

PUBLIC HEARING
JUNE 3, 2019

374-380 Maple Avenue West MAC Application

Mayor DiRocco called the continuation of the Public Hearing to order at 8:23 p.m. The Town Clerk called the roll and all members of Council were present.

Ms. Cindy Petkac, Director of Planning and Zoning, explained that since the hearing on May 13, 2019, the applicant has revised their concept plan and architectural drawings and were provided in the packet of materials. She further stated that she will highlight where they are in the process, will go over some of the changes that were made in response to comments and questions that were made at the last hearing and then she will go over the updated proffer statement.

The applicant first held a number of work sessions with Council, the Board of Architectural Review and the Planning Commission in 2017, before they submitted their application in September of last year. Prior to that submission there was a joint work session between the Planning Commission and Council. Since then the application has been going through the MAC process which first requires the applicant go to the Board of Architectural Review where they then make a recommendation to Council. The Planning Commission also holds public hearings before making a recommendation and then the Council holds their public hearing. We are now at the Public Hearings for Town Council. As she mentioned the applicant has revised their concept plan and architectural drawings and those are date stamped May 22nd. Included in the packet of materials a number of revisions have been made which she explained in further detail. The revisions that were made were in response to either comments or questions that came up at the last public hearing. They had noted that the impervious surface calculations were noted differently and they revised those to not include the green roof. They are showing the serpentine wall for the bio retention facility in the rear of the building and they have also removed the wall that was along the sidewalk on Glenn Avenue and the green space now shows landscaping and trees along with native pollinator's. The auto turn exhibit has been corrected and revised. As she mentioned they have included a proffer statement. There was a comment made that between the access to the structured parking for the retail and the loading area that there was a rather wide expansive of concrete and there should be a pedestrian refuge area which they have now included and it is shown on the plans. They are also providing a transportation demand management plan which she will go over in the proffers. There was a comment made about the sidewalk ramp and that final design will be addressed during site plan. They are also proffering the undergrounding of utilities along Maple Avenue and is also noted on the plans.

Ms. Petkac went through the seven proffers that were addressed in their proffer statement. The first is under 1.1 and they have proffered the inclusion of 7500 square feet of retail. In the proffer they had set a maximum of 40 dwelling units while the plan have shown 37, they have now revised that to 37 so it is consistent to what is being shown in the plans. Her understanding on why they had included the 40, is that they were including the 3 storage spaces in the 40 but they have corrected the proffers to state a maximum of 37 units. As with all MAC rezoning the architectural design has to be in substantial performance to what is approved in the rezoning and what goes to the Board of Architectural Review for final approval. The maximum height they are proposing is 54'. She noted that they are proffering the installation of solar panels which is shown in 1.5. They are noting that they will maintain all exterior areas. She just received the updated proffers and now sure how they addressed this, but they had noted to them that under transportation that they are required to provide a sidewalk on Glen. If they want to go through and the Town Council would like to waive that sidewalk, in lieu they are proffering up \$79,950 for other traffic safety improvements on Roland and/or Glen. They have to provide a sidewalk but if Council waives that requirement on Glen they could use that money up to \$79,950 to do other improvements which could include a sidewalk on either the bend from Wade Hampton to Roland or Glen. She just wanted to note that the proffers should not reference anything that is required in the MAC. Again, the same for 3.2, the constructing of sidewalks on Maple Avenue and Wade Hampton that is a requirement of the MAC so it should not be proffered. Transportation Demand Management is very similar to what they are proposing for some other MAC rezoning's, hiring a transportation management coordinator, providing information on alternatives to automobile driving, information on COG and Metro rail in things of that nature which this goes into detail on what that TDM plan includes. In proffer #5 for lighting, it states all lighting would be downward facing which is a requirement in the MAC. This should also not be included as a proffer since it is a requirement. On landscaping, at the last hearing there was some discussion on the types of trees and shrubbery and things of that nature that would be provided, not only in the landscaping behind the building, but they are also proffering landscaping on the other side of Glen, on the south side. The applicant did talk the new urban arborist for the town and he recommended the species that are listed. More details on the exact location, the exact type and spacing will be determined through site plan. The Comprehensive Plan recommends that during re-development or development, that utilities should be underground and the applicant is proposing to underground utilities as shown in the plans and as proffered.

