



Town of Vienna

Meeting Minutes

Town Council Meeting

Charles A. Robinson Jr.
Town Hall
127 Center Street South
Vienna VA, 22180

Monday, September 13, 2021

8:00 PM

Charles A. Robinson, Jr. Town Hall, 127
Center Street, South

Resolution

Mayor Colbert began the evening by reading a proclamation honoring Ty Brooke for his dedication and service to the Vienna community

[21-2565](#)

Resolution for Continuity of Government

Mayor Linda Colbert called the meeting to order and read into the record the Continuity of Government. The Resolution was approved through voice vote.

1. Invocation: Reverend Johnny Kurcina, Christ Church Vienna

Mayor Colbert recognized Reverend Johnny Kurcina, Christ Church Vienna who provided the evening's invocation

2. Pledge of Allegiance to the Flag of the United States of America

3. Roll Call

Council: Council Member Chuck Anderson; Council Member Ray Brill Jr., Council Member Nisha Patel (via ZOOM); Council Member Steve Potter; Council Member Ed Somers; Council Member Howard J. Springsteen and Mayor Linda Colbert.

Present: 7 - Council Member Chuck Anderson, Council Member Ray Brill Jr., Council Member Nisha Patel, Council Member Steve Potter, Council Member Ed Somers, Council Member Howard J. Springsteen and Mayor Linda Colbert

4. Acceptance of the Minutes:

A. [21-2527](#)

Acceptance of the Regular Council Meeting Minutes of August 30, 2021 and the Conference Session Minutes of August 30, 2021.

The regular council meeting minutes of August 30, 2021 and the conference session minutes of August 30, 2021 were approved as submitted.

5. Receipt of petitions and communications from the Public that are not on the Agenda. (Limited to 3 minutes per issue and no formal action can be taken this evening)

There were no communications from the Public.

6. Closed Session Report

No Closed Session was held.

Mayor Colbert announced the appointment of Council Member Potter as Vice Mayor of the Town Council. This appointment will continue through November 2022.

Council Member Anderson read into the record an email praising the work of the Town Planning Commission.

7. Public Hearings

A. [21-2493](#)

Public hearing on a requested change to the zoning map for three parcels, located at 117 Courthouse Road SW (Parcel # 0384 02 0032A), 119 Courthouse Road SW (Parcel # 0384 02 0057A), and 121 Courthouse Road SW (Parcel # 0384 02 0057B) in the RS-10 Single-Family Detached Residential zoning district. Requested zoning is RM-2 Multifamily, Low Density

Mayor Colbert called the Public Hearing to order at 8:15 PM. Town Clerk Melanie Clark called roll. All Council were present.

Mayor Colbert recognized Cindy Petkac, Director, Planning Commission, who reviewed the item, 21-02492 Request of zoning change for three parcels from RS 10 Single-Family Detached Residential to RM-2 Multifamily, Low Density.

The applicant, Dennis Rice, JDA Custom Homes is requesting to rezone 117-121 Courthouse RD., SW from RS10 single family detached residential to RM2 multifamily residential for six two family dwellings. The area surrounding the subject property is zoned RS10 Transitional, C2A and C2. Last summer Council approved rezoning of 112 Courthouse Rd from C1A, C2 to RS10. This 40 ft. wide parcel, which is just under 13,000 sq. ft., was originally part of the Arlington/Fairfax railroad right-of-way. Council approved a three lot subdivision of the property in December 2020. Applicable Town and State Code sections which provide the factors Council should consider in a rezoning include:

A. Town Code section 18-249 In determining what, if any, amendments to this chapter are to be adopted, the Town Council shall give due consideration to the proper relationship of such amendments to the entire comprehensive plan for the Town, with the intent to retain the integrity and validity of the zoning districts herein described, and to avoid spot zoning changes in the zoning map.

B. Virginia State Code section 15.2-2284 Zoning ordinances and districts shall be drawn and applied with reasonable consideration for the existing use and character of property, the comprehensive plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes ...

Subject property is mostly designated low density residential with a portion rezoned last year designated mixed use. Immediately adjacent to the property on the south is a single family detached residence, to the east/west of the site is commercial parking, and to the north are commercial uses along Maple Avenue. The future land use map also recognizes those existing land uses. There are several references in the Comprehensive Plan that are applicable to this particular development. In the land use chapter there are references to alternative housing and the benefits for a more diverse housing stock, along with opportunities to provide housing in transitional areas between commercial and single family detached residential zones. Chapter 2 in land use states the importance of preserving established residential neighborhoods.

