussion.

Mr. Charlie Payne provided a brief statement for his clients (applicants) regarding the proposed project. He asked the Chairman if they may have additional time (longer than the allotted 15 minutes) for their presentation due to the complexity of the project. He said, just as Mr. Dynes was asking, it is true that one of the main reasons for the design change is because the City had approached them and asked their assistance with a public parking solution for this particular area. He said this is now a \$46.3 million

project where the previously approved SUP it was a \$36 million project, the increase mainly driven by the new parking deck. He said it will also generate approximately 90 – 120 new employees on the office level and approximately 200 for the entire project. He said the entire project will be a long-term asset and have a strong economic benefit for the City.

Mr. Payne said that if the applicants are forced to set back the fourth floor of the building 10 feet, [plus] what other recommendations may be, they may very well lose a good portion of the parking and may lose units within their project. He said it is important to remember that the Special Use Permit request is for [residential] density above the 24 units to an acre, so he said, at some point in time, it becomes more of a by-right question than it does a Special Use Permit question, which would not require anyone's approval at that point in time.

Mr. McAfee granted the applicants additional time.

Mr. Payne introduced Mr. Jack Holland and Ms. Eleanor Krauss, mv+a Architects for the project.

Mr. Holland and Ms. Krauss provided an extended slide presentation of other projects in D.C., Maryland, and other areas, that their company (mv+a) had completed or are in the process of constructing, along with a few slides of the proposed Liberty Place project. He said their design is more of a series of buildings that have evolved over time and that their goal is to have a beautiful building that people look at and say: yes, that belongs there.

Ms. Krauss noted that they had also conducted a "Light and Shade Study" of the subject block and surrounding blocks but they did not have it prepared in time to have included with the presentation. She said the shadows cast across Amelia Street from Liberty Place are exactly the same as the [Amelia Square] townhouses across the street. She said they took [simulated drawings of] summer, spring, winter and fall at four times throughout the day and ran the shadows and essentially found that the November-through-February timeframe would be the only time of year that you would have shadows that would hit the front yards of the houses across the opposite side of Amelia Street. She said the shadow lines would end in the street the remainder of the year. And, she said, during those times of the year between 10 a.m. and 1 p.m., you would have shadows that would cast across the houses across the street. So, she said, it is a few hours a day for approximately 3 months of the year that shadows will even cross the street. She said she would provide the study to Commissioners in the near future.

Mr. Payne said they would be happy to answer any questions of the Commission or clarify any aspects of the application. He said he did not believe he had ever been involved or represented someone that had the perfect project, or even if there was such a thing, when a project comes into town, particularly in our urban center [where] we encourage mixed uses in an urban environment with various uses around that projected urban development, there are going to be lots of positives and some negatives, certainly from the interpretation of neighbors. At the end of the day, he said, if you look at this project in its totality, look at the positives that are generated from it from a redevelopment perspective - an economic development perspective and a job creation perspective and the amenities it is going to provide to our neighbors - those are important priorities for our City and we need to understand this as we move forward with

this process. He said [his clients] certainly understand the concerns of the neighbors and, at the end of the day this is going to be an important, viable and good project for the City and he encouraged Commission members to approve the request.

Mr. McAfee opened the floor for public comment.

PUBLIC COMMENT

Tom Olney, 601 Amelia Street. He said he is in favor of the project and that he is concerned that these changes are due to the requested parking by the City. He said he does not understand why the 'extra' parking that had been requested cannot in some way be engineered within the project itself. He said he has some serious concerns about what is happening and how it is going to impact the traffic in the area, as well as the residential parking on the residential side of the street. He said that everyone had looked at a lot of slides/pictures and renderings that have nothing to do with the project before the City and that he was frustrated that as a citizen in the City they are just now seeing only some renderings of the proposed project, but spent a bunch of time looking at other buildings that he or the other people could really care less about. He noted that they already have a problem with residential parking because of Sedona and that [the neighbors] have become the "parking lot" for [the restaurant's] patrons. He said he and his neighbors have already begun steps to correct this problem. He asked that the City consider making the five parking spaces in front of their homes "residential only" parking.