Ms. Petkac stated in summary, the proposal is now consistent with the Comprehensive Plan/Future Land Use plan which shows this area as mixed use and now with the proposed proffer for undergrounding utilities, they meet that requirement as well. The

rezoning concept plans meet the requirements of the MAC zone with the exception of their request to modification of the requirements for the awning to encroach an additional 3' beyond what is allowed.

Councilmember Springsteen asked the Town Attorney if all proffers are supposed to be submitted before the start of the public hearing or can you continue to add proffers. Mr. Briglia stated that they are required to be submitted with the application and can be amended in response to the public hearing. As a matter one of the purposes of public hearing is to tweak the proffers. Mr. Briglia stated he wanted to do a correction of the proffers. There was some language about the sidewalk on Glen and because his original understanding was the applicant had said well if you don't want that then I will contribute almost \$80,000 for traffic safety improvements along Wade Hampton Dr. They added basically a new provision to that same proffer section that says that if the town elects to accept the \$80,000 for traffic safety improvements, the applicant will still install sidewalks on Glen Avenue. So they are doing more in response. To answer Councilmember Springsteen's question, yes they can modify proffers if they are in response to the public hearing.

Councilmember Bloch asked to clarify that the almost \$80,000 is to either sidewalk further on Glen or wherever we decide that sidewalks or road improvements would be beneficial. Mr. Briglia stated they had to be reasonably identified and be reasonably related to the project. The transportation improvements that it would go to fund would be money given to the town to make traffic improvements on those stretches of road, Wade Hampton Drive and Roland Street and they would have to be traffic safety improvements. It can't be used in another part of the town and has to be spent within so many years. Councilmember Bloch understands that but as part of the project it is not an "or", it's not sidewalk on Glen behind the project or something else. That sidewalk on Glen has to be constructed and this is additional money proffered for additional traffic calming or road improvements for pedestrians. Mr. Briglia stated that was his understanding with the amended proffer and he thinks the "or" was left in as there was some discussion on whether the town even wanted it and that is why the Director mentioned a waiver, does the town want that sidewalk on Glen. It is a requirement under the MAC that there be a sidewalk installed on that back section.

Councilmember Noble stated that this is similar language to how 444 offered monies towards traffic safety or traffic calming improvements on Roland Street for a dollar amount but not really specifying what those improvements, explicitly, are going to be. His understanding with that application, and hopes it continues with this application, is that traffic safety improvements along Glen, Wade Hampton and Roland for this project, would be something where there would be a study for that initiated through the Transportation Safety Commission that would engage the community, and be

supported by town staff, to collectively determine what those safety improvements would potentially be. He asked if that was a fair statement. Mr. Briglia stated yes. That is why when you have these kind of cash proffers to address offsite issues, you are given time. Under the proffer law you are given time to identify specifics and develop engineering. Councilmember Noble just wanted to make sure it was clear out there that there is a process to identify what the safety improvements are. None of them have been pre-determined at this time by any party. Mr. Briglia stated they are not specifically identified for speed humps or something like that.

Councilmember Springsteen asked if they had resolved the notification issue and we are completely in compliance with the law now. Mr. Briglia stated yes, the County has been notified.

Councilmember Noble asked if the County had responded in any manner. Mr. Briglia stated he is not aware, he has not received anything and he doesn't think the Town Manager or the Director has either.

Mayor DiRocco asked if the applicant would like to present.

Mr. Tom Kyлло, Architect stated that basically what they have done, in item #1, they created the refuge sidewalk between the vehicular commercial entrance and the loading area. The area is 6' with a 5' sidewalk to allow for a turn around for a wheelchair as well. Further down the building they have taken out the rear wall and the storm water structure in the back they created an undulating wall back there and created a lot more area for green space. As part of the proffer the overhead wires will be undergrounded from the pole on the east side to the pole on the west side. It will travel down one pole, go underground for the length of the property along Maple Avenue, and go up the pole on the west side and continue on. He stated those were all the changes other than they are increasing the sidewalk to 8' along Maple Avenue. As part of creating the refuge sidewalk they reconfigured, a little bit, the trash area door and the loading area door. The loading area now has one large 20' door and the trash area is now an 8' door.