The development will include twelve total units (six dwellings), all facing a central courtyard and a club house along Courthouse Rd. Each dwelling unit includes two garage parking spaces; twelve guest parking spaces are located along the south and west access driveway. The drive rings the development and has two access points from Courthouse Rd. as per request of the fire marshal.

Elevation includes one and one-half story dwellings, each with a 1200 sq. ft. building footprint. Each includes a front yard porch and rear access two car garage. If approved by Council along with the associated modifications, the exterior appearance of all buildings, structures and improvements would require approval of the Board of Architectural Review (BAR).

August 25, 2021 the Planning Commission held a public hearing on this application. Five e-mails were received and four residents spoke. Following discussion, the Planning Commission voted unanimously (6-0) to recommend approval of rezoning.

Proffer statement includes:

- *Development and use of the property for six two family dwellings constructed in substantial conformation with the concept plan;*
- *Constructing sidewalk from southern edge of property to the driveway of 125 Courthouse Rd., SW, the residence adjacent to the property;*
- *Designing units to be solar ready.*

Director Petkac noted that to date, fourteen emails in support of the project have been received.

Mayor Colbert opened the hearing to Council comment.

Council Member Anderson questioned whether review by the BAR is traditionally part of the process. Director Petkac replied that the BAR reviews every request with the exception of single family housing.

Following a question by Council Member Springsteen regarding tree coverage, she replied that no request for modification has been received. Town Code states 10% coverage, which is currently in conflict with State Code regarding this provision for multi-family development. It is her understanding that the applicant plans to provide approximately 15% tree coverage.

Council Member Springsteen inquired about trees and/or fencing surrounding the property. Director Petkac again referenced Town Code, stating that a wall is required between differing land uses. This provision will result in a wall between the single family residential located at 125 Courthouse Rd and this development; a wall currently exists adjacent to the Jiffy Lube. Additionally, a fence already exists between this property and the rear as well as the parking lot that extends into the RS10 zone.

Responding to an additional question by Council Member Springsteen, Director Petkac indicated that the current code is silent on height requirements for this type of housing although plans show a maximum height of 28'. Council Member Patel asked for dimensions of the duplexes as well as space between units. Each building footprint is 60' across with a depth of 48'. The planned space between each building is 15'.

Following a request by Council Member Patel to include discussion of Regular Business Item A. 21-2494 Request for site plan modifications of requirements related to 117-121 Courthouse Road SW rezoning request for lot coverage, front yard

setback, rear yard setback and minimum lot area requirements, Mayor Colbert called on Director Petkac to provide back ground information of the requested modifications.

The applicant is requesting four modifications of requirements as provided in Article 25 site plan central provisions of Chapter 18 of the zoning code. Director Petkac read into the record the applicable code Section 18-256. - Modification of requirements.

Where an applicant for a building permit subject to the requirements of this article can demonstrate to the council that the most practical, efficient or aesthetic development of the site involved cannot be achieved within the requirements of this chapter, the council, after receiving the recommendation of the planning commission, or not less than 30 days after requesting such recommendation in writing, may modify such requirements upon a finding that the integrity of this chapter and the health, safety and morals of the Town will not be thereby impaired. Such modifications may apply to yard, lot area, lot coverage, parking, number of units, unit floor area, screening, frontage, and similar requirements, but this section shall not be construed to permit any modifications of the uses permitted in any zone or of the maximum building height permitted for any building. (Code 1969, § 18-256; Ord. of 3-20-1972; Ord. of 9-9-2003; Ord. of 2-23-2004).

The four modifications requested by the applicant include the following:

1. lot coverage that exceeds the maximum 25% Section 18-58I under RM2 states that lot coverage shall be the same as specified for RS 16 zone which is a maximum of 25%; the applicant is requesting 60%.
2. to encroach further into the 35-foot front yard. Section 18-58D states that front yards shall be the same as those specified for the RS-16 zone; based on the width of the street, the minimum for this site is 35 ft.; the applicant is requesting 20 ft.
3. to encroach further into the 35-foot rear yard setback; Section 18-58F states that rear yards shall be a minimum of 35 feet in depth; applicant is requesting 25 ft.
4. to deviate from RS-10 lot requirements and the 8,000 square feet of lot area per two-family dwelling requirement. Section 18-58A States that all single-family detached dwellings shall adhere to the area requirements as specified for the RS-10 zone.

All two-family dwellings for purposes of computing area requirements shall be considered as occupying one lot and each such lot shall adhere to the area requirements as specified for the RS-10 zone except the area need not exceed 8,000 square feet; applicant is not requesting to subdivide, rather to modify. The total lot area is 60,319 sq. ft.