Gordon Gay, 603 Amelia Street. He said he is in favor of the project itself but has concerns and would like to see it blend in more with the historic surroundings of the downtown. He suggested that if one looks at the vignette on Amelia Street, one will see Amelia Square and the type of windows and the type of architecture that is there now. These are trying to blend in, [but with] the new [project's] architecture, most of the [proposed] buildings are commercial buildings with large windows. He said those type of windows may be appropriate for a school or other similar use building but that this is a historic city and the design is not appropriate for the area. He said that what is being proposed completely changes the architecture of the area. He also said he believes there needs to be a recess/setback on the 4th floor, as previously proposed, because it made the building much more pleasing. He said what is being proposed now is a far cry from what had previously been approved. He said he also agrees with Mr. Olney's concerns regarding the impact the project will have on residential parking and the traffic that will be generated.

Ms. Ellen Stoutes, 600 Lewis Street. She said she believes that the traffic pattern needs to be given a lot of attention. She said there are a lot of bikers, walkers, and families with children that interact with that area. She said she would like to see a traffic pattern study conducted.

There were no additional speakers.

Mr. McAfee closed the public hearing on this item.

Mr. Dynes thanked Mr. Payne and the engineering firm for their presentation. He said he would like to comment that in his opinion the process with this issue has been conducted in a backward fashion. He said the proposer has spent and invested a lot of

money into this project and the City needs to be mindful that we have an investor who is already \$2 million into [the project] at this point in time.

Mr. Dynes asked for confirmation that this is a request for a right-of-way vacation.

Mr. Johnston said that was incorrect. The right-of-way vacation request would be coming up later on the agenda.

Mr. Dynes said then that this is just the look and feel part of it.

Mr. Johnston said no, it is an application for a Special Use Permit amendment.

Mr. Dynes asked what the existing setbacks are for the subject C-D zoning district.

Mr. Craig said zero. There are no required setbacks in the C-D zoning district unless setbacks already exist on a particular lot then the average is taken. He said in this case there is nothing existing so the setback is zero.

Mr. Dynes confirmed that the applicant is not asking for a variance from a setback [requirement] then.

Mr. Craig said this was correct.

Mr. Dynes asked what the measurement of the width of Amelia Street was at that point.

Ms. Sherman said approximately 54 feet if the vacation request is approved.

Mr. Dynes said he had been on Google Maps and he measured the actual street width to the sidewalk corner to corner and it was 36 feet, which he said is important if you are judging a 50-ft height for a house that is six to eight feet away and how high it is [in relation] to that structure.

Mr. Dynes said he knows that the tax incentive financing (TIF) is not part of the Commission Agenda but that he had to ask a question because he knows that a TIF is part of what is in front of City Council. He called on Bill Freehling, Assistant Director of Economic Development, to come to the podium and answer a question. He said he wanted Mr. Freehling to address the question as to whether staff or the EDA had received documentary evidence showing that the TIF was needed to secure the financing for this project.

[NOTE: Mr. Freehling was out of range of the microphone and was not picked up on audio in the beginning of his answer but he ended his answer by saying this assistance was needed to make the project viable, to help finance it and to attract tenants.]

Mr. Dynes said he believed Mr. Freehling but that he would also like to see the City's interests represented. He asked Mr. Freehling if staff had any evidence or documentation from a bank or financing organization to that effect.

Mr. Freehling said they had received an application from the developer and that the staff had expressed a recommendation based on that application and the tax revenue that was going to be generated from this project.

Mr. Dynes asked Mr. Payne if he had any comment.

Mr. Payne said, one, he appreciated Mr. Dynes' question and, two, that the financing is contingent on receiving the TIF.

Mr. Dynes said he would allow other Commissioners to ask questions and would speak again later.

Mr. McAfee cautioned Mr. Dynes that he is only permitted to speak twice to an application as outlined in the Planning Commission By-Laws.

Dr. Gratz said with respect to the entire project, he was more concerned about the request for the right-of-way vacation and its approval, which would essentially allow the building to be constructed right up to the street. He said he liked the initial project and the plan that was presented in 2014 but that the current plan shows buildings that one might see in downtown Washington, DC.

Mr. O'Toole asked staff, in consideration of adding this extra parking, what was the situation on Amelia Street in terms of installing a light or something like that to expedite traffic?

Mr. Craig said this was a good question and that staff was currently in the process of site plan review, during which Public Works would check the warrants for this type of project. He said there is not projected to be a warrant for a signal or any other stop condition at that intersection.

Mr. O'Toole asked if he were correct in that this is going to become a two-way street in that area.

Mr. Craig responded, yes.

Ms. Sherman corrected Mr. Craig to say that it is already a two-way street.