Mayor DiRocco asked if the undulated back wall is in the concept drawings. Mr. Kyлло stated it is.

Councilmember Bloch asked Mayor DiRocco if she was talking about the wall for the parking garage or the wall for the storm management. Mayor DiRocco stated one was the wall for the parking garage that is now blocking in the parking garage and then also the small wall for the bio retention center. Mr. Kyлло stated it was the storm water retention wall that is undulating. The wall for the parking garage is not. Mayor DiRocco asked if it was something that could be done to compliment. The applicant stated it would be expensive.

Councilmember Noble state that he remembers the original wall was along the sidewalk, which was more of uva serpentine wall that was more tightly radius than this is but he understands what they have done. He asked if they were planning on providing additional architectural details on the garage wall panels so it is simply not a flat panel of one color. He just wondered what level of detailing they were going to do. Mr. Kylllo stated that when they go back to the BAR they would like to present something to the BAR for their approval and input.

Councilmember Noble asked him to go back to the slide with the 3D rendering and pan around to the image of the serpentine wall.

Councilmember Springsteen stated that someone in town asked him if this is approved and someone wanted to move in what would the price range of the units are. Mr. Rice stated he could not tell him that yet. There is still a lot of stuff up in the air.

Mayor DiRocco stated that Ray Brill, a citizen of the town offered to the applicant and the citizens, to mediate between the two parties and see if there was some consensus around some aspects of the application that could be achieved. She asked Mr. Brill to come forward and provide an update.

Mr. Brill reported that they met on May 28th in the northside meeting room in the Community Center. They had six members from the neighborhood and two developers. They met for about two hours and talked primarily about lowering the density and the height and they offered a modification that might have a terrace affect so there would not be four floors from their point of view, it would terrace up. They also mentioned that they would like to talk about the possibility of townhomes being sort of a transition. They have two meetings scheduled, one Thursday, June 6th at 7:45 p.m. and on June 13th at 7:30 p.m. at the Community Center to continue their discussions. It seems that they have made a good faith effort to discuss it, he thinks these next two meetings should either decide that they can come to a compromise or they cannot, they do not want to drag it out.

Councilmember Springsteen thanked Mr. Brill for volunteering for this task. He asked what his sense was, are they making progress. Mr. Brill stated that each side believes that their position is correct and that is what they want. What they are trying to do is say "what's best for you might not be best for all of us, the Town of Vienna."

They are trying to see if they can come to middle ground. He is hopeful but also realistic, he is practical and he doesn't want to drag it out and by the 13th they will know one way or another.

Mr. Richard Levine, 214 Battle St. SW stated that Council should think long and hard, this looks like a very attractive building and they should not stand in the way of it, he thinks that would be foolish.

Mr. Bill Dure, 505 Glyndon St. NE stated he is the Facebook guy that started a page called Vienna development for discussion. He started it because he was frustrated with the lack of discussion. He hates that this has been dragged out for so long. He thinks if they are still discussing proffers as they step into this meeting then he thinks they need to continue the discussion for a while longer.

Ms. Victoria Hook, 204 Tapawingo Rd, SE stated that she is opposed to the rezoning of 380 Maple Ave. She is concerned about the high density, traffic and safety issues as well as the infrastructure.

Ms. Kathleen Guilder, 216 Locust St. SE stated that she is hoping for more affordable alternative to single family houses and not so called luxury units.

Mr. Anthony Avedisian, 360 Maple Ave, next door neighbor to 380 Maple Ave stated that he welcomes the project. He believes in his heart that the community will have more walkable space within the Town of Vienna. He agrees that it must be pleasing to all of us and believes they are working very hard to do so. All the condo owners of his property are in favor of this project. Right now there is nothing pleasing about the property.