Referencing the Town Council Presentation Package, Council approved RM2 project modifications, Director Petkac noted that the 2018 and the 2021 Cadence projects received Council approval for 60% lot coverage and 20% setbacks. Cadence on Center also received modifications for a 15ft. rear yard and a 20ft. side yard (Code requires a 25 ft. setback on corner lots).

The Planning Commission voted unanimously at the August 25, 2021 meeting to recommend approval of these requested modifications. A summary of their discussion can be found in the memorandum submitted by Chairman Kenney.

Council Member Potter requested a point of order. The topic for discussion under

Item 7A is specific to changes in the Zoning map. The vote on modifications is included as a Regular Business item. Returning to comments by Chairman Kenney specific to zoning changes, he was clear that the Planning Commission was tasked with reviewing the zoning change request, not the overall site plan.

Council Member Potter requested clarification regarding staff findings for ingress/egress traffic patterns and the need for a right turn only. Director Petkac indicated that John Jay Sergeant, Town Civil Engineer, had no comment in reference to this issue. She further noted that the two driveways actually provide a benefit to residents to utilize both. Director Gallagher indicated that in his professional opinion there will be no significant impact problems.

Council Member Potter also requested additional information regarding landscape buffers and fencing. Director Petkac repeated that Code requires a wall between different land uses. There are existing fences and the applicant is proposing a fence or decorative wall along Courthouse even though this is not required.

Council Member Somers remarked that he was the only Council Member to vote against the previous rezoning because he believed there was a better use for this property.

The Planning Commission was also split on their recommendation at that time. Now there is a unanimous vote by the Planning Commission to do something that he believes to be a better use for the Town. The developer should be commended for thinking differently when he was not required to do so, especially with a property so close to commercial. This project will promote walkability and diversify the current housing stock. Council Member Somers enthusiastically supports the rezoning.

Mayor Colbert recognized Bob Gambarelli, 600 Kearney Ct., SW. Mr. Gambarelli opened his remarks stating that he has lived in Vienna for over 25 years, and has worked here even longer. He considers Vienna his home and believes the Town has maintained a sense of community in the truest sense of the word, "no doubt do to the dedicated people who have worked tirelessly to [achieve] this". Vienna was built on the backs of a wide cross section of people, not the least of who were teachers, civil servants and other middle income people. Sadly though, looking at current housing options available in Vienna today, those same people could likely not afford to move into or continue to live in Vienna. Older citizens who wish to downsize and remain in Vienna are essentially out of luck. Traffic concerns are likely the major reason opponents of this project won't want it to pass.

Paraphrasing a statement made by Andrew Jinks, Traffic Engineer, during a previous work session, "this project would have no negative impact on traffic". In other words, those residents who would live in this proposed development would not likely negatively impact traffic on Courthouse. Vienna's housing codes have not substantially changed in over 50 years. Many other locales, both locally and nationally, are implementing alternative types of housing. It is the opinion of the speaker that it is beyond time for Vienna to get on board. Middle income households should not be shut out of Vienna because there are no realistic alternatives to either large single family homes or large townhouses. The multifamily dwellings proposed here tonight seem like a sensible alternative. The Planning Commission unanimously voted to recommend this project. It is a project whose time has come and hopefully the Council will see that as well.

With no further comments from the public, Mayor Colbert recognized project developer, Dennis Rice (as requested by Council Member Anderson), 412 Glyndon St.,

NE., Vienna, VA.

Mr. Rice indicated that the project came about after an earlier request for rezoning. His company was approached numerous times to build something other than single family detached residential homes. Town houses were discussed with little enthusiasm; however smaller single family houses or duplexes did spark interest, especially given the need. Currently there are about 110 new homes built/year in Vienna, and it can be speculated that none are under 5,000 sq. ft. including basement. The proposed duplexes will be 1800 sq. ft. with two car garages with the option for a third.

Council Member Springsteen questioned tree coverage to which Mr. Rice stated that he is working with the Town arborist and are close to 15% coverage. Trees will be of varying species to lower impact of any disease. The border trees will be staggered to create the illusion of a wall. Mr. Rice is also working directly with the neighbor at 125 Courthouse, SW. to accommodate his desire for sidewalk connected to his driveway. Should the project be approved, the plan is for a sidewalk to run almost to the bus stop where there is a crosswalk. He is also working directly with the Vienna Shopping Center to address drainage issues, and the land owners for the Jiffy Lube site regarding sidewalk to improve access to the bus stop. Mr. Rice also noted that unit height will stay at 28 ft., seven feet shorter than the neighboring residence. First floor windows are proposed to be level with the neighboring first floor residence. The inside development road will be designed to allow for fire and trash truck movement.

