

PLANNING COMMISSION

MINUTES

March 9, 2005

The Planning Commission met in regular session on Wednesday, March 9, 2005, at 8:00 PM in the Council Room of the Vienna Town Hall, 127 Center Street, South, Vienna, Virginia, with John M. Scheib, Chairman, presiding. The following members were present: Emil D. Attanasi, Edward H. Chase, George J. Creed, Melvin R. McCoy, Jr., David W. Miller, John M. Scheib, Frederick Skaer and Edward R. Umbrell. Also in attendance and representing the Town Staff were Gregory M. Hembree, Director of Planning and Zoning, Holly Chu, Civil Engineer and Denise Rose Adams, Board Clerk.

COMMUNICATIONS FROM CITIZENS AND/OR COMMISSIONERS:

Chairman Scheib wanted to thank Mr. Singh for his public service to the Town for serving on the Planning Commission.

Chairman Scheib stated the Commission established three (3) working groups for the Comprehensive Plan; Land Use (Commissioners Attanasi and Creed), Public Facilities (Commissioners Chase, Skaer and Umbrell) and Transportation (Commissioners Scheib, McCoy and Miller). These groups are starting to meet in work sessions to prepare for the public hearings that will occur later this year. Chairman Scheib asked that each Chairperson of their sub-committee keep the Commission updated as to their progress. Chairman Scheib also asked that each Chairman have an agenda for their work session meeting; the meetings will be advertised to the public and the public may attend but meetings are not for the public to provide comment, but they may submit written materials to the sub-group through the office of Planning and Zoning. At the public hearing the public may comment at that time.

Mr. Attanasi reported on a sub-committee meeting of the Comprehensive Plan at which discussed existing land use, revisions and future land use plans and noted that the next meeting will be March 24, 2005 @ 9:00 AM, lower level conference room-Town Hall.

Mr. Chase noted that on March 16, 2005 @ 7:30 PM the Public Facilities sub-committee will meet in the lower level conference room-Town Hall.

Chairman Scheib noted that the Transportation sub-committee met prior to tonight's meeting and discussed request of information from Town staff and individual assignments.

Mr. Creed wanted to make sure the expansion of the sidewalk evaluation and the updating of the CIP to support any future sidewalk work gets included in the Comprehensive Plan process.

Mr. Creed noted he requested at the last meeting for consideration by the Transportation Safety Commission (TSC) to look at crosswalks between Lawyers Road, NW and Nutley Street, NW, and asked whether that had been done. Chairman Scheib said that he spoke with the TSC and was told that if Mr. Creed could attend one of their meetings and present it they would consider the matter.

Mr. Creed asked what was the status of the Skorpis Restaurant that wanted to move into the adjacent business next door at the Rosenthal shopping Center located at 419-425 Maple Avenue, East, relative to the proposed ordinance change regarding the definition of shopping centers and further, if it is something that will have to be addressed in the Comprehensive Plan or the Maple Avenue Vision. Mr. Hembree said that the ordinance amendment was approved by the Town Council February 28, 2005, with the second reading on March 21, 2005, adoption will be ten days thereafter. Mr. Hembree said that this means if you have a shopping center defined as four (4) contiguous stores or a 10,000 square foot building one may establish a restaurant with the same criteria that would be allowed in Section 18-72A(2) of the Town Code. Mr. Hembree said that in terms of evaluation it was mentioned to further evaluate the definition of the term "shopping center" further and whether it needs to look at the issue of restaurants and how it would impact the Maple Avenue Vision. Mr. Hembree said everything would need to be evaluated from a comprehensive standpoint before any more changes are made to the Town Code.

REGULAR AGENDA ITEMS:

ITEM NO. 1:

Recommendation to the Mayor and Town Council on a modification from site plan requirements for the conversion of the White Oak Tower into office condominiums, on property located at 301 Maple Avenue, West, in the C-1A, Special Commercial zoning district. Filed by Hillary K. Zahm, AICP, Senior Urban Planner with Cooley Godward LLP, agent for Trimark, VCP, LLC, owner.

Hillary K. Zahm, Senior Urban Planner was present on behalf of the application.

Mr. Hembree said that Section 18-208.1 of the Town Code requires that any proposed condominium conversion must conform to all applicable zoning, site plan and subdivision ordinances for the Town. It was noted that there are six (6) site plan modification requests by the applicant.

Mr. Attanasi asked if without the site plan modifications or if the applicant was denied their request and the applicant did not remedy the site plan modifications what happens to the conversion. Mr. Hembree said that it would not take place.

Mr. Skaer asked if there was an approved site plan back in the 1970's for this site. Mr. Hembree replied that the information the Town has shows that the site was approved, but there was no backup information as to how it was accomplished. Mr. Skaer asked if the building was sold outright, could it continue to operate without the proposed modifications to which Mr. Hembree said as long as it is continued to be used as an office building.

Ms. Zahm stated that Trimark has owned the property for fifteen (15) years and has decided to break up the building into units and sell them to various owners into condominiums. In order to do this the non-conformities need to be corrected through a site-plan modification.

Ms. Zahm noted that they will be asking for five (5) not six (6) site-plan modifications- they do not need the front yard landscaping requirement of 25% because they actually meet that requirement.

Ms. Zahm went through the proposed five (5) site-plan modifications. They are asking for modification of the parking space dimensions; the Town requires 9' x 20' parking spaces -most of the spaces on the site are 9' wide with some being 8 or 8' ½" x 18'. The standard of parking spaces for Fairfax County is 9' x 18'; 2) They are asking for modification of the loading space requirements. Currently on site is a loading space 10' x 18' -The Town requirement is based on the size of the width of the building which if measured out would be 45' x 25', which they do not meet. Ms. Zahm said there is a loading dock on site 17' x 29' in size. Ms. Zahm said that on the loading dock are the dumpsters. When the loading dock is used by the tenants to move in or out, the dumpsters are temporarily placed in a parking space for a couple of hours.; 3) The Town requires a five (5) foot side yard parking requirement of which this site meets only on parts of the property line therefore the request of the side yard line modification; 4) With regard to the parking space requirement, at the time of the construction of the building in 1977, the Town required one (1) space for every 200 square feet on the first floor and one (1) space for every 300 square feet on all upper floors. If the building were constructed today, required parking would be 226 as opposed to the 153 required parking spaces when the building was built. It was noted that there are currently 159 parking spaces on the site. Ms. Zahm pointed out that in the history of the building there have never been any parking difficulties nor have there been any complaints; 5) With regard to the entrance width, The Town requires that a public ingress/egress to a site must be 25' to 35' wide so one is able to get in and out of the site. Ms. Zahm said that they do not have any public street frontage so they do not meet the requirement - their entrances are 23'.4" and 21'.7"; Ms. Zahm noted that they are not on a public street so it is not really a public street entrance and a seeking a reduction from the 25 foot requirement to the existing conditions.

Chairman Scheib asked Ms. Zahm when this has been just an office building that has been leased what is the historic occupancy rate. Ms. Zahm replied that it is about a 90% occupancy rate since her client has owned the property.

Mr. Miller asked what the tenant mix was. Ms. Zahm said currently the building is being

prepared for the condominium conversion so there are only a few tenants in the building; mostly the offices have been professional offices such as IT companies, Fairfax County offices, Architects, etc. There have been around 8 to 10 tenants and some of them will take up an entire floor.

Mr. Creed asked if the number of people employed at the building can be identified. Ms. Zahm said she did not have that number right now. Mr. Creed asked how many office spaces do they anticipate per floor and what do they anticipate the parking requirements will be for the number of people working there. Ms. Zahm said they do not anticipate reserving parking for each floor. Mr. Creed wanted to ensure that there would not be parking problems in or around the surrounding office complexes. Mr. Creed asked for historical information regarding the parking.

Mr. Chase asked Ms. Zahm if there is a target audience for the proposed offices. Ms. Zahm said they are marketing the offices to anyone who would meet the requirements of the C-1A zoning district.

Mr. Attanasi asked for in the requested historical data to include the uses of the types of offices that were in the building and the square footage. Mr. Attanasi asked if there will be a condominium association to which Ms. Zahm replied yes there will be to maintain common grounds. Mr. Attanasi asked if Trimark would remain involved in the condominium association.