Mr. Neriam Endoza, 216 Tapawingo Rd. SE stated that he is opposed to this project and would like them to take more time. He is concerned about safety and the impact on schools.

Ms. Kristan Cybriwsky, 608 Niblick Dr. SE stated that all of the MAC projects are so big and if this was happening in her backyard she would be pretty upset at the density and the scale of it. The scale of this project is deeply concerning and the impact to the people in the immediate vicinity of this project.

Mr. Joe Deaton, 716 Hillcrest Dr. SW stated that power lines are very important to help clean up Maple Ave. He is not sure what leaving the poles does to improve the look of Maple Ave. He also has concerns on the trash disposal door and the increase in population.

Ms. Leanne Dance, 123 Oak St. SW stated that she lives in a JDA Home and the quality of the home they live in is outstanding. This is the most outstanding house they have ever had built, the quality is superb and they know the builder really cares about his work. He has incredible integrity and the quality of this project would be outstanding.

Mayor DiRocco stated that there has been some changes to the project which the applicant walked through a few of those changes as well the proffers. She asked if people wanted to speak on those specific changes she would give them two minutes to speak to the changes and/or the proffers.

Councilmember Majdi stated that he did not understand what the changes to the proffers were, especially the ones made today. He stated that they received the proffers on Thursday and his understanding was there were additional changes to what they received and asked if that was correct. If so he would like them specified. Ms. Petkac stated that the applicant provided revised proffers today that addressed three things. One in the first proffer he had that it included 40 units and he has changed that to 37 to reflect what is shown in the concept plan. The second change was the language regarding the sidewalk on Glenn Avenue, because it is required in the MAC, he is now providing in the proffer, additional money up to \$79,500 for other transportation safety improvements. Councilmember Majdi stated it would be helpful to have it in writing. Ms. Petkac stated they are in writing. They just received them this evening and she is referencing what was provided. The third is that under the utilities in proffer 7, they have added that they will coordinate all undergrounding of utilities for the Town of Vienna. Councilmember Majdi thanked Ms. Petkac for the oral presentation and asked if there was a way to present it to Council in writing either with an instrument to show it on the screen or copy the paper and hand it out.

Councilmember Springsteen stated that he doesn't like receiving things late. He went back to his question, don't the proffers, under the law, have to be presented before the public hearing. He begs to differ with the Town Attorney but he would like to see all the proffers when they start off. They seem to change every day and doesn't see how people can look at the stuff. Mr. Briglia stated that some of these proffers were requested by Council members. It is not fair to beat up on staff when some of these proffers were things noted in the plans that they got on Thursday. The applicant does submit in advance but Council doesn't always get their pack and that is just how the schedule is. In response to that there are comments solicited to staff and they pass those on to the applicant who then comes and makes the changes. There are some changes and they are in a good way because they are responsive to questions that were raised by Council and staff in response to the public hearing and the amended plans that were submitted and provided to everybody. It is the time frame that is troublesome sometimes because they don't always get them in advance. The changes are really clarifications to the better for the town. Like the concerns they had about Glen Avenue because there was some discussions about whether that was going to be built or not and he had a discussion with the Director of Planning and Zoning. It is a requirement so it is not an either or, it is required unless there is a waiver. Council has to make that decision, do they want that sidewalk because it is required. They can waive it but it is

required. It doesn't translate into a proffer then. There was some language that in his mind was confusing so they clarified that and submits that was a staff correction. Mayor DiRocco stated that she did say that there was 40 units on there and she thought 37 because that was shown on the drawings and thought that was appropriate. Councilmember Noble stated that he noted the same thing going back to the Town Attorney that the plans say this, the proffers say this and can we make them consistent. He doesn't think it is a bad thing if something is submitted, it's on the record, that we make something consistent and it is fixed and an improvement. The same thing with the Glen Avenue sidewalk and other traffic safety monies. He made an observation that is not an either or, again, back to the Town Attorney. If we are doing something where something comes in and improves what the proffer is, is that a bad thing? Councilmember Springsteen stated no, he just hates it being dumped on them on the meeting night.