Mr. Friesner said his understanding of the height of Amelia Square, from ground level, and the proposed project are the same but that the height from sea level is different. He asked if they are the same height from both mean sea level and street level.

Mr. Holland, Architect, said the two structures are the same height and that he would suspect the elevations where the townhouses hit the ground are a little bit different than the elevation for where their project hits the ground along Amelia Street, for the sea level question. He said that although that part of Amelia Street is not that flat, it is also not a steep incline/hill.

Mr. Friesner asked what the change is in elevation on the project site.

Mr. Payne answered, approximately two feet.

Mr. Tom Wack, one of the applicants, said that Amelia Street rises almost five feet from the corner of Winchester and Amelia to the corner of Douglas and Amelia. From the corner of William and Douglas to Amelia and Douglas, there is almost a six-foot rise. He

said the building height is measured from the average grade on the Amelia Street elevation and that is to the roof surface. He said then there is an additional parapet that is a little bit higher and that carries all around. He said he wanted to make sure that everyone knows they are completely within the Code on this matter.

Dr. Gratz said he believes the Architects are downplaying the "shading or shadows" that would be created during the winter months. He said the winter time is when you want to get light into a house, which would make it significant to the homeowners in the area. He said he believes they still need to recess the top level of the building so that the mass of the structure does not have such a major impact on the surrounding properties. He said he supports a condition requiring the top floor be recessed.

Mr. Pates said one of the issues is the light effect on the houses on Amelia Street. He asked if staff had requested the "Light and Shade Study" mentioned by the architects.

Mr. Craig said the staff had not asked for the study but that staff had been going out at different times of the day and checked Google maps. He said staff would be very happy to see the study that the applicants Architects have completed.

Mr. Pates said he would hope that the Commission would also be given a copy of the study as well.

Mr. McAfee said if there are no other questions, he would call for the question.

Mr. Dynes made a motion to table this item until the right-of-way vacation request had been heard.

Mr. McAfee said the Commission has an issue before it that staff has asked to push forward and, as a Commissioner has pointed out, a project to which money has been invested. However, he said he personally is not pleased to be asked to vote on a "pig in a poke" by essentially saying "*perhaps we can make changes to that last floor, but we don't know what they are tonight and you'll have to trust us that somewhere in the political process, it will all wash out.*" He said this is a technical review process and this is where we are supposed to decide those issues. He said the Council makes those decisions and the Planning Commission is a technical body and he would like to see any changes that were asked to be voted on this evening in front of the Commission if there was such a proposal. He said that as he sees it the Commission has one proposal before it, which is the mass of the building at 50' with no breaks and the applicant deserves a yes or no recommendation this evening.

Mr. O'Toole made a motion to recommend denial of the Special Use Permit.

Mr. Pates seconded the motion.

Mr. Dynes said he really likes this mixed-use project, which contains Class A office space of which there is a total of none in downtown Fredericksburg today. He said the City cannot lose sight that there is a vacant building and empty parking lot at this current location that is generating no revenue today other than property tax. He said he would vote against the motion. He also said everyone needs to be mindful that the change being considered tonight was initiated at the request of the City and that if the City thinks it is going to somehow ask for something that it is not going to have an impact, then it is

sadly mistaken. He said the City put itself into another bind through its own process, which hurts the City and hurts the residents in an area where the City is competing for investor dollars and we end up looking like an unreliable partner, which is also not good for the City. He said he looks at these projects from two points of view: If they were built everywhere, would I want it? On this one, it would be maybe no because I don't like the zero setback, but I am not going to let all these little preferences get in the way of something that is good enough. I also ask whether it is going to age well and he said he believes this project will age quite well. For these reasons, he said he would be voting against the motion to deny.

Dr. Friesner said he is also in favor of the project and he believes parking issues will be fixed through the plan-review process with staff and he would like to offer a substitute motion. He made a motion to approve the project, to include the three conditions made by staff in their report but to modify the second condition that a softer architectural plan sheet would come before the Planning Commission before final approval by City Council.

Dr. Friesner withdrew his substitute motion to make another substitute motion, namely, to recommend that the Planning Commission table action on the Special Use Permit until its next meeting so that it can see a revised site plan that took into account comments made [tonight].

Mr. McAfee asked Mr. Friesner to be specific as to what changes he would like to see brought back before the Commission in order to give the applicant a clearer understanding of what the Commission is looking for.

