From: Michael Gelb, Chairman Planning Commission
To: Vienna Town Council
Date: August 13, 2018
Re: Planning Committee Recommendation – zoning ordinance amendment to Article 2, Section 4 – Definitions – **Finished Lot Grade (**Meeting Date: August 8, 2018)

ACTION

The Planning Commission unanimously (8-0) voted to recommend a revised definition for "Finished Lot Grade" in order to limit so-called "dirt skirts" and "mushrooming" on residential lots.

The Commission had previously recommended a revised definition in April 2017, but that recommendation was referred back to the Commission by Town Council in response to concerns raised by members of Council. In particular, some Council members were concerned that the earlier recommendation could allow "mushrooming" so that a property with an existing dirt skirt could be raised an additional three feet. Some Council members also asked the Planning Commission to consider whether there should be an additional restriction for commercial properties.

DISCUSSION

Upon review, including a work session with Planning Department staff, the Planning Commission retained the three-foot limitation, up or down, on deviations from the pre-existing lot grade. To address concerns about mushrooming, the Planning Commission added new language stating that "all over-lot grading shall be in accordance with the natural lay of the land." The new language provides staff with written justification for blocking grading that would create mushrooming.

The Planning Commission also reaffirmed new language that it recommended in April 2017 to authorize the Director of Public Works to waive the three-foot lot deviation limitation if a deviation is deemed "to be for good cause and not contrary to the public interest." That grant of authority is designed to allow reconfiguration of unusually sloped residential lots that would benefit by alterations of greater than three feet but with no harm to neighbors. The Planning Commission and Planning Department staff has occasionally encountered lots in which changing the slope, generally by reducing the lot at its highest points, has helped to limit runoff and/or enabled the construction of less steep and safer driveways. Such deviations have previously required homeowners to request variances or bring modification requests to the Planning Commission and Town Council. The Planning Commission believes that providing for administrative review and adjustment would be more efficient for both homeowners and town government.

The Planning Commission also concurred with staff recommendation that an additional restriction for commercial properties is not appropriate because larger commercial lots do not present the same concerns re: dirt skirts and mushrooming as residential lots. These lots, which may involve steeper grades that may *require* grading adjustment, are effectively governed by other state and federal statutes such as the American Disabilities Act. Grading for commercial and non-residential sites is also dictated by the grading of adjoining public streets.