Darrell Marsh, Trimark VCP, LLC, stated that they will be the property management company and oversee the condominium association for the first two (2) years. After that it will be up to the Board of the condominium to either have Trimark to continue in that capacity or they can elect a new property management company. Mr. Marsh said that Trimark is a full service commercial real estate company. Mr. Attanasi asked who gets to own the roof with all the antennas on it. Mr. Marsh said that Trimark has owned the property for fifteen (15) years but when they decided to do the condominium conversion they did a joint venture with another investment group they are involved in and sold the building in December, 2004, from Maple Professional Park as a fee simple owner to Trimark VCP, LLC of which Maple Professional Park is partner. As part of the transaction Maple Professional Park Limited Partnership retained the ownership rights of the eight (8) leases on the roof that involve the cellular carriers. A information sheet was handed out at this time with regard to tenants, square footage leased and number of years occupied for the tower building. Mr. Marsh noted that a company called Cost Management Systems, Inc., (CSM) has over the past 10-12 years grown into five (5) floors of the six-story tower building -they were recently purchased by another company who has since moved them out of the building. They then had a building that is substantially vacant with only two (2) tenants remaining. When assessing what to do with the property, a condominium conversion seemed logical. Mr. Marsh said that they are putting in 1.5 million dollars worth of improvements for the building.

Mr. Marsh said the minimum condominium unit to be sold will be 2000 square feet. Mr. Marsh said they anticipate having 14 to 16 condominium owners. The condominium owners will be responsible for building out their interior space. It will likely be the users that are the buyers of the condominium space.

Mr. Attanasi asked if during the renovation has the asbestos been removed. Mr. Marsh said there was no asbestos associated with the building; it was built in 1980.

Mr. Skaer asked what is the industry practice when there is a condominium office, is there the ability to subdivide it and release the subdivided space.

Gavin Klein, Attorney with Cooley Godward, stated that one of the attractive parts of going "condo" is that there is a lot of flexibility. The condominiums can be split up to however the developer wants to split it up and make it fit for the demand. Mr. Skaer asked if there are any industry benchmarks as to whether office condominiums have higher or lower occupancy rates than rental space. Mr. Klein stated that it varies because in each individual place in terms of locality there may be a different type of need for a particular use.

For the record it was noted that the applicant is not seeking a site plan modification with respect to Section 18-82F.

Mr. Umbrell asked if there are any buffer requirements between the commercially zoned property and the residential property in the rear of the site. Mr. Hembree replied a masonry screen wall which is currently existing. Mr. Umbrell asked if there are open space requirements for this site to which Mr. Hembree replied no.

Chairman Scheib noted the requested site plan modification for Section 18-128; area required for one parking space which is 9' x 20' and the parking spaces on site are 9' x 18'. Mr. Chase asked Mr. Hembree what size parking spaces were required in 1980. Mr. Hembree replied 9' x 20'. Mr. Chase said that two of the proposed site plan modifications were in non-compliance at the time of construction (the parking space and the loading space). Mr. Hembree confirmed.

Mr. Creed asked why the parking space requirement in the County is 9' x 18' and the Town is 9' x 20'. Mr. Hembree replied that it has been evaluated over time and the larger parking spaces can accommodate all size vehicles.

Mr. Miller asked what percentage of office condominium are vertical versus horizontal in the industry. Mr. Marsh and Ms. Zahm both replied they did not know, but said that in this marketplace they are typically three (3) to four (4) stories high.

Chairman Scheib noted the requested site plan modification from Section 18-130H; off-street parking and loading requirements. It was noted that the requirement would be 226 off-street

parking spaces and the currently there are 159 parking spaces. Chairman Scheib asked when CMS grew to 300 employees how did the site accommodate all the vehicles. Mr. Marsh replied that CMS was an IT firm and a number of the employees would go off-site to their clients. Mr. Scheib asked if the building could accommodate 200 to 300 employees working in the building. Mr. Marsh replied yes.

Mr. Attanasi asked if it would be possible to put another floor on the existing parking structure. Mr. Marsh did not know. Mr. Hembree said that if there was room and it did not exceed maximum height for that zoning district, it could be possible. Mr. Attanasi said that could accommodate the deficiency in the parking. Mr. Marsh did say that he did not know if the existing structure could support a second level.

Mr. Umbrell said that two (2) handicapped spaces were being added to the ground floor of the parking garage. Ms. Zahm said that was correct and that they were doing some restriping saying they currently do not meet the ADA requirement but are bringing that into compliance. The requirements for the handicapped parking is six (6) spaces. Nancy Cranmer went over how the calculations are done for the required handicapped parking. Mr. Umbrell asked what the status was of the eight (8) spaces that are encroaching on the neighbors property and noted that there was mention of getting an easement. Ms. Zahm said that there are eight (8) parking spaces that are bisected and they are currently working with the neighboring propertyowner to obtain an easement. The parking spaces have always been like this but they are trying to correct the situation.

Mr. Scheib asked Mr. Hembree if the neighboring 307 Maple Avenue complex would have a parking issue if the easement is granted. Mr. Hembree said that in his opinion he has never seen a parking problem in the 307 Maple Avenue complex and if anything it is underparked.

Mr. Creed said that in lieu of an easement if that is not obtainable, he would like to see a parking agreement arrangement established between the properties.

Mr. Skaer asked if the tower building was approved separately from the other complexes in that area. Ms. Zahm was of the opinion that the tower building was approved separately. Mr. Marsh briefly went over how the entire Maple Avenue Professional Park had been developed by Karl Kohler and Associates and noted that the complexes themselves were sold off as condominium units.

Chairman Scheib noted the requested site plan modification for Section 18-131; location of parking facilities. Ms. Zahm said that the Town has a requirement that there has to be a five (5) foot setback from the side property line before the parking begins. Ms. Zahm said that in some areas of the site they do meet that requirement but in other areas they do not meet the requirement, thus the request for the site plan modification. Mr. Umbrell asked what would preclude adding a five (5) foot landscape strip on the northern corner of the site. Ms. Zahm replied it would interfere with parking and they do not want to lose any parking spaces.

Chairman Scheib noted the requested site plan modification for Section 18-132; loading spaces. It was noted that the Code requires loading spaces to be 25' x 45' and the current status of the site is that the loading space is 10' to 13' wide and 18.5' to 23' in length.

Chairman Scheib noted the requested site plan modification for Section 18-134B; improvements applicable to parking areas and loading spaces. Mr. Creed said that he is not concerned about the size of the loading space but the needs of the new condominium owners who may need the loading space and is hesitant to waive it and than have someone who may have a need for it. Ms. Zahm said that she understood his reservations but the building has been there a number of years and it has never been an issue. Mr. Creed asked who would be responsible for moving the dumpsters and replacing them when needed. Ms. Zahm said the responsibility would be with the manager of the building.

Chairman Scheib noted the requested site plan modification for Section 18-134B; improvements applicable to parking areas and loading spaces. Chairman Scheib said that the Code requires access points to be 25' to 35' at the street right-of-way. The applicant's access points are less than 25'. It was noted that none of them directly adjoin a street. Mr. Skaer said that his interpretation was that the Code provision would not apply because there is no street frontage. Ms. Zahm said that they were just being overly cautious with this request.

Chairman Scheib said those are all of the site plan modification requests.

Chairman Scheib asked if there was anyone to speak either for or against the application. There were none.

It was noted that notice was sent to all adjoining propertyowners; only hearing from one owner at 130 Pleasant Street, NW.

Chairman Scheib went over requests by the Planning Commission for the applicant to supply at the next scheduled meeting for this application.

It was moved to table this item to March 23, 2005.

Motion: Chase
Second: Creed
Carried: 8-0

ITEM NO. 2:

Recommendation to the Mayor and Town Council on a site plan modification pertaining to the use of grid paver materials at the Wheat's Service Center on property located at 220

PLANNING COMMISSION

MINUTES

March 23, 2005

The Planning Commission met in regular session on Wednesday, March 23, 2005, at 8:00 PM in the Council Room of the Vienna Town Hall, 127 Center Street, South, Vienna, Virginia, with John M. Scheib, Chairman, presiding. The following members were present: Emil D. Attanasi, Edward H. Chase, George J. Creed, Melvin R. McCoy, Jr., David W. Miller (arrived @ 8:20 PM), John M. Scheib, Frederick Skaer and Edward R. Umbrell. Also in attendance and representing the Town Staff were Gregory M. Hembree, Director of Planning and Zoning, Holly Chu, Civil Engineer and Denise Rose Adams, Board Clerk.