Dr. Friesner said he would like to see a plan that softens the mass and scale, specifically the top floor.

Mr. Payne said that with all due respect, a postponement by the Commission is not acceptable to the applicants and they would like a vote, up or down, this evening. He said this is on a very tight timeline and financing options depend on decisions.

There was no second to Dr. Friesner's motion. He withdrew his motion.

Mr. McAfee said the original motion is on the floor, which has been seconded, to deny the request.

Mr. Dynes said he had a substitute motion. He made a motion to recommend approval of the request with the condition that Amelia Street parking be made "Resident Only." He said that even if it is voted down, it would go on record that resident parking is an issue and when it goes to City Council, it would have that condition on it.

Mr. Johnston said he thinks he understands Mr. Dynes' intent but that regulation of the use of parking in the public right-of-way is something that is governed by City Council. He suggested that the recommendation be put in more in the form of a suggestion to Council instead of a condition on the application approval. He said that is something that is not in the control of the applicant, as to who uses that parking.

Mr. Dynes said Mr. Johnston's comment is understood but that, with all due respect, all the Planning Commission ever does is make a recommendation and then City Council is free to ignore it as they see fit.

Mr. McAfee asked the City Attorney a procedural question. He asked if the Planning Commission is allowed to place conditions on an application for areas outside of the subject property.

Ms. Dooley said that is the distinction that she believes the Planning Director was trying to make. She said that when there is a condition placed on a Special Use Permit, it is a condition on the development itself and how it will move forward. She said the parking on a public street is not a Special Use Permit condition. She said what she believes Mr. Dynes motion to be is that the Commission recommends approval of the special use permit but also, in conjunction with that, the parking on Amelia Street be made resident-only parking.

Mr. McAfee said there is another substitute motion by Mr. Dynes, and asked for a second.

Dr. Friesner seconded the substitute motion.

Mr. Pates said he believed the presentation by the applicant and the architects was impressive and that the applicants had obviously spent a great deal of time and money to make this a viable project. He said he applauded such ambitious project and that he had the greatest respect for Mr. Tom Wack, who is a responsible and responsive investor in our downtown, particularly with his adaptive reuse of the Old Gas Plant property. However, he said, the project as currently designed has a negative impact on the City neighborhoods in that area. He said he thought the project was not compatible with the neighborhood. He said the project itself is a good project and one that we would want to promote elsewhere but it is too big and massive for this particular site. He said he would be voting against the motion.

Dr. Gratz asked for a clarification of the motion currently on the floor.

Mr. McAfee said there is a substitute motion on the floor to approve the Special Use Permit with the suggestion that the City provide resident-only parking along Amelia Street.

Mr. Dynes said he would like to amend his substitute motion to include the three conditions noted in the staff report.

Dr. Friesner accepted Mr. Dynes' amendment and asked Mr. Dynes if he was changing the word "should" to "must" in the second condition.

Mr. Dynes said yes, the word "must" is included.

Dr. Gratz said he likes the project in general but he is not in agreement with the changes made. He said with the change to "must" and the change that they must do something with the elevation on Amelia Street, he will vote in favor of the motion.

Mr. O'Toole asked who will make the review after approval with these conditions and when it would take place.

Mr. Johnston said as it goes forward to City Council, it will ultimately be their decision. He noted that this is an awkward situation because the applicants are not willing to comply with condition #2 at this point in time. So, as it goes to City Council, they will have to decide on how to move forward.

Mr. Payne said they are at the table and listening to concerns of the Planning Commission, citizens, etc. He said the applicants are willing to discuss any change that is feasible for the project. He understood why the Commission is placing the condition with the language "must," but that they want the project to move to the next step in the process, which is the City Council.

Mr. McAfee asked Commissioners to cast their vote.

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

NEW BUSINESS

5. Liberty Place Partners, LLC, is requesting the Planning Commission to consider if the vacation of Amelia Street, between Winchester Street and Douglas Street, is substantially in accord with the City's 2015 Comprehensive Plan, as required by Virginia Code Section 15.2-2232. The request addresses changes to the General Development Plan (GDP) originally considered with the Planning Commission's 2014 action regarding vacation of same public right-of-way. In addition, the 2014 Planning Commission approval was based on the 2007 Comprehensive Plan. The public right-of-way is approximately 10 feet wide and runs along the east side of Amelia Street, adjacent to GPIN 7789-04-0822.

