



**CITY OF FREDERICKSBURG
PLANNING COMMISSION
MINUTES
May 8, 2019
7:30 p.m.**

**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:

<https://amsva.wistia.com/medias/w83n34dv3t>

The Agenda, Staff Report, Applications and Supporting Documents are also available on the Planning Commission page.

MEMBERS

Kenneth Gantt, Chairman
Rene Rodriguez, Vice-Chairman
Steve Slominski, Secretary
Tom O'Toole
Chris Hornung
Jim Pates -- absent
Dave Durham

CITY STAFF

Kathleen Dooley, City Attorney
Chuck Johnston, Director,
Planning and Building Dept.
Mike Craig, Senior Planner
Cathy Eckles, Administrative Assistant

1. CALL TO ORDER

Mr. Gantt called the the meeting to order at 7:30 p.m. Mr. Gantt explained meeting procedures for the public, as well as expected decorum during public comment.

2. PLEDGE OF ALLEGIANCE

3. ADOPTION OF MINUTES

Mr. Hornung motioned to approve the March 27, 2019 minutes; Mr. Durham seconded.

The motion passed 6-0-1 (Pates absent)

4. DECLARATION OF CONFLICT OF INTEREST

There were no conflicts of interest reported.

5. PUBLIC HEARING

- A. UDOTA 2019-03.** The City of Fredericksburg proposes to amend the Unified Development Ordinance to differentiate between Small Scale and Large Scale Automotive Sales and Rental Uses, and to require a special use permit for Small Scale Automotive Sales and Rental Uses in the Commercial Highway zoning district.

Mr. Craig presented the staff report with a power point presentation. Mr. Craig noted that that all four items on the Agenda are related to same type of commercial properties.

Mr. Hornung questioned how many of these automotive dealerships have appeared in the last ten years. Mr. Craig did not have that data. Mr. Hornung further questioned the consistency with the Comprehensive Plan in these areas and would it support approval in most of these areas. Mr. Craig clarified if Mr. Hornung was asking what the City would rely upon in the Comprehensive Plan to support a Special Use Permit. Mr. Craig stated there are use standards in the Unified Development Ordinance that would have to be met. The critical factors would be setbacks, location, and type of parking.

Mr. Durham questioned if any of the existing business on the Background Automotive Sales and Rental UDOTA slide would become non-conforming upon adoption of this amendment. Mr. Craig responded that all of the businesses shown in green would become non-conforming and would need a Special Use Permit to do any further expansion. Additionally if the businesses close and a new business does not take over within two years, the new business would have to get a Special Use Permit.

Mr. O'Toole questioned if all of the automotive businesses have been notified of this proposed change. Mr. Craig responded they had not, but if this amendment is recommended for approval this evening, the businesses will be notified prior to the City Council public hearing on this matter.

Mr. Durham questioned if most of these uses can be expanded only if the business was to buy a neighboring property. Mr. Craig responded that was correct. Adoption of this change will have no material impact on the businesses current operation.

No public comments.

Mr. Durham motioned to recommend to City Council approval of the text amendment to differentiate between small scale and large scale automotive sales and rental uses and require a special use permit for small scale automotive sales of less than 3 acres in the CH zoning district. Mr. Slominski seconded.

The motion passed 6-0-1 (Pates absent)

- B. RZ 2019-03.** The City of Fredericksburg proposes the rezoning from Commercial Shopping Center (CSC) to Commercial Highway (CH) of 12.66 +/- acres including the Greenbrier Shopping Center, the Westwood Shopping Center, and the Shoppes at Westwood,

Mr. Craig requested permission to present Items B and C together as they are so inter-related. Mr. Rodriguez noted he had no objection as long as we vote on them separately. Mr. Craig then presented a combined staff report with a power point presentation that discussed small area plans, transects, and amendment of the zoning map. Staff recommends approval of the amendment to the zoning map adopting the transect and frontage maps for the Area 6, T-5C transect; approval of the amendment to the zoning map changing 12.66 acres of land within Area 6 zoned CSC to CH; and approval of the amendment to the zoning map changing 28+/- acres of land within Area 3 zoned CSC to CH.

Mr. Durham questioned why the T-5C transect wouldn't apply to the strip malls along the eastern side of Route 1 between Welford Street and Princess Anne Street. Mr. Craig responded that all of the area Mr. Durham indicated is part of the Maker District and is all part of the T-5M transect.

Mr. Hornung questioned what triggers the requirement to comply with the frontage regulating plan if an owner within the CH wants to redevelop or improve their property. Mr. Craig responded that an introduction of residential use would trigger that.