COMMUNICATIONS FROM CITIZENS AND/OR COMMISSIONERS:

Mr. Chase stated that on March 16, 2005, the Public Facilities sub-committee of the Comprehensive Plan met with no members of the public attending.

Mr. Creed stated that the Maple Avenue Vision Committee which has been meeting for the past three (3) years had a work session with Town Council on March 14, 2005, which went well and that there will be another work session June 13, 2005.

Mr. McCoy asked about an issue he previously raised regarding the crosswalk near the intersection of Knoll Street, NW and Nutley Street, NW, and what was the outcome at the Town Council meeting of March 21, 2005. After the meeting Denise Adams checked with the Town Manager and was told that the Town will be restriping the raised crosswalk to make it a speed hump, reinstalling the crosswalk on Nutley Street, NW, at Knoll Street, NW, on the north side, restricting parking on the side of Louise Archer Elementary School on Nutley Street, NW, in the afternoon and installing a crosswalk on Nutley Street, NW, on the south side when the new park is constructed at the old Nutley Street Property Yard.

Mr. Attanasi stated that there will be a Land Use sub-committee meeting of the Comprehensive Plan on March 24, 2005 @ 9:00 AM in the lower level conference room.

ITEM NO. 1:

Recommendation to the Mayor and Town Council on modifications from site plan requirements for the conversion of the White Oak Tower into office condominiums, on property located at 301 Maple Avenue, West and in the C-1A, Special Commercial zone. Filed by Hillary K. Zahm, AICP Senior Planner with Cooley Godward LLP, agent for Trimark VCP, LLC, owner. (Continued from the regular meeting of March 9, 2005.)

It was moved to "un-table" the item from the last meeting of March 9, 2005.

Motion: Chase

Second: Creed

Carried: 7-0

Absent: Miller

Gavin Klein, Attorney with Cooley Godward was present on behalf of the application.

Mr. Klein stated that two (2) things have changed on the revised site plan since the last meeting. One, there is an additional note on the front page saying that tree coverage has been met. Secondly, they tried to create more parking on the site itself in light of the limitations surrounding the parcel. In certain areas on the upper level parking on ground level spaces they modified the striping of the parking spaces, which ties in one of the requested modifications, from 9' x 20' to 8 ½ x 20'. Mr. Klein briefly showed to the Commission on a revised site plan where the spaces would be located.

A response letter was submitted to the Commission that directly addressed questions posed by the Commission at the last meeting.

A question asked was, in the past on average what was the number of employees on site at any particular time over the ownership life of Trimark which is about fifteen (15) years. The average is about 140 employees at the site at any given time.

A question asked was, how many office units will be provided per floor and in addition the number employees or occupants that are anticipated upon conversion. At this point the number of office units the applicant is planning for is 128 total units throughout the building. In terms of number of employees and occupants anticipated the applicant anticipates it to be similar to before; in terms of the conversion the applicant is trying to achieve a change in ownership only. They will be marketing to professional office as they have done before. Mr. Klein noted that looking at the layout there is a breakout of the historical number of suites that were in the building at any given time versus the projected number of condominium units. The way the building was originally designed is to have eight (8) suites having sole occupants of each floor. At this point there will be 14 to 16 units which will increase the floor space that is devoted to non-employee uses like reception, conference rooms and office facilities, so to a certain degree they are reducing the square footage of the building devoted to employees.

A question asked was to provide information on the uses of each tenant which was done and it was further clarified to the Commission.

A question asked was to provide sample condominium documents. Drafts of the actual condominium documents that will be used on this project have been provided to the

Commission.

A question asked was whether there was market information to compare vacancy absorption occupancy comparing standard office building versus office condominiums. Mr. Klein said they tried to find that information on a market basis and it is just not available - at this point there is not enough out there to develop truly accurate office information.

A question asked was consideration of adding handicapped spaces in addition to what was there and if the site met the current code requirement of 226 parking spaces. Mr. Klein said that under both Town of Vienna and ADA requirements when you bump up from 200 parking spaces to 250-300 parking spaces there would be an increase of one (1) handicapped space. If this was done it would likely take away two (2) of the regular parking spaces.

A question was asked whether a third level of the parking structure could be added. The applicant has engaged structural engineers to try based on the current plans to see if the structure would support a third level - the initial readout is that the structure could not support a third level. There may be an alternate solution whereby one would have to drill through the first layer and not rely on that for the parking structure. The design based on the current design and cost would be prohibitive.

A question was asked whether the neighboring condominium site to the south met the Town parking requirements. Mr. Klein said another chart was provided to the Commission that demonstrates the parking situation of the Plaza buildings located in the Maple Professional Park.

A question was asked if the parking on-site will be restricted and how can it be guaranteed. Mr. Klein said that in the bylaws in draft condominium documents, the applicant has endeavored to demonstrate that but for the ten (10) parking spaces that are in the basement of the building that are reserved parking, the remaining 155 parking spaces will be first come first serve, but in addition to that each unit owner is prohibited from using greater than three (3) parking spaces per 1000 square feet comprising their particular unit as a means of limiting the amount of parking for any particular unit.

Mr. Klein passed out a handout that gives a breakdown of the actual unit and tenant makeup of the surrounding parcels to give an idea of what uses are currently surrounding the tower building.

Chairman Scheib noted the matrix of tenants and the permitted use in the C-1A-Special Commercial zoning district, includes restaurants and asked how will they control that after the condominium conversion is done if a restaurant wants to buy in and open up on the first floor of the building, whether that can be prevented from occurring and would it affect the parking needs for the site.

Mr. Klein said that the provisions currently provided for that are in the by-laws themselves which talks about restrictions on uses; the restrictions do not include restaurants - restaurants are not something that are marketed currently nor is it something that the applicant plans to do. Mr. Klein did note that the a restaurant would still be bound by the parking that states no unit owner can occupy three spaces per 1000 square feet usable space in the building. Mr. Klein went over with Chairman Scheib the by-laws referring to not having assigned parking spaces for the tenant. Chairman Scheib asked if the by-laws are amendable to which Mr. Klein replied yes. Chairman Scheib asked how could the Commission be confident that in five (5) years from now, members of the condominium association won't decide it is in their interest or want to assign parking spaces to themselves and amend the by-laws such that the "first come first serve" parking becomes assigned parking. Mr. Klein said there are two (2) things, one is a logistical hurdle that they would have to overcome whereby 75% of the condominium owners would have to agree to amend the by-laws and the other is market forces themselves; that the unit owners have their own specific business agenda that they want to achieve and presumably the market will prevent them from doing something that would go counter to their business.

Mr. Miller asked how would it affect the marketing of the condominiums if the by-laws contain a provision that says there is prohibition against any assigned parking. Mr. Klein said it would reduce marketability a little bit because each unit owner as they come in want as much flexibility as is possible. Mr. Klein said that if you made the surface parking spaces reserved spaces it would hurt the marketing because the vast majority of condominium work "first come first serve" because the unit owners do not want to get into a fight with each other parking.

Mr. Chase asked Mr. Hembree if the site goes "condo" and at some point a restaurant wanted to buy into the building would he have any authority to reexamine the parking requirements and be able to deny the purchase based on that. Mr. Hembree said that one of the things he would rely on is Section 18-72A(1)(e); office buildings shall be occupied solely for professional use for the administrative activities accessory to other and professional uses. Mr. Hembree said that he considers this building to be the classic office building in the Town and would "hang his hat" on that in trying to avoid having retail types of uses in that location. Mr. Chase asked Mr. Hembree if he was saying that in the C-1A, Zoning District they cannot have a restaurant. Mr. Hembree said the language reads that office buildings are for professional use only. Mr. Chase asked if that takes precedent over the list of allowable uses in the C-1A zoning district of which one is restaurants. Mr. Hembree replied yes. Mr. Hembree also said that he suggests that the applicant would commit to the units being limited to office-type uses.