Ms. Sherman presented the staff report and a brief slide presentation to orient members of the public to area of the right-of-way vacation request.

Ms. Sherman said it is important to note that the one main point that was made with this vacation request was that the applicant needed the extra 10 feet because there would be an additional 15 parking spaces within the garage. She said that the garage does stop at the ground level so the need to push the building forward is understood for the ground level and possibly for the level above it as well, but in the absence of having additional warrants listed in the application, she said staff does not think there is a need to require the entire building to come up to the zero-foot setback.

Mr. Dynes asked the purpose of the right-of-way.

Ms. Sherman said it is typically for transportation purposes, sidewalks, grass, utilities, etc.

Mr. Dynes said then the City is not granting any additional land to the property owner because this is strictly a right-of-way (which is currently grass).

Ms. Sherman said there would actually be a transfer of land, which would be that 10-foot stretch of approximately 1777 square feet and it would be removed from City ownership

within a public right-of-way to this private land owner, which they can choose to use within the limits of the City Codes.

Mr. Dynes asked if he were the only person confused as to what the words “right-of-way” meant. He said he has utility and other right-of-way areas on his property but he still owns his yard.

Ms. Sherman said the land in question is currently owned by the City. This is not an easement over the applicant’s property.

Mr. Dynes asked how much money the City will be getting in return for the vacation.

Ms. Sherman said the applicants have proposed an even trade, with additional rights-of-way [being conveyed by the applicants to the City] along Douglas Street and Winchester Street.

Dr. Gratz said the Planning Commission had voted for the right-of-way vacation in 2014, which the Council also approved.

Ms. Sherman said this was correct, but that approval was subject to development [of the applicants’ property being] in accordance with the General Development Plan (GDP), which has now been changed.

Dr. Gratz said then because of these changes to the GDP, we are back at square one. He asked if this vacation is approved and the building built up to the edge of the right-of-way being vacated, wouldn’t the foundation plantings be in the public right-of-way?

Ms. Sherman said yes, a portion would be in the public right-of-way.

Dr. Gratz said then the applicants want to build up to the public right-of-way and then put their plantings in the public right-of-way.

Ms. Sherman said the City would require a maintenance agreement so the applicants would be required to maintain that additional landscaping above what the City would typically have within its right-of-way.

Dr. Gratz said his other question has to do with the parking situation, because the applicants have said they needed this space so they can move the building over enough to accommodate 15 additional spaces. He said that is 15 out of 300 spaces. He said the City is not really getting that many parking spaces for what the City is being asked to give up. He said the applicants could simply push the building back, or they could make the space in the middle a little bit less.

Mr. Johnston said there is no way of making the footprint of the building smaller without reducing the number of parking spaces.

Ms. Sherman said she would bring it back to the question at hand; and noted that staff did address some of these issues prior to bringing the application to the Commission, but at this point this is their proposal so the Commission needs to evaluate it, as presented, as to whether or not it is consistent with the Comprehensive Plan.

Mr. Dynes said he does not like zero setbacks but it happens to be the way zoning is arranged right now. He said he does not like reopening deals after the City has already negotiated. He said this is something that was voted on and approved by City Council two years ago and it would have to be a pretty high bar, in his opinion, to revisit the issue and change the answer to an investor two years down the road when the agreement had been approved long ago.

Mr. O'Toole said he was a bit confused. He said it was his understanding that we are looking to see if this vacation request is in substantial conformance with the Comprehensive Plan. He asked if this means just the vacation, or if it includes the "use" of the land once it is vacated.

Ms. Sherman it is appropriate that whenever there is a request to vacate public right-of-way that in consideration of that request you look at what they propose for that property. And in this case, she said, it changed from having being used as landscaped yard area to now having a building 50' tall within it.

Mr. O'Toole said then that if he is correctly interpreting the staff report, it does not conform with the Comprehensive Plan.

Ms. Sherman said that those sections are not in conformance.

Mr. Johnston said he believes there are a certain degree of priorities. He said he believes that the point in determining whether something is consistent with Comprehensive Plan is whether that "thing" like a transportation change is consistent with the transportation element. Ms. Sherman has expanded it to include all the policies in the Comprehensive Plan and he said he understands where she is coming from. For him, however, he said the priority is the transportation component.

Ms. Sherman said she wanted to clarify that she had been using the word "consistent" with the Comprehensive Plan. The actual language is whether or not it is "substantially in accord with the City's 2015 Comprehensive Plan." Therefore, there is some flexibility when you think "substantially in accord" means.