Mr. David Patariu, 205 Niblick Dr. SE stated that they were told the developer was reducing the number of units to 37 yet they see there is going to be three storage units. He asked if they were going to be roughed in so that at some point in the future they will get back up to 40 or are they staying at 37. He feels this is not a real proffer.

Ms. Laura Bligh, 226 Glen Avenue stated that the undergrounding of the utilities from pole to pole is just going to look silly. She also stated that nobody in their neighborhood is interested in sidewalks on Wade Hampton going up to Roland and she was shocked to see a plan on the town website involving the taking of property along Wade and would like to know what that is about.

Mr. John Pott, 134 Wade Hampton Dr. stated that in the proffer statement 1.3 the maximum height of the structure would be 54' but they have been repeatedly told it is 48' and he sees on the diagram that it is 48'. Are they going to keep the height they have been told it would be, or will it change because they have the proffer that is 6' higher.

Ms. Estelle Belisle, 200 Ceret Ct. SW, stated that she was going to comment about the 48' which is what the building is supposed to be and the 54' mentioned in the proffers but according to what Ms. Petkac stated there shouldn't even be a proffer if is referring to the maximum height. Maximum height under the MAC is 54' so that proffer should not be in there. The second thing is truck delivery and there has been many comments about restrictions on truck size and to her something has to be put in the proffers about the truck size, they need to be protected in that way. Third, the enhancement of the plain garage wall, again, this is something that the developer said he would do and she believes he is going to do it. He thinks the enhancement of the garage wall should also be something included in the proffers. Fourth, one of the changes that has been made is instead of two doors for the delivery trucks, there is only one, it is still a 20' delivery area but only one door. She thinks what is going to happen is trucks are going to back

in to the center of the area which will make it difficult for two delivery trucks to be there at the same time. Delivery is going to be difficult on Wade Hampton and she thinks that is a consideration. Finally, through this process citizens have said that this building is too big. The developer has made some changes, he set back one or two floors by 5' and put balconies in their place and has taken his original application from 40 to 39 and now he has reduced it to 37 because he has put in storage units. He has not diminished the size of the building, the mass of the building, which is what they have been asking for from the beginning. She does hope some middle of the road solution, they are not asking for a lot but what to be given something. She feels they have not been given much at all.

Ms. Shelley Ebert, 402 Roland St. SW stated that she thinks there is a real problem with all the MAC applications about not really looking at the impact to the neighborhood and as a result she thinks what happens is we don't end up with enough money to resolve the situation later on. With 444 one of the big problems on Roland is that people, already now, drive through Roland and up through Wade Hampton to avoid the light so they think if there is all this 444 traffic more people will do that. In an odd sort of way, 380 sort of takes away some of that issue because now it is going to be so hard to get out of Wade Hampton with the cueing and the trucks. She said this would make things better for her but it doesn't make things better for the people on Glen. No one was expecting sidewalks on Wade Hampton, the real problem is on Glen. \$80,000 is not enough money to fix the sidewalk issue on Glen.

Mr. Chuck Anderson, 125 Pleasant St. NW stated that it was pretty clear that the proffers are a work in process, they are certainly better than no proffers but he doesn't think they are ready for prime time. It seems highly odd that they received the first written proffers on the Thursday before the third public hearing. He commended the Mayor for asking for the written proffers at the last meeting. He has heard that a number of the proffers, in fact, are not proffers at all but requirements of the MAC and need to be taken out. There is a certain ambiguity on the height issue where it is stating a height that is not consistent with the plans and that could create problems down the road and they need to clarify those now. There is also ambiguity on the number of units. His opinion is that they are making progress but they need to take a closer look at the proffers and get them set down and consistent before this is ready for a vote.

Ms. Barbara McLeod, 204 Glen Ave stated that she saw something on the screen earlier and would like some clarification on about Glen Ave. It said there would be some sort of money given to Roland and Wade Hampton but what happens with Glen Avenue because that is a safety issue. The corner has always been a safety issue and she thinks added traffic is going to cause more of an issue.

