

From: Stephen Kenney, Chairman Planning Commission  
To: Vienna Town Council  
Meeting Date: January 13, 2021  
Re: Text Amendment to the Sidewalk Ordinance

### **Overview**

Due to changes made by the Virginia General Assembly the Town wanted to make adjustments to the current Sidewalk Ordinance specifically to infill development conditions.

The Planning Commission heard from two citizens during the public hearing, both In favor of the text amendment. The PC had previously received comments during the work session reviewing the same text amendment. One letter was from the same individuals who spoke at our current meeting, and a second letter was in opposition to the amendment written by Homebuilders of Vienna). It is not clear who exactly makes up the authors of this memo but they raised a few concerns including;

1. Dedication of property will reduce the size of a lot.
2. Scope of improvements may not be limited to just sidewalks. (Note – The VA Assembly only allows us at this time to require the sidewalk improvements.)
3. Acceptance of possible escrow funds should be routed through the Director of Public Works rather than the Town Council.
4. Effective date, if adopted, should not take effect until 90 days after approval to allow minimize impact on current submissions within the review process.
5. Concern about cost and difficulty of creating title exceptions should any deviations in the setbacks or potential of creating nonconforming lot sizes.
6. Dedication of property that decreases the usability of a property owner's land is a 'taking.' (Note the TA disagreed with this assessment and did not feel imposing an easement for sidewalks constitutes a 'taking' of land. As a Town we are allowed to require improvements within the right-of-way.)

The PC had a lengthy discussion on the use of escrow funds vs just requiring the construction of the sidewalks during the renovation/redevelopment of the property. The commission generally agreed it made sense to not defer costs via collection of escrow funds as the cost of new sidewalks in the future could exceed the amount collected, leaving the Town liable for the difference in costs.

We discussed the lack of requirement for curb and gutter as the State Assembly did not grant such approval. In addition, there were concerns about the possibility of waivers for such requirements. Staff indicated that it is fairly rare for staff to waive any such requirements.

### **PC Action and Concerns**

The Commission voted 9-0 to recommend that Town Council approve the adjusted language to Section 1 in the Town Code, Chapter 17-67.2 – Completion and construction of sidewalks for single-lot development.

Motion: Hays  
2nd: Plowgian  
Roll Call Vote: 9-0