Mr. O'Toole said he would have to agree with his colleague that we had already approved the right-of-way vacation and now we are debating that decision.

Dr. Gratz said yes, the City gave approval of the previous vacation but that vacation was granted with a certain set of conditions and those conditions have changed so we are not really taking away anything.

There was no additional Commissioner comment.

Mr. McAfee asked if there was a motion.

Mr. Dynes made a motion to approve Resolution 16-03, which states the proposed vacation of a portion of the Amelia Street right-of-way (approximately 1777 square feet) is substantially in accord with the 2015 Comprehensive Plan.

Mr. Friesner seconded the motion.

Mr. Pates complimented staff on a balanced and objective presentation of the application. He said it is clear to him that this proposal to vacate the right-of-way is not substantially in accord with the Comprehensive Plan and he will be voting against the motion.

Motion passed by a vote of 4 – 3 with Pates, O'Toole and Gratz voting against the motion.

GENERAL PUBLIC COMMENT

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

Mr. McAfee opened the floor for general public comment.

Maureen Widic, 119 Caroline Street. She said she had not intended to speak but she was very concerned and dismayed about the City's process she had just witnessed in reference to the Liberty Place Special Use Permit request. She said she does not understand why this whole garage business has thrown a monkey wrench into this situation and she does not believe it is fair for the developer and she agrees with Mr. Dynes that it does not speak well for our City. She said the City asking for the extra parking may have sounded good at the time but then it was superimposed on the project that had already been approved and it appears that it has taken a long time to resolve this situation. She said she believes that in the end if you were to look at it from the residents' viewpoint, the project is not going to be as aesthetically pleasing or otherwise fit in the City as the original project would have. So you are trying to solve a parking problem at the expense of the developer who is trying to build in good faith and at the expense of the neighborhood.

Jerry Stokes, 600 Lewis Street. He said he was appalled and angry with watching the entire process of these applications. He said he is angry with the shortsightedness of the Planning Commission and City Council to have approved Sedona Tap House without adequate parking. And, as a result, the neighborhood has been flooded with patrons for Sedona and causing additional parking problems.

Mr. McAfee closed the General Public Comment period.

OTHER BUSINESS

7. **Capital Improvements Plan Update – Mark Whitley, Assistant City Manager**
Mr. Whitley provided a Power Point Presentation bringing Commissioners up to speed on the CIP to date.
8. **Planning Commissioner Comment**

Mr. Pates said he had a few items to discuss but due to the lateness of the

evening he would bring his comments back at the next Planning Commission meeting.

Dr. Friesner informed Commissioners that he has accepted employment in Boston and that this would be his final Planning Commission meeting. He thanked fellow Commissioners for their hard work and input into making the City a better place to live.

Mr. McAfee thanked Mr. Friesner on behalf of the Commission for his dedicated service to the Commission and the Fredericksburg Community and wished him well on his new adventure.

Mr. McAfee referenced the general public comments made this evening. He noted that one of the speakers had stated that he was upset about a parking problem in his area and it was suggested that the Planning Commission was remiss in not addressing parking. He said he would like to point out that it was a conscious decision at the Planning Commission and Council levels to create a parking problem and that we figured that when we did so we would know we had started to move in the right direction and that we could figure out what to do about it. Indeed, when one reads the Comprehensive Plan, it says that we should engage in public and private co-ops to solve those parking problems, and that is indeed what the City did. He said he believes the project that was before the Commission this evening is a good example of how we achieve those goals.

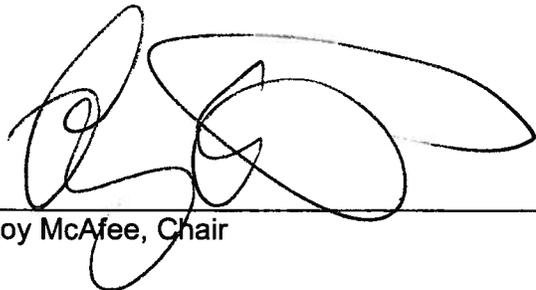
9. **Planning Director Comment**

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

Mr. Johnston updated Commissioners on the Area Plan process, having received several RFP's. He said a meeting was being held on Monday to review the RFPs.

ADJOURNMENT

Meeting adjourned.



Roy McAfee, Chair