Darrell Marsh, stated that he would not have a problem prohibiting the use of a restaurant in the building. Mr. Marsh said the building is intended to be a professional use office building. Mr. Chase said that looking at the charts on parking tabulations, he sees that after the proposed restriping and counting the parking spaces where there is the easement problem, they are still

61 parking spaces short. And further that all of the surrounding properties are a net of 10 parking spaces short. Mr. Chase said that it has been stated that noone has noticed a parking problem, but yet for the last two (2) years there was a fairly high vacancy rate and wondered if that is a valid indicator of where the parking really stands. Mr. Klein replied yes saying that the supplied information charts show the parking statistics over the past fifteen years.

Mr. Creed said that assuming there are 156 employees in the building, that would wipe out 100% of the parking spaces. Mr. Creed said that when he a 24% to 27% vacancy rate, it says that 75% is full and they used 156 parking spaces and at full capacity it pushes the use of parking spaces over 200. Mr. Klein said that the chart is estimated numbers but said that if you go back to 2002, where the number of employees was 149 and the vacancy was at 0%, there was not a parking issue. Mr. Marsh noted that there is an error on the handout, under 2003 and 2004 where it notes 52 employees, it should read 0.

Chairman Scheib noted that at the last meeting there was discussion about an easement or agreement related to parking and asked if that had occurred. Mr. Klein said that it is currently a work in progress and are waiting for the neighboring parcelowner's attorney to get back into Town. Chairman Scheib noted that the parking tabulations for the neighboring parcel reads the current parking requirement is 27 parking spaces and the current parking provided is 25 parking spaces. Mr. Klein said that because of the irregular shapes of the parcels they are not able to use those parking spaces. It was clarified that the eight (8) parking spaces is not included in the 25 parking spaces and it was further noted that the adjoining lot has the ability to park 41 parking spaces. Mr. Klein said that based on history they are not changing the uses nor changing the overall nature of the site; it will be the same types of businesses that have been functioning for years except for the change in ownership.

Mr. Creed asked Mr. Klein to go over the site plan that was on the easel at the meeting showing the location of the parking garage, building, parking spaces, etc. Mr. Creed expressed concern that since parking is not clearly delineated for the tower building that people may park in the adjoining parcels. Mr. Klein said that signs could be put up saying that the parking is for tenants and visitors of that particular building if needed. But otherwise they would have to come up with an enforcement mechanism but did not how feasible or desirable that would be. Mr. Klein did say that there has never been a problem with the parking nor have there been any complaints for parking in that area.

Mr. Attanasi asked if the building has a sprinkler system in it. Mr. Marsh said it is partially sprinkled in the garage with portions of the 3rd and 6th floors being sprinkled. Mr. Attanasi asked Mr. Marsh if they have ever had any difficulty with the Fire Marshal. Mr. Marsh replied no and said that they do periodically come out and do inspections. Mr. Marsh said they are getting as part of the upgrade to the building, a new fire alarm system. Mr. Attanasi noted that the surrounding properties meet 96% of the current parking requirement and this site only meets 74% of the parking requirement which is of concern to the Commission. Mr. Attanasi asked how they would deal with the possibility of a medical practice and the generation that

would develop; Mr. Attanasi asked what the enforceability is of the three (3) parking spaces per 100 square feet. Mr. Klein said the enforceability is similar to a restriction in the event that any particular unit owner is found to be violating it, it can be enforced. Mr. Attanasi said that if that is the case than if there is a spillover effect into other parking lots, which they want to avoid, the enforceability becomes the burden of the Town. Mr. Klein pointed out that when someone comes into apply for a Certificate of Occupancy, Mr. Hembree has the ability to limit the number of parking spaces based on the use of the applicant.

Mr. Creed noted that the uses mentioned for the tower building such as medical professional use are more intense whereby there are many people at the doctors office and expressed his concern about patrons having the ability to find parking spaces when they come to the tower building and the spillover into other parking areas. Mr. Klein reiterated that there are significant dental and medical practices in the Maple Professional Park currently and looking at the provided chart it shows that there has not been a problem with parking nor has it been an issue.

Mr. Miller said that his concern is that there is a mechanism by which the Town has some modicum of control and what is being asked of the Commission is to transfer that control to the governing body of the condominium association. Mr. Miller said that well-intentioned it may be, those are things that could change. Again Mr. Klein mentioned the Certificate of Occupancy process one goes through before they can establish their business in the Town.

Mr. Umbrell noted that there was storage space in the basement of the parking garage and asked if it could be converted to parking. Mr. Klein said that there are several long-term leases on that storage space. Mr. Umbrell asked if there was a way to fill in the four (4) parking spaces by the stairwell. Mr. Klein said they looked into that and they could only possibly get two (2) parking spaces but would lead to problems with turnaround for vehicles. Mr. Klein distributed for information purposes a provision from the Virginia Condominium Act from the Code of Virginia.

Chairman Scheib asked if there was anyone to speak either for or against the proposed application.

Michael Covell, 130 Pleasant Street, NW, stated that he is somewhat concerned about uses for this property. Mr. Covell asked if there are some kind of restrictions that are being agreed to that the full uses of the C-1A zoning district are not being allowed. Chairman Scheib said that is one of the questions the Commission is trying to articulate and that is why he asked whether the Commission can condition the recommendation on. Mr. Covell wondered what in the Code is going to allow the Commission to say that you can't use this as a C-1A when it is clearly zoned as C-1A. Mr. Hembree said that he would make the determination as previously stated that office buildings shall be used for professional use only.

Mr. Klein stated again that they are changing the form of ownership and nothing else.

Mr. Chase said to Mr. Hembree that he made a determination regarding the use of office buildings and asked if that determination stands regardless of what the by-laws say for uses in the condominiums. Mr. Hembree said if there are by-laws in the condominium association that are less restrictive than the zoning ordinance, the zoning ordinance is going to supercede.

Mr. Miller said he is troubled about making a decision this evening without reviewing the proposed easement agreement and would like staff to look at the proposed easement. Mr. Creed concurred with Mr. Miller.

It was moved to recommend to the Town Council denial on a request for a waiver to Section 18-130(h).

Motion: Attanasi
Second: Chase

Discussion:

Mr. Attanasi said that the surrounding area is close to 100% of the current parking requirement and the applicant is at least 25% below that. Mr. Attanasi said that the applicant is asking for a waiver and there is very little information other than the fact the applicant has had uses that have not been intensive in the past and the Commission has no idea what the uses will be except for professional offices.

Mr. Chase said that he concurred with Mr. Attanasi's comments and further said that there is a lot of uncertainty to the future and he would have liked to have seen some engineering analysis that could have been examined to see if they all agree their conclusions about not being able to do anything with the parking structure.

Mr. Miller was of the opinion that regardless of whether the engineering study comes back and says a 15-story structure could be built, if the economics are not there it is a moot point.

Mr. Chase responded saying that not having any information he does know whether the economics are there or not which is part of his issue, not knowing what cost they are talking about.

Mr. Skaer said that it is worth pointing out that, especially in view of the Virginia Code provision that was handed out, that the Commission is not applying a different standard to a condominium versus a lease ownership arrangement. What they are doing is looking at a request for a deviation for whatever reason and looking at the application based on those merits. Mr. Skaer said that the only thing that comes into play in terms of difference in ownership in his view is that it creates an unknown; the Commission is asked to make a decision based on historical patterns of uses that are based on one (1) ownership pattern and

a different ownership pattern which could logically be concluded might be different, and thought that was relevant to note for the record and takes this into consideration as he votes on this matter.

Carried: 8-0

Mr. Chase asked the Commission if they had any objection to voting on the other site plan modifications in one motion. There was none. At this time Mr. Skaer said that he would like to see the site plan modification request for driveway width (Section 18-134(b) separated out because he would support that request saying that it was his opinion they did not need it. It was then decided to make separate motions.

It was moved recommend to the Town Council approval for the site plan modification for parking spot dimensions, 8.5' x 20' noted on the site plan dated March 17, 2005, Section 18-128.

Motion: Chase
Second: McCoy

Discussion:

Mr. Skaer said that he would rather have fewer parking spaces and therefore will be voting against this motion.

Carried: 5-3

Voting Nay: Attanasi, Creed, Skaer

It was moved to recommend approval to Town Council on a site plan modification for location of parking, Section 18-131.

Motion: Chase
Second: Creed
Carried: 8-0

It was moved to recommend approval to Town Council on a site plan modification for loading spaces, Section 18-132.

