



## **PLANNING COMMISSION MINUTES**

**May 11, 2016**

**7:30 p.m.**

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

**You may view and listen to the meeting in its entirety by going to the Planning Commission page on the City's website: [fredericksburgva.gov](http://fredericksburgva.gov)**

### **MEMBERS**

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

### **CITY STAFF**

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

---

### **1. CALL TO ORDER**

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

### **2. PLEDGE of ALLEGIANCE**

### **3. ADOPTION OF MINUTES**

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

### **PUBLIC HEARINGS**

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

**Allowed by right in  
Commercial Downtown Zoning**

**Requested Special Exceptions**

**Density**

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

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

**Height**

50 feet

57 feet

**Parking**

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

22 spaces  
for 525 Caroline Street

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Craig said this was correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Craig said that is correct.

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

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

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

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

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

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

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

Mr. Craig said that is correct.

There were no additional questions for staff.

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

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

Mr. McAfee opened the public hearing for this application.

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

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

There were no additional comments from the public.

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

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

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

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

Mr. McAfee closed the public hearing on this item

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

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

There was no second to the motion.

Mr. Beavers withdrew his motion.

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

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

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

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

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

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

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

Mr. Craig said that is correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Beavers seconded the motion.

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

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

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

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

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

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

## **GENERAL PUBLIC COMMENT**

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

Mr. McAfee opened the floor for general public comment.

There were no speakers.

Mr. McAfee closed the General Public Comment period.

## **OTHER BUSINESS**

### **6. Planning Commissioner Comment**

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

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

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

There were no additional Commissioner Comments.

### **Planning Director Comment**

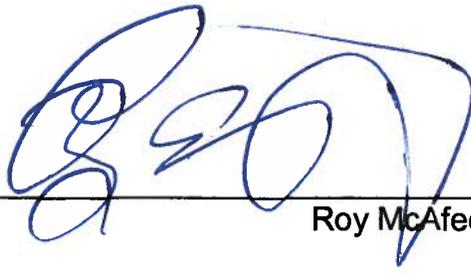
Mr. Johnston said there are various applications that will be coming before the Commission in June.

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

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

## **ADJOURNMENT**

Meeting adjourned.

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

---

Roy McAfee, Chair

# Attachment A

## Planning Commission Meeting May 11, 2016

### STATEMENT OF JAMES M. PATES

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

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

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

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

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

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

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

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

January 13, 2016 - I asked again.

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

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

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

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

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

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

-----  
TOTAL MISSED MEETINGS = 11 canceled meetings since last July.

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

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

Thank you.