Mr. Rodriguez questioned whether there are any other CSC areas in the City of Fredericksburg besides these or are we just asking for these parcels. Mr. Craig responded there are other areas that have CSC areas but within those areas, the City has done small area plans for them; these are the only CSC parcels in this area. Mr. Craig stated that there is another possible CSC area the City may want to consider around Eagle Village but there may be other possible solutions for Eagle Village. Mr. Rodriguez stated that the Commission's vote recommending approval this will set a precedent which Mr. Craig agreed and noted this is the City's attempt to upgrade these areas and eliminate the older, less effective zoning regulations. Mr. Craig further noted there is a series of medical offices across from the canal which will be looked at with Area 4. In addition, Paul's Bakery on Lafayette Boulevard will need to be considered for the appropriate zoning.

Mr. Hornung noted that the CSC area wouldn't necessarily have to change to CH, it could be some other zoning district.

Mr. Durham questioned if the Commission approves this proposal, the properties going to CH will have a series of uses that will be added as authorized and only a handful of uses that will be non-conforming so in effect the Commission will not be harming any of these property owners unless they tried to sell the property to the City for a school or golf course. Mr. Craig agreed that approval of this will not abridge any property owner's rights. Mr. Hornung stated that property owners in this area do currently have a by-right residential density they are permitted in a CH but under these rules the owners would have to abide by the regulating plans

Mr. Rodriguez stated the Commission needs to consider that by rezoning from CSC to CH, whether it is appropriate to put nursing homes and dormitories in a high traffic area along the Route 1 corridor. Mr. Durham stated that the Commission should consider whether these potential uses have a greater impact on the roadways than does the existing shopping center and questioned whether staff had done any studies on this. Mr. Hornung stated that the Commission needs to note that the proposed uses mentioned are SUPs in a CH zone so the uses would have to come before the Commission, at which point the Commission can discuss the mitigation of that use. Mr. Hornung also noted that the vast majorities of these uses are already SUPs in CH and few have come before the Commission. It's possible that the Commission may want to review this in the future since CH is the prime corridor but not many of these are prime corridor uses.

Mr. Durham then questioned if the Commission should consider the two rezonings prior to considering the transect matter. Or can the transect be done over CSC? Mr. Craig stated that the Commission can recommend in whatever order the Commission would like to take these matters.

There were no public comments on either RZ 2019-03 or RZ 2019-04.

Mr. O'Toole questioned about any comments from any of the property owners on any of these issues. Mr. Craig responded that there were 4-5 calls in response to all of the signs that were posted for this matter and after talking the matter through with the citizens, all were happy with the change and recognize that it is a way for these corridors to evolve.

Mr. Durham questioned if the Commission can consider RZ 2019-04 without first considering RZ 2019-01. Mr. Craig noted that the transect and frontage maps are only for Area 6. The transect and frontage maps that would have been associated with the 28+/- acres in Area 3 were adopted with that ordinance and are already in place.

Mr. Durham motioned to recommend to City Council approval of RZ 2019-03 to rezone 12.66 +/- acres from CSC to CH. Mr. Hornung seconded. Mr. Rodriguez stated he is still concerned about the amount of traffic and congestion in that corridor. Mr. Gantt agrees but also believes that as Mr. Hornung pointed out, most of Mr. Rodriguez' concerns are matters that are SUPs in a CH zone and will have to be considered by the Commission prior to approval.

The motion passed 5-1-1 (Rodriguez denied, Pates absent)

- C. **RZ 2019-04.** The City of Fredericksburg proposes to amend the Official Zoning Map in order to adopt a Transect Regulating Plan and Frontage Regulating Plan in Land Use Planning Area 6

Mr. Rodriguez motioned for approval of RZ 2019-04 to amend the Official Zoning Map in order to adopt a Transect Regulating Plan and Frontage Regulating Plan in Land Use Planning Area 6. Mr. Durham seconded.

The motion passed 6-0-1 (Pates absent)

6. OLD BUSINESS

RZ 2019-01. The City of Fredericksburg proposes the rezoning from Commercial Shopping Center (CSC) to Commercial Highway (CH) of 28 +/- acres including the Greenbrier Shopping Center, the Westwood Shopping Center, and the Shoppes at Westwood

Mr. Craig presented the staff report with a power point presentation. He noted that this item falls well in sequence with the other items as these are the same issues as in Area 6. All three areas are currently zoned CSC and to make the commercial highway form based code evenly apply across this area, the proposed zoning map changes all of these parcels to CH.

Mr. Durham questioned if signs were posted and did you receive essentially the same feedback? Mr. Craig confirmed.