Ms. Linda Mann, 428 Windover Ave NW, stated that she wanted to commend Mayor for recommended mediation. She thinks they have an opportunity if they go forward with that to possibly have an agreed upon narrative. If they don't there will always be a concern that voices were not brought to the table to negotiate.

Mr. Alex Gallegos, 130 Wade Hampton Dr. SW, first thanked Council for continuing the public hearing, they truly do appreciate it. He stated that he had a letter that he wanted put in the record stating their appreciation and they hope they postpone the vote not vote prematurely. A lot of the residents feel like it is the first time they have been listened too and they do feel like there is a win win to be had. To prematurely take a vote now would be disheartening. Dennis has done some things and they specifically state some things in the letter that they are trying to achieve in mediation. The process has been beneficial.

Ms. Cindy Miley, 204 Paris Court SW stated that she just wanted to echo what other folks had said about the underground utility poles and she thinks that would look absurd to have the poles just standing there. She also acknowledged the mediation and believes there is a win win solution. The property needs to be developed but there needs to be adjustments. One of the things they discussed before was the use of Wade Hampton for delivery is a huge safety issue and she hopes the town seriously considers that. She truly feel that people will be injured severely if they allow trucks to delivery on public streets.

Mr. Joe Daly, 412 Roland St. SW wanted to point out that there is a "no truck" sign in front of his house and he sees lots of FedEx trucks violating that no truck sign, there is already a problem and they are going to create more problems.

Mr. Mike Ahrens, 207 Glen Ave SW stated that he has gone to a lot of the meetings on MAC but the shuffle of activity that is happening where the proffers come in at the last second with no time to digest them, he thinks this is not good government, this is not what the neighborhoods are looking for and this is not what citizens are looking for. He wants to see this property developed but he wants to see it done in a smart way. They are not ready to vote on this tonight there are still things that need to be hashed out with the proffers. He would really like to know the math and the thought process behind the \$79,500, it is clearly a specific number and would like to know what was intended for that. He would like to see the undergrounding of utilities as much as Council but undergrounding between two poles is not helping Vienna, it is not useful. He would really like to see the Transportation Safety Commission involved in the discussion on the proffers. He would also like the neighborhood to have the chance to go through the proffers since they are intended to protect he neighborhood during the mediation. He still doesn't feel that the drawings presented on the trucks has

adequately shown what that is going to look like when cars are parked along the street and delivery trucks are going back and forth.

It was moved to close the Public Hearing and keep public comment open until June 10th.

Motion: Councilmember Colbert

Second: Councilmember Bloch

Mr. John Foote with Walsh, Colucci and he is Counsel to the applicants in this circumstance. He stated that he was brought into this case very recently, principally because he is a practicing land use lawyer. He was brought in largely to help advise and to help with the proffer statement which first came up, as he understands it, at the May 13th meeting. He did not write the last version of this but one of the things that he wanted to note for the purposes of the community here, is that requests for the changes in the proffers, which they are entitled to see and to absorb, were made as late as this afternoon. If they are asking to see them in advance then they have to have time to react to that. The proffer statements are not ambiguous, for example the question, the comment, that somehow what are the storage units going to be, the answer is they are storage units, they can't be converted into living units without a change to the proffers, they are simply what they say they are. What's the maximum height of this building, 54', it can't be higher than that, it can be lower but it can't be higher based on the way you calculate height under the ordinances of this town. The proffers say what they say, they are written in plain English and should be readily understood. If there are to be changes to these proffers, they are happy to make them if this is not going to be decided tonight, which it is not based on the motion, they are happy to deal with those changes as they see fit by the applicant and the locality. He just wants to be clear that his role here is to work with Dennis to see if they can bring this in to an articulated form because what a proffer does is it puts into written form a commitment that is binding as a matter of law. It becomes part of the zoning applicable to the property, it is not a contract in Virginia law, it is part of the ordinance. He stated he is here to help along with Sara Mariska, and that is where the proffers are and that is what they intend to do.