Council Member Springsteen stressed that the Town needs to address the issue of a sidewalk that connects to Maple Avenue. Further, he noted that the neighboring shopping center has drainage issues and urged the applicant to work closely with the Town regarding an easement. Mr. Rice replied that he has been in contact with Director Gallagher regarding this issue. The cause of the problem has not yet been identified; further work must be done.

Commenting that the applicant has clearly worked hard with the community.

Council Member Springsteen reiterated that Vienna needs diversified housing and, while he understands that the market, not the Town sets the price point, this project will bring in excellent housing diversity.

Mr. Rice noted that he has attempted to address issues present with other similar projects throughout Northern Virginia: delivery pickup - each residence will have direct delivery; parking spaces – residence will have third garage option; egress traffic issues – two-way option allows for left or right turn to avoid backup. He also noted that all overhead wires are buried.

Council Member Patel requested information on the materials to be used on the outside of the units. Jordan Rice, J.D.A. Custom Homes, Inc. responded that all outside materials were selected for low maintenance to include Hardy plank siding, 30-year architectural roofing (some units with metal accents), Anderson windows, stone accents, fiberglass front doors, concrete base front steps with decorative stone accents, and composite columns and trim.

Additional questions by Council Member Patel were related to the choice of duplexes over smaller single units, and the size of each duplex unit. Mr. Rice indicated the duplexes allowed for additional space between the units and increased overall green space. Each unit has a foot print of 1200 sq. ft. on the

primary level (600 sq. ft. on second) resulting in a 2400sq. ft. footprint.

Council Member Patel further questioned Mr. Rice regarding any intention to sell the property once rezoned, noting that this has happened before. Mr. Rice responded that he has never sold any property in the Town of Vienna. Referencing the Sunrise Assisted living property, Council Member Patel recalled that Council approved zoning for the site and then later the property switched hands. Mr. Rice reminded Council and Town Attorney Briglia confirmed that any approved proffers go with the land. It makes no matter who proffered them, if accepted by Council, they bind any successor.

When questioned about possible pricing for each unit by Council Member Patel, Mr. Rice responded that building costs continue to rise (i.e. Floor choices rose 60% in the last month). As a result, it would not be responsible to guess on price at this point in time.

Council Member Patel concluded her questions by reiterating that Vienna needs a variety of housing options and this is a great location for cottage housing. While she likes the project, "if people are looking at this as their affordable housing option it would be helpful to understand [more about the price]". The majority of homes in Vienna are still under the \$1M price range based upon a recent published report. If buyers are looking at this particular project with the idea that it could be an affordable housing option, she cannot support it. If, however these units are marketed as "nice cottage housing"; an alternative to the regular single family home, then that is a good argument in favor. She cautions against calling this development something that it is not.

Council Member Potter indicated that he would like to return to topic, the change in zoning, stressing that what is important is how this request fits with the Comprehensive Plan. Quoting comments made in the recommendation by the Planning Commission he stated "the Comprehensive Plan shows that a portion of the land is mixed use and the rest is low density, specifically supports transition from Commercial development to single family detached residential increases housing diversity". If Council can stay focused on that then move on to the other points, it is time to take a vote.

Council Member Somers made a motion to close the public hearing. Second, Council Member Springsteen. Motion carried unanimously.

Mayor Colbert called for additional discussion.

Questions posed by Council Member Anderson and applicant responses included the following:

- Is the applicant contemplating an age limit? No;
- Will there be a playground for children? Center Courtyard with clubhouse but no playground;
- Could the 15% tree coverage plan become part of the proffer? Yes;
- Will the units have basements? There will be a walkout. Each garage is 15ft. X 21 ft. with 10ft. wide doors. Storage is available on the second floor;
- Will there be an elevator option? Yes.

Council Member Anderson continued by stating "While these may not fit the description of affordable housing, they are still another alternative to the 5,000 sq. ft. single family home". He followed by questioning if it would it be possible to earmark two units for a footprint smaller than 1800 sq. ft.

Mr. Rice responded by noting that these units are designed with minimal hallways/wasted space. To make them smaller with this design, reduces the salability as critical rooms (family room) are reduced in size. The level of energy efficiency and the low maintenance should help to keep overall economics in line for the prospective buyer.

Council Member Anderson further questions Mr. Rice regarding his intention to see this project through. Mr. Rice replied that yes, that is his intention further noting their intention of a positive working relationship with the Town. As an example, when J.D.A. Custom Homes, Inc. completed the project on Cherry and Park St. they had replaced and upgraded the bridge at an additional cost to the company of \$58,000.