Motion: Creed

Second: Skaer
Carried: 8-0

It was moved to recommend approval to Town Council on a site plan modification for width of entrances and exits to the parking areas, Section 18-134(b).

Motion: Skaer
Second: Creed
Carried: 8-0

ITEM NO. 2:

Request for approval of a preliminary plat to resubdivide part of Onon'dio Subdivision, Block 11 and part of Section 3, Oakdale Park, into Redwood Corner, a three-lot subdivision located on the easternmost corner of Ayito Road, SE and Redwood Drive, SE (proposed new addresses to be 319 and 323 Ayito Road, SE and 1106 Redwood Drive, SE) in the RS-12.5, Single Family Detached Residential zone. Filed by GJB Engineering, Inc., c/o Patrick M. Kessler, agent for AyrHill Homes, Inc., owner.

Steve Bukont was present on behalf of the application.

Mr. Bukont stated that they are subdividing two (2) lots into three (3) lots. Mr. Bukont noted that this subdivision had come before the Commission about two (2) years ago with another developer; Mr. Bukont went over the layout of the proposed lot with the Commission. Mr. Bukont said that previously the Commission approved two (2) infiltration trenches and they are proposing in lieu of building those they will do underground pipe detention which also gives them the ability to save more trees. They will be putting in curb, gutter and sidewalk as required per Town Code.

Mr. Kessler stated that prior to looking at the stormwater management for the site, he looked at the downstream conditions and where the outfall existed for this site. Mr. Kessler said that pipe that crosses Redwood Drive, SE, and exits structure #5 connects into the middle of the long storm drainage pipe that comes across Ayito Road, SE. Because of how flat the slopes are of those pipes, they do not pass the capacity of the runoff that currently is coming to those two (2) pipes. What they did was take the runoff from the entire drainage shed and incorporate the elimination of the two (2) infiltration trenches to reduce the runoff and still meet stormwater management and not exacerbate the existing condition. Mr. Kessler noted that the existing pipes were filled with dirt and sediment and the applicant cleaned them out.

Mr. Creed said that the as-builts that are in the road, does the Town need to go back in and do new structures. Mr. Kessler replied no with the conditions they have done on the proposed

Council Meeting MINUTES

Town of Vienna, Virginia
06/20/2005 -- 8:00 p.m.

(Date Posted: August 02, 2005)

REGULAR COUNCIL MEETING June 20, 2005

Minutes

REGULAR COUNCIL MEETING June 20, 2005

The Town Council met in regular session on Monday, June 20, 2005, in the Council Room of the Town Hall, 127 Center Street, South. Mayor M. Jane Seeman, called the meeting to order with the following members of Council present: Laurie G. Cole, Edythe F. Kelleher, George E. Lovelace, Michael J. Polychrones, Maud F. Robinson, and Sydney H. Verinder. Also present were John H. Schoeberlein, Town Manager; Steven D. Briglia, Town Attorney; and Carol A. Orndorff, Town Clerk.

The invocation was offered by Reverend Caroline Braskamp, Associate Pastor, Vienna Presbyterian Church; followed by the Pledge of Allegiance to the Flag of the United States of America.

Noted that prior to the Regular Council Meeting, Mr. John Frey, Clerk, Fairfax County Circuit Court, administered the Oath of Office to re-elected Council Members, George E. Lovelace, Maud F. Robinson, and Sydney H. Verinder.

APPROVAL OF THE MINUTES OF THE REGULAR COUNCIL MEETING OF JUNE 6, 2005; ONE PUBLIC HEARING OF JUNE 6, 2005; AND SPECIAL COUNCIL MEETING OF JUNE 13, 2005.

1. It was moved for the approval of the Minutes of the Regular Council Meeting of June 6, 2005; One Public Hearing of June 6, 2005; and Special Council Meeting of June 13, 2005.

Motion: Cole
Second: Lovelace
Motion carried: 6/1 Abstention

Abstaining: Verinder (Not present at June 6, 2005 or June 13, 2005 Meetings.)

RECEIPT OF PETITIONS AND COMMUNICATIONS FROM THE PUBLIC

None

meeting with the Department of Public Works and lay-out the technical issues and develop the dollar amounts re the undergrounding of utilities in the commercial sector; and that a report should be ready for Council at the end of the summer recess.

REPORT OF THE TOWN MANAGER

Mr. Schoeberlein stated for informational purposes, that following the Closed Session to be scheduled for July 11, 2005, a short work session would be held regarding the employee local retirement plan evaluation.

REPORT OF THE MAYOR

Mayor Seeman stated the Vienna Wireless Society would be holding their Field Day at Burke Lake Park beginning at 2:00 P.M. Friday afternoon, June 24, 2005, and continuing on Saturday and Sunday. She invited all present to attend the event.

Mayor Seeman requested that Council Members begin to think about the 2006 Legislative program and what they would like to discuss with our State Legislators, in order to establish a date for a Work Session with them.

Mayor Seeman at this time reported on the Closed Session convened this date at 7:15 P.M. She stated the Closed Session had been for the specific purpose of conducting interviews with applicants interested in appointment to Town Boards and Commissions; and that no other business had been discussed.

2. It was moved that the members of the Vienna Town Council be polled to affirm that during the Closed Session convened this date, June 20, 2005, discussion regarding matters of personnel, specifically the conducting of interviews with individuals interested in appointment and/or reappointment to Town Boards and Commissions, took place. It was further moved that the Certification Resolution be adopted and executed in accordance with State Statutes, and the Town Clerk is authorized to execute the Certification Resolution.

Motion: Kelleher

Second: Cole

Carried unanimously – Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson,
Verinder, Mayor Seeman

As noted above, the Town Clerk conducted a Poll vote of the members of Council and thereafter, executed the Certification Resolution. (Copy attached to Official Minutes.)

PROPOSALS FOR ADDITIONAL ITEMS TO THE AGENDA

None

REQUEST FOR APPROVAL OF MODIFICATIONS FROM SITE PLAN
REQUIREMENTS FOR THE CONVERSION OF THE WHITE OAK TOWER INTO
OFFICE CONDOMINIUMS.

Ms. Hillary K. Zahm, Senior Urban Planner, with Cooley Godward, LLP, agent for Trimark, VCP, LLC, owner, was present to address the request on behalf of the applicant. Ms. Zahm thereafter, presented a visual site plan of the White Oak Tower and surrounding area for benefit of those present. She indicated Trimark has owned the site for approximately fifteen years and it is currently an owner occupied building, with leasing tenants; Trimark is interested only in converting the ownership of the building into condominiums and this is the only issue before Council and that the requested site plan modifications allow for that conversion to occur. Ms. Zahm continued by stating that since the time of site plan approval and subsequent development of the property in 1977, the Town has changed several sections of the zoning ordinances which have created non-conformities on the property. She stated that in order to complete the condominium conversion the applicant requests approval of the site plan modifications as outlined in order to bring the property into conformance with the applicable zoning ordinances. Ms. Zahm thereafter, outlined the five requested site plan modifications: (1) To allow the minimum dimension for one parking space to 8 ½ by 18 feet; (2) Reduction of the required number of off-street parking spaces to 183; (3) Location of parking facilities; (4) Reduction of loading space area; and (5) Reduction in parking areas and loading space areas width at the street right-of-way-line. She further addressed issues relative to the site not having public street frontage; the current loading space area dimensions; location of the ingress/egress locations from the entire site and set-back line requirements and areas where the site meets requirements and where it does not; and the fact there are no changes to the physical structures located on the entire site.

During discussion relative to the loading space area, Councilwoman Cole inquired if the applicant would be willing to incorporate within the condominium documents a provision limiting the move-in/move-out to weekend only, to which Ms. Zahm indicated they would be willing to look into that request.