Mr. Hornung motioned for approval of RZ 2019-01 to rezone 28+/- acres including the Greenbrier Shopping Center, the Westwood Shopping Center, and the Shoppes at Westwood from Commercial Shopping Center (CSC) to Commercial Highway (CH). Mr. Slominski seconded.

The motion passed 6-0-1 (Pates absent)

7. NEW BUSINESS

- Review of 2019 Code of Virginia amendments** – Kathleen Dooley, City Attorney
 - §15.2-2303.4 Conditional Zoning Proffers
 - §15.2-2316.2 Transfer of Development Rights

Ms. Kathleen Dooley, City Attorney, presented the report on the 2019 Virginia Code Amendments with a power point presentation. She spoke on the purpose of proffers and their constitutional

considerations. One of the main purposes of proffers is to allow developers to mitigate the negative externalities of a proposed development. See attachment.

Ms. Dooley also discussed the Transfer of Development Rights bill which she interprets that the City can designate certain receiving areas to go with certain sending areas.

Mr. Gantt thanked Mr. Johnston for emailing them the Charlottesville article regarding proffers. Mr. Durham noted that the Charlottesville article talked about how they are amending policies and ordinances now to be ready for the July 1 legislation changes, and questioned if we have determined whether the City should do anything specifically at this time. Ms. Dooley responded that she is not aware of any ordinance necessitated by these legislation changes, but will have to take a closer look.

Mr. Hornung questioned Mr. Johnston if he was aware of any efforts by City Council in re-engaging Tischler Bise to complete the proffer study. Mr. Johnston responded that no contact with Tischler Bise had been made to date. Mr. Hornung stated that he feels the City should re-engage to get a general feel of what the impacts may be.

Mr. Durham agrees and believes localities adjusted these to be either pro-growth or anti-growth and he feels the proper approach is to be neutral and essentially insure that the negative externalities are actually considered and are mitigated in an appropriate way. He further noted that if you make the developer make an appropriate proffer for the impact of the development they propose, you are more likely to have a fair outcome.

Mr. Hornung questioned the concept of safe harbor, that some areas of the City fall within, and how is that process currently different in reviewing applications than ones on July 1 that will fall under this revised legislation. Ms. Dooley stated that most of the City falls within the safe harbor described in the Virginia Code.

Mr. Hornung asked could the City ask for a proffer for the library under the safe harbor if there is significant nexus and is proportional? Ms. Dooley responded that the City is working under the legal concept of reasonable nexus proportionality. There are small area plans for each of the 10 areas in the City making them much more robust. Mr. Johnston noted that the Comprehensive Plan amendments in 2016 were done to insert language that would give the City the safe harbors but it could be made more robust. Mr. Durham questioned if all of this could be challenged by stating the City unreasonably asserted the safe harbor being applicable so wouldn't it behoove the City to insure that in our changes to the small area plans, the Comprehensive Plan, and the Unified Development Ordinance, the City make a factual characterization of why the City believes that these areas are subject to safe harbor. Ms. Dooley responded in saying that staff has been very careful to use the word revitalization throughout these areas. Mr. Durham recommended that as we move forward this be one of the topics that the Commission is briefed on.

Mr. Durham discussed the Transfer of Development Rights done in the Unified Development Ordinance and Area 6 but Mr. Johnston doesn't feel this amendment will be applicable in the Fredericksburg context because the City will essentially have only one sending area and one receiving area.

8. GENERAL PUBLIC COMMENT

No public comments.

9. OTHER BUSINESS

A. Planning Commissioner Comments

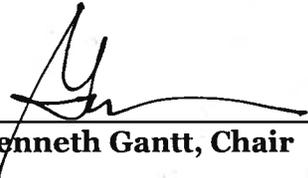
Mr. Durham asked if there had been any response or reaction to the letter authored with respect to the Capital Improvement Plan and its adequacy? Mr. Johnston noted that the Council has not yet adopted the Capital Improvements Plan and it was still being worked on. Mr. Durham stated that the Commission needs to keep discussing the Commission's role with the Capital Improvements Plan before it is back on them again so the Commission is not driven by time requirements. He believes we need a formal work session regarding this and Mr. Johnston responded that he has discussed with the Chairman regarding starting the Commission meeting on June 26, 2019 at 6:30 pm.

B. Planning Director Comments

Mr. Johnston reminded everyone of the joint work session at 5:30 pm on May 28, 2019, primarily focusing on transmittal of the Area 7 plan. He further reminded Commission there would be no meeting on June 12, 2019, but the June 26, 2019 meeting will begin at 6:30 with a work session.

10. ADJOURNMENT

There being no further items to be discussed, the Planning Commission adjourned at 9:01 P.M.



Kenneth Gantt, Chair