Mayor Colbert commented that the location is excellent for transitional housing and called for a motion.

After considering the proper relationship of the proposed zoning map amendment to the Town's comprehensive plan, with the intent to retain the integrity and validity of zoning districts and to avoid spot zoning changes in the zoning map, it was moved to approve the requested rezoning for three parcels, located at 117 Courthouse Road SW (Parcel # 0384 02 0032A), 119 Courthouse Road SW (Parcel # 0384 02 0057A), and 121 Courthouse Road SW (Parcel # 0384 02 0057B) from the RS-10 Single-Family Detached Residential zoning district to RM-2 Multifamily, Low Density.

Motion, Council Member Potter; second, Council Member Somers. Motion passed in a 5-0; two abstain.

A motion was made by Council Member Potter, seconded by Council Member Somers, that the Action Item be approved. The motion carried by the following vote:

Aye: 5 - Council Member Anderson, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

Abstain: 2 - Council Member Brill and Council Member Patel

8. Regular Business

A. [21-2494](#)

Request for site plan modifications of requirements related to 117-121 Courthouse Road SW rezoning request for lot coverage, front yard setback, rear yard setback and minimum lot area requirements.

A motion was made to approve the requested modifications of requirements related to the requested rezoning for 117-121 Courthouse Road SW for front yard setbacks, rear yard setbacks, lot coverage and lot area requirements.

Motion, Council Member Somers; second, Council Member Springsteen. Motion passed in a 6-0 vote; one abstain.

A motion was made by Council Member Somers, seconded by Council Member Springsteen, that the Action Item be approved. The motion carried by the following vote:

Aye: 6 - Council Member Anderson, Council Member Brill, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

Abstain: 1 - Council Member Patel

B. [21-2496](#) Town Donation to Offset Application Fee for Conditional Use Permit for Proposed Hypothermia Shelter, Located at 124 Park Street, SE

A motion was made to approve the donation of \$1,500 to the Vienna Presbyterian Church for the conditional use permit application fee associated with the proposed hypothermia shelter.

Motion, Council Member Anderson: second, Council Member Somers. Motion failed in a 3-4 vote.

A motion was made by Council Member Anderson, seconded by Council Member Somers, that the Action Item Failed. The motion failed by the following vote:

Aye: 3 - Council Member Anderson, Council Member Patel and Council Member Somers

Nay: 4 - Council Member Brill, Council Member Potter, Council Member Springsteen and Mayor Colbert

C. [21-2479](#) Award of IFB 22-01 to Midlantic Marking, Inc. and request fiscal year spending

A motion was made move forward for approval to award IFB 22-01 to Midlantic Marking, Inc. and FY22 spending in the amount of \$67,000.

Motion, Council Member Springsteen; second, Council Member Potter. Motion carried unanimously.

A motion was made by Council Member Springsteen, seconded by Council Member Potter, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

D. [21-2497](#) 2021 Town Holiday Ornament

A motion was made to approve the proposed holiday ornament and to allocate the net profits from the sale of each to the Vienna Public Arts Commission.

Motion, Council Member Springsteen; second, Council Member Anderson. Motion carried unanimously.

A motion was made by Council Member Springsteen, seconded by Council Member Anderson, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

E. [21-2525](#) Re-adoption and extension of the Continuity of Government ordinance

A motion was made to re-adopt and extend the Continuity of Government ordinance approved by Town Council at its April 13, 2020 meeting. The re-adopted ordinance shall be good for a period of up to an additional six months, until Dec. 31, 2021, from its current expiration of Sept. 31, 2021.

It was further moved to direct the Town Clerk to advertise a Notice of Adoption of the Continuity of Government ordinance.

Motion, Council Member Patel; second Council Member Springsteen. Motion carried unanimously.

A motion was made by Council Member Patel, seconded by Council Member Springsteen, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

9. Meeting Adjournment

Mayor Colbert adjourned the meeting at 10:25PM.

9. Meeting Adjournment

THE TOWN OF VIENNA IS COMMITTED TO FULL COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT STANDARDS. TRANSLATION SERVICES, ASSISTANCE OR ACCOMMODATION REQUESTS FROM PERSONS WITH DISABILITIES ARE TO BE REQUESTED NOT LESS THAN 3 WORKING DAYS BEFORE THE DAY OF THE EVENT. PLEASE CALL (703) 255-6304, OR 711 VIRGINIA RELAY SERVICE FOR THE HEARING IMPAIRED.

DRAFT