Further in-depth discussion ensued relative to the total number of parking spaces which the applicant had been able to achieve, with Ms. Zahm indicating that a total of 183 would be provided of the 226 required by Code, being 17 more than what is currently existing and thereafter, outlined on the site plan the areas of where parking was being provided. Mr. Gavin Klein, Attorney with Cooley Godward, addressed Council at this time and spoke on the obtaining of an easement from one of the structure owners, which allows for five parking spaces and the fact, an easement for ingress/egress to the parking area was through an existing easement from Maple Avenue. Ms. Zahm thereafter, spoke on the various locations for parking that would be available. She also entered into the record a revised Plat and Deed of Easement, which she stated incorporates minor editorial changes; the Easement Agreement now having been signed by the two property owners is being processed through the various lending institutions for signature. Ms. Zahm indicated that the applicant is willing to commit that approval of the Site Plan Modification is contingent upon the Easement Agreement being recorded in the land records. She further spoke of the availability of 21 additional parking spaces located on the complex site, which she indicated they have an easement agreement granting non-exclusive use of the spaces; they cannot count these spaces for Code compliance however, the spaces are available for tenant/visitor overflow. Discussion took place relative to the parking requirements for the property owner of the site where the additional spaces would be available, with Ms. Zahm indicating the parking requirements have been exceeded on those properties and that the easement agreement for overflow parking had been in existence for a number of years but had not been needed.

Ms. Zahm further stated the applicant was willing to make two commitments relative to allowed uses on the property; that they would commit that retail and/or restaurant use would not go onto the property if the property is approved for condominium; and this restriction would be incorporated in the condominium documents.

The Town Attorney indicated that this issue had previously been incorporated into the condominium documents upon concerns expressed by the Planning Commission, and upon meeting with the applicant's attorney by himself and the Director of Planning & Zoning.

The Mayor indicated that she noted that the documents also contain the provision that limits medical office use to 50%, which Ms. Zahm indicated the applicant was also willing to provide this condition.

Mayor Seeman entered into the official record the recommendation Memorandum from the Planning Commission dated March 28, 2005. (Copy attached to Official Minutes.)

Councilwoman Robinson inquired if retail zoning was allowed at the site. Mr. Greg Hembree, Director of Planning & Zoning indicated that it was C-1A Zoning; the response is affirmative that retail is allowed in C-1A Zoning however, there is special caveat which states that office buildings designated for that use shall be limited to office uses.

Mayor Seeman inquired as to the calculated percent compliance which the applicant has provided, to which Mr. Hembree indicated that it was approximately mid-eighty percent.

Councilman Lovelace discussed with Mr. Klein the time frame the applicant would still provide management, with Mr. Klein indicating two years or upon the sale of seventy-five percent of the units, at which time, the unit owners association would take over and the By-Laws would govern. Councilman Lovelace indicated that he was seeking information as to what governs future owners to the provisions of original approval.

Councilman Polychrones for the record indicated that any modification to condominium by-laws must be recorded with the Clerk of the Court. Mr. Klein indicated that it is dictated by the Virginia Condominium Act, and he believed filing of by-laws and modifications would be with the Clerk's Office.

Further discussion with Ms. Zahm took place relative to the parking issue and what could be done to assure the Town that sufficient parking can be provided. Ms. Zahm indicated that it would be a business issue; that if sufficient parking cannot be provided to accommodate tenants and visitors, then leasing of space and keeping tenants would become a major factor; they believe they can provide sufficient space as it has never been an issue at this location.

Councilman Lovelace discussed with Ms. Zahm measures that could be incorporated to mitigate the possibility of non-sufficient parking spaces. Ms. Zahm indicated that she felt these issues had been addressed; each owner at the time of purchase will be informed as to the number of allowable parking spaces; that there is no on-street parking in the area for overflow; i.e., each owner will be knowledgeable in advance that parking is limited and of the maximum number of parking capacity, and they will have to be willing to live with that factor.

Councilwoman Robinson spoke on the factors pointed out in the Minutes of the Planning Commission relative to the parking issue and that the rental history indicates there have been no parking intensive professional office users such as medical practices as past tenants; that the complexity of the tenancy is subject to change. She also quoted from the Planning Commission Minutes which states "there is nothing to prevent the condo association from later amending the condominium agreements to permit the assignment of spaces."

Mayor Seeman inquired of Ms. Zahm to again state the number of available parking spaces, to which she responded 183 on-site and 21 overflow spaces. Ms. Zahm further stated that based on the concerns of the Planning Commission, medical offices would be limited to fifty (50%) percent, and they are willing to make this a condition to the site plan approval, and not just a condition of the condo documents; they cannot just go ahead and change the condo documents they still have to comply with the site plan approval conditions, which will restrict the applicant to the fifty percent; and they are willing to make this commitment.

Councilwoman Robinson inquired of the Town Attorney if this condition would be binding on subsequent owners. Mr. Briglia replied in the affirmative; that it is a proffer offered by the developer and is enforceable.

3. It was moved for the approval of a site plan modification pertaining to the area required for one parking space as set forth in Section 18-128 of the Town Code.

Motion: Polychrones
Second: Lovelace
Carried unanimously – Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson,
Verinder, Mayor Seeman

4. It was moved for the approval of a site plan modification pertaining to the required number of off-street parking spaces as specified in Section 18-130H of the Town Code, subject to the conditions as contained in the Site Plan dated June 9, 2005.

Motion: Polychrones
Second: Mayor Seeman
Motion failed: 4/3 – Poll vote

Voting Aye: Kelleher, Polychrones, Mayor Seeman
Voting Nay: Cole, Lovelace, Robinson, Verinder

5. It was moved for the approval of a site plan modification relative to the location of parking spaces as set forth in Section 18-131 of the Town Code.

Motion: Polychrones
Second: Lovelace
Carried unanimously – Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson,

Verinder, Mayor Seeman

6. It was moved for the approval of a site plan modification relative to loading space area as set forth in Section 18-132 of the Town Code with the further condition that the applicant enter as a condition of approval a provision that office move-in and move-out shall occur only on weekends.

Motion: Cole

Second: Lovelace

Motion carried: 6/1 – Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Robinson, Verinder,

Mayor Seeman

Voting Nay: Polychrones

7. It was moved for approval of a site plan modification regarding the parking space and loading area improvements as specified in Section 18-134B of the Town Code.

Motion: Polychrones

Second: Verinder

Carried unanimously – Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson,

Verinder, Mayor Seeman

REQUEST FOR APPROVAL TO PURCHASE T-1 SERVICE WITH A POINT-TO-POINT CIRCUIT AND THE REQUIRED CISCO ROUTER FOR THE POLICE DEPARTMENT'S COMPUTER AIDED DISPATCH, LAW ENFORCEMENT RECORDS MANAGEMENT, AND MOBILE DATA SYSTEMS.

8. It was for approval to ride Virginia Information Technologies Agency Contract #VA-040801-VERV to purchase T-1 service and the required Cisco Router from Verizon, at a total cost not to exceed \$17,000.00 for FY 05-06.

Motion: Lovelace

Second: Cole

Carried unanimously – Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson,

Verinder, Mayor Seeman

REQUEST APPROVAL TO RIDE GENERAL SERVICES ADMINISTRATION CONTRACT #GS-35f-0119P FOR THE PURCHASE OF WIRELESS AIRTIME FROM VERIZON WIRELESS FOR THE POLICE DEPARTMENT'S COMPUTER AIDED DISPATCH, LAWENFORCEMENT RECORDS MANAGEMENT AND MOBILE DATA SYSTEMS.

9. It was moved for approval to ride GSA Contract #GS-35F-0119P for the purchase of wireless data service from Verizon Wireless at a total cost not to exceed \$10,000.00 for FY 05-06.

Council Meeting MINUTES

Town of Vienna, Virginia
07/11/2005 -- 8:00 p.m.

(Date Posted: August 24, 2005)

Minutes

REGULAR COUNCIL MEETING JULY 11, 2005

The Town Council met in regular session on Monday, July 11, 2005, in the Council Room of the Town Hall, 127 Center Street, South. Mayor M. Jane Seeman, called the meeting to order with the following members of Council present: Laurie G. Cole, Edythe F. Kelleher, George E. Lovelace, Michael J. Polychrones, Maud F. Robinson, and Sydney H. Verinder. Also present were John H. Schoeberlein, Town Manager; Steven D. Briglia, Town Attorney; and Carol A. Orndorff, Town Clerk.

The invocation was offered by Reverend Raymond C. Bland, Pastor, New Union Baptist Church; followed by the Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF THE MINUTES OF THE REGULAR COUNCIL MEETING OF JUNE 20, 2005.

It was moved for the approval of the Minutes of the Regular Council Meeting of June 20, 2005.