Councilmember Majdi asked Attorney Foote if his advice to the Town Council that legal documents are written in plain English and we should just accept them as they are written and shouldn't ask questions. Attorney Foote stated no, that is not what he said. His point was that they are written in plain English so they can understand them and if they don't they will fix it. They are legal documents with legal implications and his belief is that legal documents should be written so anyone can understand them.

Vote was taken on the motion to close the Public Hearing.

Motion carried unanimously - 7-0

Mayor DiRocco asked Ms. Petkac to speak on part of the change to the proffer regarding the two poles. Ms. Petkac stated they added a subsection, 7.2, that the applicant shall coordinate all undergrounding of utilities with the Town of Vienna. Mayor DiRocco stated that she thought this was important because part of it, depending on what happens with this application, is to coordinate so that there isn't just two poles, you want to have it continuous. 444 Maple is starting undergrounding from Nutley Street all the way through and there is an opportunity to underground a number of areas and the town wants that ability to coordinate that and with the other applicant. She appreciates that being put into the proffer.

Mayor DiRocco asked Mr. Briglia to speak a little bit on working with Dominion on undergrounding poles because that is something important the town would like to see in the streetscape and how that process is working with Dominion. Mr. Briglia stated the he and the Director of Public Works sat through a phone conference with Dominion and their utility relocation specialist. It is an engineering issue at that intersection. There are terminal poles where switches and transformers come and meet and Dominion will not allow switches to be put in vaults. The real world example, is you look at the Chick fil-A site, standing in front of it, look to the far left you will see some switching boxes, big green boxes, they are not small and they would require a switch box at that corner pole if it were underground because there is also crossover lines coming from Wade Hampton and going across Lewis Street. Towards the west side of Maple Ave, they would require a vault approximately 8x14 underground, so there is some engineering issues. Mayor DiRocco asked if the boxes had to be on the street or could they be set to the side. Mr. Briglia stated that Dominion would prefer to have them on private, newly acquired property. The town would indicated that we have sufficient right-of-way and the vaults can go there and that is going to be an issue on other areas on Maple Ave. A side from what the applicant is doing, there is some technical issues on that corner. Councilmember Noble asked if the Dominion work was simply relocation of existing infrastructure or are they actually upgrading infrastructure as part of this exercise and effectively giving, whoever is paying for it, money for upgrades to their system. Mr. Briglia stated that was a great questions because they maintained that their lines right now are fine, they love them, and they don't want to touch them and if they touch them they will have to upgrade. It is somewhat disheartening to hear that they expect the town, the rate payers, to pay for the upgrading and they won't contribute a dime for it.

Mayor DiRocco asked Mr. Briglia about the height being 54' which is the town code, is that needed kind of like the applicant has to put the sidewalk in at Glen Avenue, is that needed in the proffer and should that be and that doesn't supersede any of the drawings that show 48' if that is the height on the concept plans. Mr. Briglia stated that he was skimming through the plans because the plans are proffered along the design

plans, and certain things are incorporated in our proffers under the MAC which is semi unique, because the design concept, the basic concept is proffered along with it. He stated you can actually go with accessory structures, well above 54'. In any zone you can go above the 35' and that is pretty typical in Vienna. He is pretty sure what the applicant has agreed to do is to keep everything below 54'. His understanding is everything is below 54' which is the purpose of their proffer, it is a real proffer, it is a hard number.

Councilmember Noble asked if the applicant would be willing to include Glen Avenue in the list of the three streets in terms of transportation safety improvements for Glen, Wade Hampton and Roalnd St. just for the purposes of ultimate decision or disposition of wherever the process leads to whatever those improvements may be. Mr. Rice stated yes.

It was moved that they hold off on the vote until June 17th.

Councilmember Colbert
Second: Councilmember Noble

Councilmember Majdi stated that he is not a big fan of a mediation process. He is not going to step in the way of it but generally speaking if we have a code that is resulting in people calling for mediation then he thinks they need to look at the underlying rules. Obviously it doesn't apply to this particular application but he is just not a big fan of mediation generally. He does respect everyone's opinion and this is good work being done, he respects the applicant and respects the staff and the Town Attorney.

Vote carried unanimously, 7-0

DRAFT