

From: Michael Gelb, Chairman Planning Commission
To: Vienna Town Council
Date: March 16, 2018
Re: March 14 meeting of Planning Commission

The Planning Commission (PC) considered three items at its March 14 meeting and completed action on the two items on its regular agenda. It also held a public hearing on the Vienna Market project. A brief summary of the issues considered and current status follows.

Item 1 – Request for waiver of masonry wall requirement.

John Sekas of Sekas Homes seeks a waiver of requirement that he build a 200-foot long masonry wall to separate the new town house development at 135 Center St, SW from neighboring single family homes. Mr. Sekas has already installed a six-foot tall wooden fence between the properties. That fence runs along the property line and would remain in place.

Instead of the 200-foot wall in the approved plan, Mr. Sekas proposes to build a 45-foot masonry wall and substitute additional evergreen trees to provide screening and noise abatement. The remaining portion of the masonry wall is necessary to protect neighboring homes from automobile lights in the townhouse drive aisle. All told, the revised plan calls for 30 trees of 8 – 10 feet in height.

The Planning Commission voted 5-4 to recommend approval of the waiver request. The PC heard testimony from the two neighbors directly abutting the town home development.

Main Discussion Points

One neighbor supported the request, saying he preferred trees to a wall. A second neighbor (actually, the son of the occupant) strongly opposed the waiver out of concern it would block sunlight from his yard and undermine his own plan to plant several dozen fruit trees in the rear of the property. He also asserted that he was misled by the applicant's previous assurances that the ground between the masonry wall and the trees would be planted with grass. But at one point this neighbor seemed to indicate he could accept trees placed 10 feet from his property (the point of the approved wall) as opposed to the proposed eight feet in the waiver request.

Commissioners opposed to the waiver generally argued that the code requires a masonry wall and that the town should stick to the plain language of the code. They also raised concerns about maintenance of the trees and the possibility that natural attrition might ultimately undermine the trees' screening function.

Commissioners who supported the waiver request noted that code provides for a waiver of the masonry wall requirement and that a waiver is, therefore, fully in accord with code. They concluded the trees are an esthetically superior and more natural solution than a wall and suggested that the requirement for a masonry wall is archaic and should be reviewed. They also noted that potential maintenance problems with a wall are at least as great as for trees.

Additional Considerations

- Commissioner Couchman, a landscape architect, opined that the trees proposed by applicant should not pose a significant threat to the neighbors planned plantings.
- The neighbor acknowledged that a prior attempt to plant fruit trees in his yard resulted in a 90% failure.
- Applicant said that he had attempted to address this neighbor's concerns by revising his proposed plan by shifting a portion of the proposed trees to the side of the wall nearer the neighbor who prefers trees.

Item 2 – Proposed subdivision of properties at 713 Kingsley Road, SW and 911 Myers Circle SW

Owners of the two properties seek approval of a plan to combine their two properties and also adjust the boundary with abutting property at 909 Myers Circle by purchasing a portion of that property. The combination of the two lots on a portion of the abutting lot would enable the applicants to meet acreage and lot shape requirements necessary to subdivide the property into three lots for eventual construction of three new single family homes. Staff noted that upon approval of the boundary adjustment, the applicants would meet all code requirements for subdivision into three parcels.

The Planning Commission voted 7-2 to recommend that Council deny the proposed subdivision because of safety concerns. Specifically, the proposal would create a driveway entering onto Nutley Street.

Main Discussion Points

PC members noted that such driveway would be the first on the stretch of road between Kingsley Street and Tapawingo, it would be extremely close to the already problematic and uncontrolled intersection at Kingsley and Nutley, and would be plagued by traffic from I-66 exit ramps and Virginia Center Boulevard near the Vienna Metro. While only one driveway, there was some concern that one driveway now would set precedent for more driveways and curb cuts on that stretch of road in the future.

Commissioners believe that the recommendation is consistent with the town code, which identifies safety as an appropriate consideration in such matters, specifically Chapter 17 of the Town code states:

*In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the protection of the public health, **safety** and welfare. Such provisions are intended to provide for permanently wholesome community environment, adequate Town services, **safe streets**, and the integrity of the Chesapeake Bay Preservation Areas and quality of state waters as established in chapter 18, article 21.1. (emphasis added)*

The Commission considered whether denying the request would wrongly limit property owners' ability to maximize the value of their properties. But commissioners observed that the proposed subdivision required boundary adjustment and land purchase to meet requirements under town code. Therefore, a rejection would not deny rights or fair expectations attached to the purchase of lots in their existing shape and size.

Item 3 – Public Hearing on proposed MAC rezoning for Vienna Market development (aka Marco Polo)

PC held a public hearing on the proposed Vienna Market development. Staff provided an overview and recommends approval of the project with some adjustments to better integrate a proposed plaza with the retail portion. The adjustment is necessary to comply with the MAC bar on first floor residential. Without the adjustment one proposed townhome would face on Maple Avenue, which is not allowed by the MAC. The applicant, Doug D'Alexander, agreed at the hearing to meet with staff and make the necessary adjustment. PC also provided Mr. Alexander with a number of suggestions, primarily architectural, to improve the project. There were notable concerns about the "fortress-like" look of the façade facing the Bank of America.

Public Testimony

The PC heard from five members of the public as recapped below:

1 - Charles Anderson

Mr. Anderson presented a PowerPoint raising a legal concern. Mr. Anderson argued that the proposed development should be classified as a subdivision under both Vienna and state law and that internal roads must therefore meet the 50-foot width requirement for secondary and local streets. Mr. Anderson alerted the PC Chairman and the Planning Director of his argument several hours prior to the hearing. Director Petkac contacted the Town Attorney by phone prior to the hearing and the Town Attorney opined that the proposed development is in compliance with relevant law. Director Petkac shared that conclusion at the hearing.

As a secondary matter, Mr. Anderson suggested that under certain conditions rooftop dining and cooking atop the proposed townhomes might require a conditional use permit.

2 – Emilio Belloli

Speaking on behalf of his father, owner of the neighboring Windover Heights commercial building on Church Street, Mr. Belloli raised two concerns:

- Disruption of traffic and access to his property during construction. Specifically Mr. Belloli asked if Church Street would remain one way during construction and suggested it be opened to two-way traffic.
- Parking. Mr. Belloli noted that he already has difficulty with postal employees illegally parking in his lot and expressed concern that visitors to the new residences would park in his lot and interfere with his tenants' ability to conduct their business.

3) Rick Lucien of AJs Sports Stop

Mr. Lucien expressed amazement that his business location would be torn down as a result of this project. He said he had moved to Vienna fairly recently to operate the business and was now concerned about its future and the welfare of his employees. He feared he would not be able to stay in business in Vienna once the current location is torn down.

4) Patty Hanley

Ms. Hanley spoke in support of the project and said she was looking forward to enjoying the retail opportunities that it presents.

5) Nancy Logan

Ms. Logan, a Vienna resident who relocated here from Los Angeles voiced general concern about excessive development changing the character of Vienna by converting it into an “edge city.” She doubted the MAC’s “walkability” goal and also suggested greater use of the Town newsletter to inform residents about proposed projects.

Additional Points

The public hearing was held open for further comment and discussion on March 28. PC members asked Director Petkac to see if the Town Attorney could attend that meeting and respond to questions about the legal matter raised by Mr. Anderson. Alternatively, PC would entertain a separate meeting with the Town Attorney. Some PC members also suggested that the Town Attorney could outline his opinion in a memo.