Motion: Lovelace

Second: Cole

Motion carried unanimously

RECEIPT OF PETITIONS AND COMMUNICATIONS FROM THE PUBLIC

None

REPORT AND INQUIRIES OF COUNCIL MEMBERS

Councilman Lovelace discussed with the Town Manager the status of the residential construction on the property located next to Mr. & Mrs. Lillis on Windover Avenue, N.W., relative to the flooding issues. He also requested that a weekly status report be provided on this matter.

Councilman Lovelace discussed with Mayor Seeman and Police Chief Carlisle, the issues of dogs running at large in the area of Broadleaf Drive. Chief Carlisle reported on the investigation conducted by the Animal Warden, with Councilman Lovelace requesting that a status report be provided on the matter, along with information relative to unleashed dogs observed throughout the

specifically the Town Council organizational meeting for Fiscal Year 2005-2006 took place. It was further moved that the Certification Resolution be adopted and executed in accordance with State Statutes, and the Town Clerk is authorized to execute the Certification Resolution. It was further moved that the Closed Session be continued to August 15, 2005 at 7:15 P.M., pursuant to Section 2.2-371.1(1) of the Virginia State Code, 1950 as amended regarding matters of personnel, specifically for the purpose of conducting interviews with individuals interested in reappointments and/or appointments to Town Boards and Commission.

Motion: Kelleher

Second: Robinson

Carried unanimously – Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson,
Verinder, Mayor Seeman

As noted above, the Town Clerk conducted a Poll vote of the members of Council and thereafter, executed the Certification Resolution. (Copy attached to Official Minutes.)

It was moved that the following members of Council be appointed to the specified Local Committees for Fiscal Year 2005-2006: Jane Seeman to the Northern Virginia Regional Commission; Maud Robinson to Town Employee Retirement Committee; Michael Polychrones as the Representative to the Fairfax County Board of Supervisors; Laurie Cole as the Representative to the Providence District Council; Edythe Keller as the Representative to the Hunter Mill Land Use Committee; Sydney Verinder as the Representative to the Northern Virginia Regional Park Authority; George Lovelace as the Representative to the Community Appearance Alliance Commission. It was further moved that George Lovelace appointed as Mayor Pro Tempore for Fiscal Year 2005-2006. It was further moved that the following individuals be appointed to the Town Charter Committee for Fiscal Year 2005-2006: Mayor Jane Seeman, Chairman; Town Manager, John Schoeberlein; Town Attorney, Steve Briglia; and all Members of the Town Council.

Motion: Kelleher

Second: Cole

Carried unanimously – Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson,
Verinder, Mayor Seeman

At the request of the Mayor, the Town Attorney reported on his attendance at a meeting of the Virginia Housing Commission wherein, the issue of eminent domain was discussed. Mr. Briglia stated that Professor Steve Engel, George Mason University School of Law, was the guest speaker and addressed the recent Supreme Court Case decision relative to eminent domain. Mr. Briglia indicated that the Supreme Court case pertained to economic development and applied to public use and thereafter, addressed Virginia law; Virginia has been “silent” on the matter relative to public use being utilized for public development. Mr. Briglia spoke on the issue as utilized in other states and indicated that he felt that during the upcoming session of the Virginia Assembly, bills would be introduced regarding restricting economic development being used or considered for public use and eminent domain being utilized.

PROPOSALS FOR ADDITIONAL ITEMS TO THE AGENDA

Councilman Verinder announced that he would like to add as Item #17 on the Agenda, a reconsideration of the waiver request for Off-Street Parking for the White Oak Tower Building, which appeared on the June 20, 2005 Agenda.

Mayor Seeman stated the request for the additional item would be added to the Agenda.

PUBLIC HEARING ON AN APPEAL OF THE WINDOVER HEIGHTS BOARD OF REVIEW DENIAL FOR A REQUEST FOR A CERTIFICATE OF APPROPRIATENESS FOR THE PREVIOUS REPLACEMENT OF ROTTING HARDBOARD SIDING WITH FLAT NATURAL STONE AT 288 WINDOVER AVENUE, N.W.

See Official Minutes attached.

PRESENTATION FROM VIENNA YOUTH, INC. AND VIENNA BABE RUTH, REGARDING THE REPLACEMENT OF THE NATURAL TURF AT WATRS FIELD WITH SYNTHETIC TURF.

Mr. Mark Meana, Vice President, Vienna Youth, Inc., addressed Council and stated that Vienna Youth Inc., and the Greater Vienna Babe Ruth League, have formed a partnership for the purpose of installing artificial turf covering the area known as Waters Field. He stated the purpose of the project was to improve the athletic field for long-term maximum use; that installation of the artificial surface would maximize the use of the facility with the elimination of rainouts and loss of use due to wet weather conditions for the multi-purpose use of the area. Mr. Meana presented a sample of the artificial turf for inspection by Council Members. He further stated that from a maintenance perspective, consistent cost savings would be realized and at this time, Mr. Meana offered into the record a 10 Year Cost Analysis which had been prepared. (Copy included in Official file.) Mr. Meana continued by stating that several years ago the Fairfax County Board of Supervisors had approved an application fee for every participant in the County, which is basically a tax to play; said funds having been directed to the improvement and management of the athletic fields. He stated that a portion of funds has been allocated for the development of artificial turf at the playing fields, and thereafter, spoke on the various playing fields which have been improved with the artificial surfaced fields. Mr. Meana continued by stating that Waters Field improvement project would be funded using the same approach as developed for the lights; the user groups would carry the majority of the financial burden, and a formal application would be made to Fairfax County Board of Supervisors to request matching funds from the FY06 budget; and the Town of Vienna was being requested to participate in the process with planning, project management and cosmetic support of the finished installation. The Town is not being requested to fund the project; the Town is being requested to provide for fence replacement, irrigation replacement, score board replacement and relocation of one light pole.

Discussion took place with the Director, Parks & Recreation relative to the various components of the project and the time frame for providing those items requested of the Town. Mrs. Salgado indicated that the fence replacement and relocation of the one light pole would be the first necessary items for the Town to provide. Further discussion took place relative to the irrigation pipe which must be relocated; and the providing of a new scoreboard. Mrs. Salgado stated the engineering planning has been estimated at \$25,000.00; relocating of the light pole at \$20,000.00; fence replacement at \$25,000.00, relocation of irrigation system at \$5,000.00; replacement of the scoreboard at \$10,000.00; and building cosmetics at \$15,000.00.

Mayor Seeman questioned the assurance of the funding from Fairfax County for the project, with Mr. Meana stating that he was reasonably sure the County would be providing the user matching funding; that he had to obtain the Town's participation first before proceeding with the County.

Motion: Mayor Seeman
Second: Cole
Carried unanimously – Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson,
Verinder, Mayor Seeman

RENEWAL OF FINANCIAL SYSTEM SOFTWARE AND HARDWARE SUPPORT BY SUNGARD/PENTAMATION ENTERPRISES, INC., FOR FISCAL YEAR ENDING 2006.

It was moved for approval to award FYE 2006 support services for the Town's central financial system to Sungard/Pentamation Enterprises, Inc., in an amount estimated not to exceed \$33,500.00 on the basis of its being the only practical sole source to provide such support for said system. It was further moved the Mayor be authorized to prepare a letter providing the necessary provisions of the sole source procurement.

Motion: Polychrones
Second: Kelleher
Carried unanimously – Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson,
Verinder, Mayor Seeman

APPOINTMENT OF MRS. TARA VOIGT TO THE TRANSPORTATION SAFETY COMMISSION, AND MRS. DEBORAH BREHONY TO THE BOARD OF ARCHITECTURAL REVIEW.

It was moved that Mrs. Tara Voigt be appointed to the Transportation Safety Commission for a two year term of office, said term effective this date, July 11, 2005 and to expire July 11, 2007. It was further moved that Mrs. Deborah Brehony be appointed to the Board of Architectural Review for a two year term of office, said term effective this date, July 11, 2005 and to expire July 11, 2007.

Motion: Mayor Seeman
Second: Robinson
Carried unanimously

WAIVER REQUEST RELATIVE TO OFF-STREET PARKING, WHITE OAK TOWER.

It was moved to reconsider the vote taken by the Town Council on the Waiver Request for off-street parking, for the White Oak Tower, at the property located at 301 Maple Avenue, West, designated as Agenda Item #5.

Motion: Verinder
Second: Polychrones
Motion carried: 4/3 – Poll vote

Voting Aye: Kelleher, Polychrones, Verinder, Mayor Seeman
Voting Nay: Cole, Lovelace, Robinson

Prior to the above vote taken on the reconsideration motion, Councilwoman Cole inquired on what basis Councilman Verinder was requesting that the vote be reconsidered.

Councilman Verinder stated that he was requesting the reconsideration based on the fact that at the time the matter had been before Council, June 20, 2005, he had just returned that day from Africa and had not had sufficient time in which to review the Agenda item. He stated that in re-reviewing the item and the waiver requests, and having had the opportunity to discuss the various aspects with the Town Attorney he desired that the waiver request relative to the off-street parking be revisited by the Council.

Discussion ensued relative to the legal aspects as previously advised by the Town Attorney. Councilman Verinder stated the Town Attorney had provided information regarding the Virginia State Code, which is clear in dealing with prohibition of treatment on the basis of ownership; that in this particular case the non-conformities associated with the office condominium development to his mind, did not specifically change the conditions that were existing prior to the requested change of ownership. He felt the parking space issues were grandfathered; and that the applicant had applied due diligence in providing additional parking spaces on-site; and he did not feel the non-conformities created an adverse effect in going to condominium ownership. Councilman Verinder indicated that his prior vote would have been different had he been totally aware of the State Code provisions supplied by the Town Attorney.

It was moved for the approval of a site plan modification pertaining to the required number of off-street parking spaces as specified in Section 18-130H of the Town Code for the White Oak Tower conversion to office condominiums, subject to the conditions as contained in the Site Plan dated June 9, 2005.

Motion: Verinder

Second: Mayor Seeman

Motion carried: 4/3 – Poll vote

Voting Aye: Kelleher, Polychrones, Verinder, Mayor Seeman

Voting Nay: Cole, Lovelace, Robinson

Councilwoman Cole expressed her concerns and objections to the matter being brought for reconsideration and felt that matters before Council should remain as voted on.

It was moved to adjourn.

Motion: Robinson

Second: Cole

Carried unanimously

The Regular Meeting of Council adjourned at 10:45 P.M.

PUBLIC HEARING

Appeal of the Windover Heights Board of Review denial for a request for a Certificate of Appropriateness for the previous replacement of rotting hardboard siding with flat natural stone at

TOWN OF VIENNA
Planning Commission

March 25, 2005

MEMORANDUM

TO: MAYOR AND TOWN COUNCIL

FROM: JOHN SCHEIB

RE: COMMISSION MEETING OF MARCH 23, 2005

The Planning Commission met on March 23, 2005, to consider three matters.

Site Plan Modifications for Conversion of White Oak Tower into Office Condominiums:

During the Commission's meetings of March 9, 2005, and March 23, 2005, the Commission discussed the request for site plan modifications regarding the White Oak Tower property at 301 Maple Avenue, N.W. After a general discussion about the building and the proposal to convert it to office condominiums, the Commission explored and voted on each of the five elements of the site plan modification.¹ All votes were in reference to the site plan dated March 17, 2005.

- 1) Section 18-128 – Area Required for One Parking Space- By a vote of 5-3 (Creed, Skaer, Attanasi voting may), the Commission recommended that the Mayor and Town Council grant the site plan modification as to this provision.

Although the code requires a parking space to be 9 feet wide by 20 feet deep, the parking spaces on the property are only 18 feet in depth. The code has not been changed since the building was constructed in 1980, and presumably the original developer received a waiver or other permission to have non-compliant parking spaces. The applicant also re-striped certain parking areas to be only 8.5 feet wide to gain additional parking. The narrowness of the parking was a reason for some of the votes against the modification.

- 2) Section 18-130H – Off Street Parking and Loading Requirements- By vote of 8-0, the Commission recommended that the Mayor and Town Council deny the site plan modification as to this provision.

¹ Originally, there were six modifications proposed, but after correcting a calculation error, the applicant no longer sought a modification from the requirement of Section 18-82F that at least 25 percent of the front yard be landscaped.

Under the present Town Code, the required parking would be 226 spaces, but the building has only 165 (including the spaces gained from the aforementioned resizing). When constructed, however, the available parking met Town Code.

The applicant provided a rental history of the building listing each tenant and the estimated number of employees for each tenant. Although the applicant pointed out that it had not heard of any parking issues at the building in the last 15 years, the rental history showed there were no parking intensive professional office users, such as medical practices, as past tenants.

The applicant also provided an inventory of parking at surrounding offices. The inventory of parking showed that the surrounding offices had fewer parking spaces than required (meeting only 96% of the current requirement) and that the White Oak Building had enough parking spaces to meet only 73% of the current requirement.

Commissioners also asked whether all parking would be available to any occupant or whether some spaces would be assigned to specific occupants. The applicant stated its intent not to assign parking and to limit the use by owners and employees to three spaces per 1,000 square feet. However, there is nothing to prevent the condo association from later amending the condominium agreement to permit the assignment of spaces.

In the first meeting on this application, Commissioners asked the applicant to investigate the feasibility of adding another level to the existing two-level parking structure to mitigate the parking shortage. In the March 23 meeting, the Applicant asserted that it was not feasible from a financial or engineering perspective, but failed to provide any documentation for those assertions.

Commissioners were concerned about which uses that are permitted in the C-1A Commercial District, such as restaurants, could be being established on the site now or in the future and the effect that would have on parking. The Planning and Zoning Department represented that the building was an office building and that it would restrict uses to office and professional uses.

Even with this determination by Planning and Zoning and the applicant's testimony about the lack of parking problems in the past, Commissioners remained concerned. The size of the parking deficit (61 spaces), the existence of a parking deficit in the surrounding properties, and the possibility of more intensive uses even within the office building category remained issues.

Commissioners also noted that the applicant was leasing storage space at the rear of the building, and asked Planning and Zoning if that were a permitted use. Planning and Zoning had no record of this activity and will have to investigate. Elimination of the storage would provide an additional eight parking spaces.

- 3) Section 18-131 – Location of Parking Facilities- By a vote of 8-0, the Commission recommended that the Mayor and Town Council grant the site plan modification as to this provision. The north and south corners of the parking facilities fail to meet the current set back requirement, but no reasonable alternatives appear to exist.
- 4) Section 18-132 – Loading Space- By a vote of 8-0, the Commission recommended that the Mayor and Town Council grant the site plan modification as to this provision.

Although this provision was in the Code when the site was developed, the loading areas do not meet the current minimum depth and width requirements. One Commissioner noted that the applicant was not credited with the area attributable to a loading dock that functions like a loading space.

- 5) Section 18-134B- Improvements Applicable to Parking Areas and Loading Spaces- By a vote of 8-0, the Commission recommended that the Mayor and Town Council grant the site plan modification as to this provision. Entrances and exists are required to be not less than 25 feet wide at the street right-of-way. Although two entrances are less than 25 wide, they are not access points to a street. One Commissioner noted that it appears this provision does not apply to the property, but in an abundance of caution, the Commission voted nonetheless.

One member of the public asked questions, but took no position on the matter.

Preliminary Plat:

By a vote of 8-0, the Commission approved the preliminary plat.

The preliminary plat is to resubdivide part of Onon'dio Subdivision, Block 11, and part of Section 3, Oakdale Park, into Redwood Corner, a three-lot subdivision located on the easternmost corner of Ayito Road, SE, and Redwood Drive, SE, and in the RS-12.5, Single Family Detached Residential Zone.

Applicant controls any increase in runoff in a storm water detention structure, so that the net runoff is zero and in compliance with the Code. The structure is not unique and is like those approved in other recent development proposals. This structure is larger, however, as the applicant would replace other detention structures with this one to ease Town maintenance efforts in the future. The applicant accepted a suggestion from the Commission to modify the storm water detention structure to address possible overflow.

One member of the public asked questions about the proposal and expressed support.

Preliminary Plat, Modifications to curb, gutter, and sidewalk, and Storm Water Management Waiver:

By a vote of 8-0, the Commission approved the preliminary plat. The Commission deferred action on the curb, gutter, and sidewalk request and the storm water management waiver.

No members of the public spoke on this item.

Please feel free to contact me if I can answer any questions or further assist you.